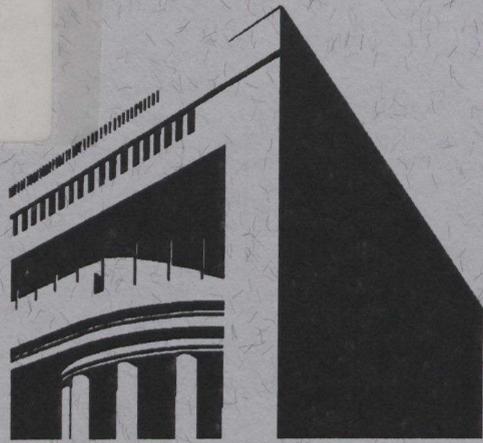


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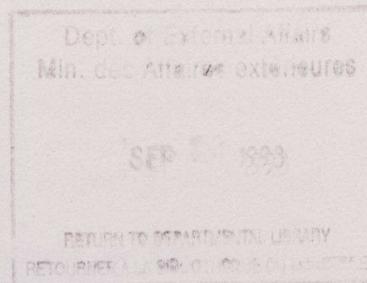
Canadian Journalists' Views about Media Law  
and Ethics

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This manuscript is a product of the Canadian Studies Research Grant Program. The program promotes research in the social sciences, journalism, business, trade, environment, and law with a unique relevance to Canada, or in the context of the bilateral or North American relationship; and the social, cultural, political, and economic issues that impact on these relationships in the 1990s.

Research grants are designed to assist individual American scholars, a group of scholars, and/or scholars working with a cooperating Canadian institution, in writing an article-length manuscript of publishable quality that contributes to the development of Canadian Studies in the United States and reporting their findings in scholarly publications.

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A report of research conducted under the auspices of a 1996 Canadian Studies grant. Transmitted to the Embassy of Canada, Washington, DC, February 10, 1997.

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# Canadian Journalists' Views on Media Law and Ethics

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Although Canadian journalism in many ways resembles the journalism practiced in the United States (Pritchard & Sauvageau, 1997), the normative context of Canadian journalism -- the set of laws and professional norms that govern the craft -- is distinct.

Canadian law and ethical norms place greater controls on the practice of journalism than do American law and ethical norms (Pritchard 1991, in press; Kijeski 1995). In addition, many observers stress the differences between francophone and anglophone news organizations in Canada, and studies have documented English-language media cover Canadian political events quite differently from French-language media (Siegel, 1977; Robinson, 1984; Robinson & Charron, 1989). It is quite possible, accordingly, that francophone and anglophone journalists have different views on legal and ethics issues.

The legal rules that govern the practice of journalism in Canada have been detailed by a number of researchers (e.g., Trudel 1984, Vallières 1985, Martin & Adam 1994). In recent years scholars and professional groups also have paid increasing attention to ethical norms in Canadian journalism (Bernier 1994, Russell 1994, Fédération Professionnelle des Journalistes du Québec 1995).

Such work focuses on how journalists *should* behave, rather than on how they actually *do* behave when confronted with situations that have legal and/or ethical implications. The implicit assumption underlying normative research of this kind is that legal rules and ethical norms have a direct influence on journalists' behavior.

That implicit assumption has never been tested in the context of Canadian media law and ethical norms. Tests of the assumption in the U.S. have cast doubt upon the validity of the assumption (e.g., Pritchard & Morgan 1989, Pritchard 1993), but the normative context of Canadian journalism is quite different.

This paper reports the results of a survey of Canadian journalists' views about law and ethics as the topics apply to journalism.

### **Previous studies**

Given the social and political importance of journalism in Canada, it is somewhat surprising that Canadian journalists have been the object of little systematic study. Essays on the state of journalism in Canada and its regions have been frequent, but actual surveys have been rare and generally limited in scope. None have dealt with ethics or law.

One of the first published surveys about Canadian journalists focused not on journalists but on former journalists in hopes of finding out why they had left their newspapers (Wilson, 1966). The unsurprising answer? Low pay and lack of satisfaction with the routine nature of newspaper work.

Subsequent surveys focused on more interesting questions. Donald Wright tried to find out whether Canada's journalists were as unprofessional as the Special Senate Committee on Mass Media had claimed. Using scales of journalistic professionalism developed in the United States, Wright surveyed journalists at daily newspapers in the largest cities of Ontario, Manitoba, Saskatchewan, Alberta, and British Columbia

(1974) and journalists at private radio stations in British Columbia (1976), finding relatively high levels of professionalism but fairly low levels of job satisfaction.

George Pollard followed Wright's interest in professionalism and job satisfaction with several national mail surveys (Pollard 1985, 1988/1989, 1994/1995a, 1995b). Although Pollard focused mostly on radio journalists, two of his surveys which included journalists at daily newspapers and television stations as well as radio journalists (1985, 1994/1995a). The 1985 survey, which focused only on English-language journalists, revealed higher levels of professionalism among broadcast journalists than among those who work at daily newspapers. Pollard also found that "Canadian newswriters were quite satisfied and enthusiastic about their work, confident about their future in newswriting and content with their current jobs" (p. 29).

The results of the 1990 survey (which included francophone as well as anglophone journalists) mirrored those of the 1985 survey in that newspaper journalists had lower levels of professionalism, but higher levels of job satisfaction, than broadcast journalists. Pollard speculated that this counterintuitive finding might not reflect traditional conceptions of job satisfaction, but rather that newspaper journalists were satisfied to have a steady job in difficult economic times. "Newspaper workers may have realigned work-related values and reward expectations to fit newsroom reality as a strategy to remain in the occupation or current job," Pollard wrote (1995a, p. 691; also 1994, p. 203).

The remaining published surveys of Canadian journalists have examined journalists in specific regions, most written in French and most focusing on Quebec.

Some of the studies are little more than demographic profiles of various groups of Quebec journalists -- those in the print media (de la Garde, 1975), the broadcast media (de la Garde & Barrett, 1976), and women (Dubois, 1988; Saint-Jean & Labarre, 1995; Saint-Jean, Labarre & Legault, 1995).

Other studies of journalists, however, deal with issues beyond demographics. Pierre Godin (1979) studied the political attitudes of elite Quebec journalists. Simon Langlois and Florian Sauvageau (1982) documented the existence of different professional roles among journalists at Quebec's French-language daily newspapers.

In addition to the quantitative research, qualitative surveys based on open-ended questions have provided the data for several articles. Pierre Fortin (1992) collected the thoughts of 58 Quebec journalists about matters of journalism ethics. Fortin did not draw general conclusions from his data, however. Thierry Watine (1994) conducted lengthy interviews with 32 francophone journalists in Canada's Maritime provinces to learn how they balanced their roles as neutral reporters with their roles as advocates for greater recognition of the French fact in *l'Acadie*. Anne-Marie Gingras and Jean-Pierre Carrier (1994) were interested in whether the news media provide an adequate forum for unfettered discussion of public issues. After semi-structured interviews with 26 Quebec journalists who covered social and political news in Quebec City, Ottawa, and Montreal, the researchers concluded that the news media did not provide an adequate forum.

Scholars of journalism in Canada tend to speak only to members of their own linguistic community. Quite literally none of the studies mentioned above, for example, cites a survey of Canadian journalists that was published in another

language. The work published in English cites none of the work published in French, and vice versa -- a stark example of how Canada's media scholars exist in two solitudes. This mutual ignorance not only impedes a full understanding of Canadian journalism but increases the likelihood that media scholars from one linguistic community will fail to grasp the richness and complexity of journalism in the other.

## **Method**

The data upon which this research is based came from 554 telephone interviews with a random sample of Canadian journalists. The interviews were conducted by CROP, a well-known polling firm in Montreal. The interviews lasted an average of 28 minutes.

Journalists were defined as salaried full-time editorial personnel (reporters, writers, correspondents, anchors, columnists, news directors and editors) responsible for the information content of daily and weekly newspapers, more-than-monthly news magazines, news services, broadcast networks, and individual radio and television stations. Photographers and camera operators were excluded because their function is more to illustrate news than to decide what will be news.

The sample of journalists was generated via a multi-stage process. The first stage involved compiling lists of all Canadian news organizations. Random sampling then was used to generate a list of news organizations that included 37 daily newspapers (stratified by circulation so that roughly one-third of the daily newspapers in each circulation category was included at random), 53 weekly newspapers (every 20th weekly newspaper chosen at random), 27 radio stations (every 20th one), 39

television stations (every third one), four news magazines, and a sample of wire service and private-television network bureaus.

The second stage involved obtaining lists of the journalists who worked for the news organizations in the sample. Letters were sent to the editors or news directors of the organizations, explaining the study and requesting the names and job titles of all journalists who worked for their organizations. Follow-up telephone calls were made as needed.

Most news organizations were willing to supply lists of their journalists; overall, 85 percent did so. Weekly newspapers (98 percent) were most likely to comply, followed by daily newspapers (86.5 percent), radio stations (75.9 percent), and television stations (73.2 percent). Lists of journalists also were obtained from six of the 10 CBC/Radio-Canada network news-and-information services (chosen for maximum diversity). Small adjustments were made throughout the process to ensure proportional representation, including adding 18 radio stations and 12 weekly papers (chosen randomly) after initial returns indicated that an underestimate of the number of journalists working at such media.

Overall, 179 news organizations (including the six CBC/Radio-Canada network services) provided us with the names of 2,503 journalists. To obtain a probability sample of Canadian journalists -- that is, one in which each journalist in Canada had an equal chance of being selected -- the first task was to estimate the number of journalists throughout Canada who worked for a given news organization. We calculated the proportion of each kind of media (e.g., daily newspapers, radio, television, etc.) that provided a list of journalists, and then divided the total number of

journalists listed as working for each kind of media by the proportion of news organizations in that media sector that responded. We did a similar calculation to arrive at an estimate of the number of journalists who work in each Canadian region.

Our budget called for completed interviews with a probability sample of 500 Canadian journalists plus an additional 50 randomly chosen journalists from Quebec. We created a sampling frame of 832 journalists by choosing journalists randomly by media sector and region so that the sampling frame was representative of the distribution of Canadian journalists. Personalized letters were sent to each of the 832 journalists, informing them that the polling firm (CROP) would be phoning them to set an appointment for a telephone interview. The journalists' names and work telephone numbers were given to CROP, which attempted to contact each individual in the sampling frame. Forty-one people no longer worked at the news organization that had provided their names; they were excluded from the survey. So were 50 others who had either left journalism, didn't work full-time, were on long-term sick leave, or who could not be reached by phone.

Accordingly, a total of 741 journalists could be reached by phone. Interviews were completed with 554 journalists, while 33 refused to take part in the survey and three others decided during the interview that they did not want to complete it. The resulting response rate was 94 percent (554 completed interviews, 36 refusals or terminations). At the time that they reached the contracted-for number of completed interviews, CROP's interviewers stopped trying to set up interviews with the other 151 journalists in the sampling frame.

According to the data, Canada had about 12,000 full-time journalists in 1996. More than half of Canada's journalists worked for daily newspapers (30.2 percent) or radio stations (26.4 percent). Despite television's importance as a source of news for citizens, only two of nine Canadian journalists (22.2 percent) worked in television news, either for a local station or for a network. The rest of the full-time journalists in Canada worked for weekly newspapers (18 percent), for wire services (2.6 percent), or for news magazines (0.6 percent). The proportion of journalists working in any given province was very close to that province's proportion of the total Canadian population.

The typical Canadian journalist in our survey was a white (97 percent) male (72 percent) on the verge of middle age (about 40 years old) who made about \$49,000 (Cdn.) a year and who was slightly more likely than not to have a university degree.

We oversampled Quebec journalists to be able to make precise comparisons between journalists from Canada's two major cultures. We estimated that 81 percent of Canadian journalists used English as their principal language, with 19 percent using French. We present analyses for anglophones and francophones separately.

## Results

Most Canadian journalists (56 percent) work for news organizations that have written ethics codes or news policy manuals that include ethical standards, the survey showed. However, 55 percent of the journalists whose news organizations have written ethical guidelines hadn't consulted the guidelines in the six months before the survey. Put another way, three-quarters of Canada's journalists had not used an ethics code in

the previous six months, either because their news organization didn't have one (44 percent) or despite the fact that their news organization had one (31 percent).

The widespread lack of use of formal ethical guidelines does not necessarily mean that Canadian journalists are unethical, of course. Many journalists may not have faced an ethical dilemma in the past six months. And in any case, research among journalists in the United States suggests that journalists' ethical tendencies are intuitive and unarticulated, discernable only through patterns of behavior (Meyer, 1993).

To gain insight into Canadian journalists' patterns of behavior, we posed a series of questions about legal but controversial reporting behaviors, asking journalists whether the behavior in question could ever be justified. For three of the behaviors, there was no difference between anglophones and francophones (see Table 1). Solid majorities of journalists from both language groups thought it was sometimes justified to use hidden cameras or microphones and to stage re-creations or dramatizations of news events using actors. In addition, virtually all journalists said it would never be justifiable to promise to keep the identity of a news source confidential but then fail to do so.

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Insert Table 1 here  
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There were some differences between anglophone and francophone journalists. On two of the five questions, more francophones than anglophones were willing to consider operating at the limits of ethical behavior. As Table 1 shows, 70 percent of francophone journalists but only 58 percent of anglophone journalists believed that

reporting the prior criminal record of someone police had named as a suspect in a murder case would sometimes be justified. Far fewer journalists overall said they could sometimes justify accepting free travel from a company to cover a newsworthy event in which the company had an important stake. Thirty-five percent of francophone journalists, but only 24 percent of anglophones, thought such behavior could sometimes be justified.

We also asked a series of questions about whether it would sometimes be justifiable to publish information that would break the law. We asked for responses about three situations: Publishing or broadcasting the name of a living sexual-assault victim; listening to and reporting on the contents of other peoples' cellular phone conversations; and violating a publication ban issued by a judge.

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Insert Table 2 here

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Substantial minorities of Canadian journalists said they thought such illegal behaviors could sometimes be justified. Table 2 shows that 44 percent of the anglophones and 26 percent of the francophones thought it sometimes would be justifiable to publish or broadcast the name of a living victim of sexual assault. Anglophones also were slightly more likely than francophones to say that violating a publication ban was sometimes justifiable (39 percent to 36 percent). Francophone journalists, many of them no doubt remembering a Quebec government official's attempts in the early 1990s to prevent dissemination of tapes and transcripts of highly newsworthy information from an overheard cellular telephone conversation, were

much more likely than anglophone journalists to say they would publish or broadcast such information (49 percent to 27 percent).

As mentioned earlier, the results of the survey demonstrate that three-quarters of Canadian journalists pay little or no attention to a code of ethics or news policy manual. We were interested in probing the ideas they do use to help them decide how to deal with controversial matters.

We asked respondents to agree or disagree with a series of statements about the extent to which they consider certain factors "when deciding how to deal with controversial matters." Answers were on a 1-to-10 scale, with 1 representing "disagree strongly" (the factor is not at all important) and 10 representing "agree strongly" (the factor is very important). The results are presented in Table 3.

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Insert Table 3 here

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Journalists tend to rely on their own personal sense of ethics in deciding what to do in controversial situations, our results show. For anglophones and francophones, the average agreement with reliance on personal ethics was about 8 on the 10-point scale. The respondents were neutral about whether they would consider what other journalists at their news organization would do in a similar situation; anglophone and francophone journalists rated that factor at about 5 on the 10-point scale.

Journalists seemed concerned about the possibility of being sued, with an average agreement of just under 7 on the 10-point scale that the possibility of a lawsuit was a factor they considered. Journalists' concern about being sued may be misguided,

because only a small minority of the respondents (14 percent of anglophones, 9 percent of francophones) had been sued or found in contempt of court in connection with their journalistic work. Alternatively, the journalists' concern about being sued may lead them to avoid the kinds of behaviors that might lead to a defamation action or contempt of court.

Anglophone journalists, as a group, agreed slightly that their ethical calculations include considering what competing news organizations would do. Francophone journalists disagreed slightly with the statement.

All provinces but Saskatchewan have press councils, which are essentially voluntary ethical courts established by the news industry to hear complaints about journalistic performance. The Quebec Press Council accepts complaints against any kind of news organization, while the press councils in English Canada accept complaints only against newspapers that are members of the press council. Anglophone journalists disagreed fairly strongly that the possibility of a complaint to their press council was a factor they considered; francophone journalists disagreed only slightly.

## **Discussion**

This study of Canadian journalists uncovered two principal findings. The first is that formal sources of ethical norms -- written ethics codes or policy manuals, provincial press councils -- are relatively unimportant factors in Canadian journalists' ethical decision-making processes. The second is that Canadian journalists exhibit a fair amount of ethical boldness.

The finding that formal sources of ethical norms are relatively unimportant is consistent with the findings of American research into ethics codes (Pritchard & Morgan, 1989) and news ombudsmen (Pritchard, 1993). Ethics in Canadian journalism, as in American, may be much more individual and idiosyncratic than any formal set of guidelines.

The finding of ethical boldness flows from the fact that clear majorities of both anglophones and francophones would be willing to consider using hidden microphones or cameras, to report the criminal record of someone police say is a murder suspect, and to use re-creations or dramatizations of news events by actors. Even when reporting something would violate unambiguous legal rules (e.g., publishing the name of a living victim of a sexual assault, violating a publication ban issued by a judge, eavesdropping on cellular phone conversations), substantial minorities of Canadian journalists would consider disseminating the information, at least in some circumstances.

Respondents were more ethically cautious when it came to financial conflict of interest; less than a third would consider accepting free travel from a company, even though such behavior is perfectly legal. Journalists were most ethically pure when it came to keeping their word; almost all of the survey's respondents said they would never break a promise of confidentiality to a source.

Although there were some differences between anglophones and francophones as to the kinds of behaviors that could sometimes be justified, the similarities between the two groups were far more striking than the differences.

The principle that seems to unify the above findings is journalists' belief that their autonomy is important, that they must make independent decisions about how to gather news and what to report. The autonomy principle also explains journalists' wariness about accepting free travel (they do not want to be beholden to a source), their near-unanimous refusal to consider violating a promise of confidentiality to a source (having decided that confidentiality is important in a given instance, they won't change their mind), and their very strong belief that personal ethical standards rather than anything else is the prime component in ethical decision-making.

It is important not to overstate the case, however. Legal prohibitions did matter. Although substantial minorities of journalists were willing to break the law when they thought it necessary, most were not. And the possibility of being sued was an important factor in ethical decision-making for many journalists, although its strength was less than that of personal ethical standards.

It should be kept in mind, of course, that the journalists were responding to hypothetical situations. How they would react if faced with a real choice about a concrete situation might be quite different.

## Discussion

This study of Canadian journalists uncovered two principal findings. First, almost all of the survey's respondents said they would never break a promise of confidentiality to a source. Although there were some differences between reporters and transcriptionists, the two groups were far more striking than the differences between them. The second finding was that Canadian journalists exhibit a strong belief in personal ethical standards as the prime component in ethical decision-making. This belief was very strong, and it was the same across all kinds of behaviors that could sometimes be justified, the similarities between the two groups were far more striking than the differences.

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**Table 1 -- Acceptance of legal but controversial reporting behaviors (percentage saying behavior is "sometimes justifiable")**

	Anglophones	Francophones
Using hidden micro-phones or cameras to obtain news	65%	64%
Reporting the criminal record of someone police say is a murder suspect	58%	70%
Using re-creations or dramatizations of news events by actors	59%	55%
Accepting free travel from a firm to cover an event in which the firm has a stake	24%	35%
Agreeing to keep a news source's identity confidential but failing to do so.	05%	04%

**Table 2 -- Acceptance of disseminating information in violation of the law  
(percentage saying behavior is "sometimes justifiable")**

	Anglophones	Francophones
Publishing the name of a living victim of a sexual assault	44%	26%
Violating a publication ban issued by a judge	39%	36%
Listening to and reporting on the contents of others' cellular phone conversations	27%	49%

**Table 3 -- Strength of considerations in ethical decision-making** (Average response on 1-to-10 scale to "When deciding how to deal with controversial matters, I think about...", where 10 represents strong agreement)

	Anglophones	Francophones
My own personal ethical standards	8.27	7.99
Whether my decision could lead to a lawsuit against me or my employer	6.87	6.96
What competing news organizations might do with the story	5.41	4.41
What others at my news organization would do in the same situation	5.10	5.03
Whether my decision could lead to a complaint to the press council	3.20	4.63

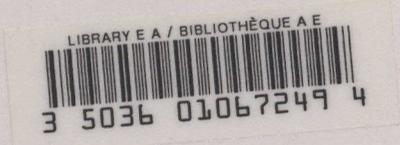


Table 3 -- Strength of considerations in ethical decision-making responses on 1-10 scale. When deciding how to deal with controversial matters, I think about... where 10 represents strong agreement.

Category	Mean	SD	Category	Mean	SD
Publishing the name of a living victim of a sexual assault	6.47	1.99	My own personal ethical standards	6.57	1.99
Violating a publication ban issued by a judge	6.96	1.99	Whether my decision could lead to a lawsuit against me or my employer	6.87	1.99
Listening to and reporting on the contents of a cellular phone conversation	6.96	1.99	What competing news organizations might do with the story	6.87	1.99
			What others at my organization would do in the same situation	6.87	1.99
			Whether my decision could lead to a court case to the press council	6.87	1.99

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