

Journalist asks court to prevent Winnipeg police access to unedited interview in mass shooting

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CityNews journalist Morgan Modjeski's court challenge seeks to prevent police from accessing the full interview he conducted with the father of a man accused of murder in a Winnipeg mass shooting.

(CityTV/Manitoba Court of King's Bench)

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A Winnipeg reporter is paying for a court challenge to prevent Winnipeg police from getting access to the full, on-camera interview he conducted in the aftermath of a deadly mass shooting, arguing it would infringe on his constitutional rights as a journalist, damage his credibility and create a "chilling effect on sources."

Morgan Modjeski, a reporter with CityNews, lays out in a sworn affidavit dated Dec. 17, 2024, how he tracked down, identified and eventually interviewed the father of the man charged with four counts of second-degree murder and one count of attempted murder following the shooting in November 2023 at a rooming house in the city's West Broadway neighbourhood.

"If the raw footage is released to police, it would offer the police a means of easy access to information held by journalists and inhibit our ability to gain the confidence and trust of sources and interview subjects," Modjeski wrote in the affidavit.

"It would have the effect of co-opting members of journalistic organizations as agents of the police, and blur the important democratic line between our role as societal watchdogs and the role of the police as governmental authorities."

Winnipeg police obtained a production order — a judicial authorization that compels a person, including an organization, to disclose documents and records to an authorized peace officer — in the Manitoba Court of King's Bench on Sept. 19, 2024, to get Modjeski's full, unedited audio-and-video interview with Randolph "Chummy" Fagnan, the father of Jamie Randy Felix who's accused in the shooting. It was recorded on Dec. 5, 2023.

"I conducted an interview with him for purposes of a story broadcast on CityNews and online, which included ... what Chummy told me — that Jamie was an epileptic and suffered seizures that left him confused and disorientated," Modjeski says in the affidavit.



Randolph 'Chummy' Fagnan, left, and Modjeski are pictured in a portion of the edited TV story that aired in December 2023. (CityTV/Manitoba Court of King's Bench)

None of the charges against Felix have been tested in the court.

Fagnan 'a material witness': police

Modjeski hired his own lawyer who advised the Crown on Oct. 2, 2024, of his intention to fight the production order granted by Justice Gerald Chartier.

Sgt. Paul Barber, a detective with the Winnipeg Police Service, said in a sworn affidavit investigators want the raw interview because they view Fagnan as "a material witness" regarding his son's condition and mental state.

Barber said officers with the homicide unit tried to interview Fagnan themselves, but he says in his affidavit the man refused to give a statement.

"I believe that the information Fagnan provided to Modjeski, both in the aired segment as well as unaired segments, are relevant to this investigation," Barber says in his affidavit.

Barber says in the affidavit the video clip that went to air shows "Fagnan in sunglasses, mask and hood and identifies him by name as Randall "Chummy" Fagnan: Father of Jamie Randy Felix."



Fagnan is pictured in TV story that aired on CityNews in December 2023. The Crown is arguing on behalf of police that Modjeski's challenge should be rejected and investigators should be allowed to see the full interview because Fagnan is not considered a confidential journalistic source under the Journalistic Sources Protection Act. (CityTV/Manitoba Court of King's Bench)

Modjeski deferred further comment to his Toronto-based lawyer, Iain MacKinnon, who is arguing the interview shouldn't be given to police due to provisions under the [Journalistic Sources Protection Act \(JSPA\)](#).

"One of the main arguments against that is that once you start going down this road of allowing police to subpoena or obtain production orders against media work product, it can become a slippery slope," MacKinnon told CBC in an interview.

He said that's because journalists and media can then "become an investigative arm of the state and an arm of the police, and now they're just out there gathering evidence for use in a criminal proceeding and for use by police."

MacKinnon says it's critical journalists maintain credibility, impartiality and distance from the police and the Crown.

The JSPA allows journalists to refuse to disclose information or a document that identifies a journalistic source unless the information or document cannot be obtained in any other way. It states the administration of justice must also outweigh the public interest in preserving the confidentiality of a journalistic source.

- [Man charged in Winnipeg mass shooting has history of psychotic episodes: court documents](#)
- [Winnipeg police charge 32-year-old man in mass shooting that killed 4](#)

Crown attorney Mike Desautels is arguing on behalf of police that Modjeski's challenge should be rejected and investigators should be allowed to see the full interview because Fagnan is not considered a confidential journalistic source under the JSPA.

"In this case, there is no evidence that Fagnan himself believed anything about his interview on camera, conducted in public, was in any way, confidential or intended to protect his anonymity," Desautels argues in a court document.

Witness to the crime

Desautels said Fagnan was also a witness to the crime, and while he was interviewed by police Desautels said Fagnan declined to give a full statement to officers or participate any further in the investigation.

The Crown's factum says investigators believe Felix was the shooter based on video surveillance and witness interviews.

[Four people died after they were shot](#) in the early morning hours of Nov. 26, 2023, in a unit at a home on Langside Street. A fifth person who was shot, a 55-year-old man, was in hospital in critical condition, police said at the time.



On Dec. 1, 2023, Winnipeg police said that Jamie Felix, 32, had been arrested and charged with second-degree murder in connection with a mass shooting that left four people dead on Nov. 26. He's pictured here in a photo from his Instagram page. (Jamie Randy Felix/Instagram)

The Crown calls Fagnan "a key witness" who spoke to CityTV about his knowledge of the murder and the suspect but not to police.

"Whether the accused is not criminally responsible by reason of mental disorder is a live issue in the investigation and trial," Desautels says in his submission to the court.

Desautels said during the interview with CityTV, "Fagnan stated that his son [Felix] was having a seizure at the time of the shooting, and offered other details about Felix's cognitive abilities and what his son typically remembers while having a seizure."

The Crown attorney also argues Modjeski's employer, Rogers Media Inc., has complied with the production and no longer objects.

The company's lawyers prevented Winnipeg police from accessing the interview during two earlier attempts to get a production order.

"We successfully challenged the first two orders and will abide by the outcome from these legal proceedings, while continuing to support our reporters delivering important news to our

audiences and the communities we serve," a spokesperson for Rogers Sports & Media said in an email.

Modjeski argues in his affidavit another reason the footage shouldn't be disclosed is the impact it could have on Fagnan who he worries could be labelled on the streets of Winnipeg as "a snitch and a rat," someone perceived to be working or co-operating with police.



The home on Langside Street where four of five people were shot to death in November 2023. (Jaison Empson/CBC)

Brent Jolly, president of the Canadian Association of Journalists, said Modjeski reached out to the CAJ because "he had a particular moral opposition to handing over the raw interview."

Jolly said the outcome of his court challenge, which Modjeski is paying for himself, could have implications on other journalists.

"I think we really need to understand here the impact that a chill can have and the impact of the media's impartiality to be neutral and independent from power," Jolly said.

He says Modjeski's decision to challenge the production order shows he's committed to his work and his sources.

"I think Morgan is admired by his peers because he has done this at personal expense," Jolly said. "That's something that he has to be acknowledged and saluted for."

Winnipeg police had no further comment on Modjeski's court challenge to the production order.

A copy of the full, unedited interview has been provided to the court but neither police nor the Crown can see it unless Justice Chartier rejects Modjeski's challenge.

No date for a decision has been set.



Court challenge seeks to prevent Winnipeg police from seeing journalist's interview



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A Winnipeg reporter launched a court challenge to prevent police from accessing the full interview he did with the father of a man charged in a mass shooting.