

CASE STUDY: ARTHUR ASHE AND INVASION OF PRIVACY

Tennis legend Arthur Ashe was the first black man to win Wimbledon and the U.S. Open. After his retirement from tennis, Ashe joined the struggle for human rights in his the U.S. and emerged as a leading critic of apartheid in South Africa. He wrote a highly regarded three-volume history of black athletes in the United States. By all accounts, he was generous with his time and gracious when dealing with the public.

On April 8, 1992, however, Arthur Ashe was faced with one of the most difficult decisions of his life. Unknown to all but a few, Ashe had contracted HIV, probably from a blood transfusion during a heart bypass operation in 1983. Ashe, an intensely private man, had managed to keep his condition a secret from everyone except his family and close friends. However, all that changed when a reporter from *USA Today* contacted Ashe in early April of 1992.

The reporter, acting on a tip from an anonymous source, called to confirm whether Ashe had AIDS or not. Realizing that his secret would now, very probably, become public knowledge, Ashe was faced with the dilemma of letting the media expose his private life, or taking the initiative and releasing the information himself. He asked *USA Today's* sports editor to allow him 36 hours before the paper ran the story so that he could prepare a statement. The editor, Gene Polincinski replied that, "as a journalist, it was not my role to help him plan a press conference—and that it was inappropriate for me to withhold a news story that I could confirm."¹²

During the subsequent press conference, put together literally on the spur of the moment in order to preempt the *USA Today* scoop, Ashe displayed both anger and dismay at the actions of the media. He chastised them for forcing him into "the unenviable position of having to lie" in order to protect his family's privacy, or to go public with what he considered to be private information.³ In a *Washington Post* article written by Ashe, he discussed how he felt about the media's intrusion into his private affairs. "I wasn't then, and I am not now, comfortable with being sacrificed for the sake of the 'public's right to know.'"

Although *USA Today* held the story in the U.S. pending Ashe's confirmation, it released the story to its overseas edition after a talk with the former tennis star just prior to his press conference in which he admitted to being HIV positive.

After going public, Ashe became active in the fight against AIDS, forming a fundraising foundation and joining the boards of the Harvard AIDS Institute and the UCLA AIDS Institute. He died of pneumonia just ten months after his public announcement. Just four days before he died, he had given a speech on AIDS, and was scheduled to appear at an AIDS forum in Hartford, Connecticut, the day he died. He was force to cancel at the last minute, but sent a videotaped message in his stead.

CASE STUDY QUESTION

Read the following statements made by media people following the Arthur Ashe press conference. Pick two quotes you disagree with most and two you agree with most and explain the quotes in terms of ethical theories and your own opinions on the case.

1. [Ashe] is exactly correct. Keeping quiet made sense. Privacy is precious, and once lost, may never be retrieved. So Arthur Ashe was careful to protect his terrible secret. Whose life was this, anyway? (Fred Bruning, *Macleans*)⁴

2. Of course the fellow has a right to act in what he considers his own best interests. But no reporter or editor should feel obligated to assist in the suppression of what Ashe, or anyone else, views as confidential or inappropriate. Cruel as it may seem, the wishes of a stricken man cannot substitute for editorial judgment. The process is imperfect, and its justice notoriously rough, but the objective is clear. Personal concerns are secondary to the principles of a free press. (Fred Bruning, *Macleans*)
3. We can lament the terrible turn of events that threaten the life of so fine a man as Arthur Ashe but we do not honor him--or the freedom he championed--by confusing sympathy with self-censorship. (Fred Bruning, *Macleans*)
4. [T]he Press (in this case a reporter and an editor from *USA Today*) reached into the most private precinct of [Ashe's] life (inside his body itself) and forced him to reveal his disease to millions of strangers. Ashe and his wife Jeanne have a five-year-old daughter. The girl was entitled to privacy and to tenderness in how she would be told, and when. (Lance Morrow, *Time*)⁵
5. There was no public need to know, or right to know. Everyone is not fair game to be dragged onstage for involuntary exposure. Does AIDS make Ashe, or anyone, public property? As Ashe said, he is neither a political candidate nor a businessman beholden to stockholders. That Arthur Ashe is a "public figure" whom people recognize as he walks down the street is precisely the best argument for any decent human being's not informing the whole world that the man has AIDS. (Lance Morrow, *Time*)
6. If Ashe had had leukemia, would reporter and editor have published the story? Maybe, in one paragraph. But not if Ashe had asked them not to. AIDS made it different. Irresistible. Juicy gossip. (Lance Morrow, *Time*)
7. If a star volunteers, out of vanity or some other need, to tell all, the story may be interesting, even helpful to others. Arthur Ashe did not volunteer. He did not invite the world in. A pattern of revelation that routinely puts the most intimate details on public display has nearly obliterated an appreciation of both the right of privacy and the obligations of kindness. (Lance Morrow, *Time*)
8. "It is a news story, absolutely. Unfortunately it is a story that's bigger than the individual, even when the person is as great a person as Arthur Ashe. AIDS itself is a story. The reaction to this whole thing is the best proof possible. The fact that Arthur Ashe is stricken with AIDS is a tragedy. The fact that he lost a measure of his privacy is a tragedy." (Paul McMasters, executive director of the Freedom Forum First Amendment Center at Vanderbilt University quoted in an article by Debra Gersh, *Editor & Publisher*)⁶
9. "[Ashe] deserves the same privacy considerations this newspaper routinely gives rape victims. Like them he, too, should not be twice victimized by being made to suffer the harsh glare of the public spotlight. To say he is a public figure and thus fair game for such intrusive news coverage ignores the fact that even celebrity rape victims are afforded a cloak of anonymity by this and most other

- newspapers.” (*USA Today* and Gannett News Service columnist DeWayne Wickham quoted in an article by Debra Gersh, *Editor & Publisher*)
10. “This is a tough one. Ashe is no longer a performer. Had he chosen to keep his heart surgery secret, he deserved to have his request honored. He did elect to keep his present condition a secret. Somebody betrayed him. News of an ex-athlete’s fatal disease can’t simply be cataloged under the ‘public’s right to know.’” (Boston Globe columnist Dan Shaughnessy quoted in an article by Debra Gersh, *Editor & Publisher*)
 11. “When the news arrived at *USA Today*, the newspaper had no choice. The silent and generous conspiracy was a noble act of some loyal people, but there is no room for a newspaper in a conspiracy, generous or otherwise. The controversy itself makes you wonder how many other generous conspiracies are out there and how many newspapers are involved.”
 12. The public may not have a right to know, but it sure does want to know. It was a hell of a story. As insensitive as it sounds, that is what this game is all about.” (The Boston Herald’s Gerry Callahan quoted in an article by Debra Gersh, *Editor & Publisher*)
 13. “This story makes me queasy. Perhaps it is the disparity between the value of information conveyed and the magnitude of the pain inflicted.” (*New York Times* columnist Anna Quindlen, quoted in an article by Debra Gersh, *Editor & Publisher*)
 14. “In recent years, mass media have been sliding down a slippery slope in pursuit of the private lives of celebrities. These stories sell newspapers and pump up tv ratings, but they do little for public discourse.
 15. “Instead of investigating the private sphere regarding this or that celebrity with AIDS, mass media could be deploying investigative resources aimed at the public arena—the AIDS research effort, inadequacies in the health care system, the success of needle exchange programs, how homophobia has slowed the effort, etc.” (Jeff Cohen, executive director of the New York-based Fairness & Accuracy in Reporting (FAIR) quoted in an article by Debra Gersh, *Editor & Publisher*)
 16. “We tell ourselves that we are serving the public; but the bloodthirstiness and competitiveness with which we pursue our quarry are evidence enough that we are in search of nothing more noble than headlines.
 17. “Unlike those among my colleagues and competitors who say that they have had difficulty forming clear conclusions about the treatment of Ashe, I have had no difficulty at all: Ashe was absolutely right to insist on his privacy and *USA Today* was absolutely wrong to violate it. No public issues were at stake. No journalistic ‘rights’ were threatened. (Jonathan Yardley of the *Washington Post* quoted in an article by Debra Gersh, *Editor & Publisher*)

18. “No journalist likes to inflict pain. We do so from time to time, but we like to think that we have no choice. We balance the pain we inflict against the certainty that the public has a stake and has to be informed. When Arthur Ashe appeared before the cameras and announced he was HIV positive, anyone could see the pain. What was not so clear is why we had to know.” (Washington Post’s Richard Cohen quoted in an article by Debra Gersh, *Editor & Publisher*)

¹ Debra Gersh, “Unclear boundaries: was it news that former tennis pro Arthur Ashe has AIDS?”, *Editor and Publisher* 18 April 1992: 7–10.

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³ Howard G. Chua-Eoan, “The burden of truth,” *People Weekly*, 20 April 1992: 50–51.

⁴ Fred Bruning, “How a private citizen lost his privacy rights” *Maclean’s*, May 4, 1992 v105 n18 p13(1) .

⁵ Lance Morrow, “Fair game?” *Time*, April 20, 1992 v139 n16 p74(2).

⁶ Debra Gersh, “Unclear boundaries: was it news that former tennis pro Arthur Ashe has AIDS?” *Editor & Publisher*, April 18, 1992 v125 n16 p7(3)