



National Justice Network Update



February 2005

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Hi,

Welcome to the February issue of National Justice Network Update. As always, our goal is to provide you with updates on what bills have been introduced; what stages they are at; who is doing what for victims and what is happening in areas such as young offenders, high risk offenders, conditional release and victims' rights.

We hope you enjoy the new format. Please do not hesitate to contact the office should you have any problems or concerns.

Canadian Resource Centre for Victims of Crime

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Phone: 1.877.232.2610

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CRCVC URGES COMMITTEE TO EXPAND DNA BILL

Last month, the CRCVC testified before the Commons Justice Committee and urged the committee to amend the bill to expand the retroactive provisions of the bill. Currently, officials can obtain DNA from only a small group of offenders serving sentences prior to the bill being passed – this list includes Dangerous Offenders, serial killers and serial rapists. The CRCVC presented several cases of offenders who are not in this group but whose DNA should be in the bank. Ralph Power, whose crimes are described in an article below, is one example.

The CRCVC also raised the need for the creation of a missing person's index to be linked with the DNA bank. After our testimony, the committee decided to hear from BC MP Gary Lunn, who has a Private Member's Bill on this issue. There is widespread support for the idea around the committee table, including the Bloc and NDP, but justice lawyers are urging the committee to wait for the results of a public consultation document they hope to release in March.

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SNAPSHOTS

By: Jesse Henneberry

SUPREME COURT UPHOLDS RANCHER'S CONVICTION

The Supreme Court of Canada has upheld a murder conviction against Alberta rancher Eifion (Wayne) Roberts in the death of Calgary oilman Patrick Kent.

In November of 2000 Roberts, an Alberta rancher, was convicted of second-degree murder. Patrick Kent, a Calgary businessman was shot five times, including four times in the head. This was the result of a dispute over an oil lease.

Roberts claimed he shot Kent in self-defence. He said Kent came at him in a threatening fashion on October 3, 1998.

KB Resources Ltd., Kent's Calgary company, had leased land owned by Roberts. Kent, a company vice-president, was checking an oil well on the land when the shooting occurred.



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to do this year. Our brief is on our website –
<http://www.crcvc.ca/en/resources/briefs.php>.

The committee has also heard a witness from the UK on their databank. In the UK, DNA samples are taken at the time of arrest, just like photos and fingerprints. They have 2 million samples on file and their success rate is much better than Canada's. There is, apparently, little or no public outcry about civil rights under their process, a fact which surprised many members of the committee.

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The CRCVC made several other recommendations, some aimed at the broader review of the legislation the committee is supposed to do this year. Our brief is on our website –
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FEDERAL/PROVINCIAL/TERRITORIAL JUSTICE MINISTERS MEET

When the country's justice ministers met in Ottawa last month, crime victims were not officially on the agenda. For the most part, victims' issues were ignored despite a letter from the CRCVC raising several issues to all the Ministers in advance of the meeting. Among the issues raised was the state of a victim's right to give an oral impact statement given the comments by the BC Minister after the Bertuzzi case and the need of some crime victims for financial assistance to attend federal parole hearings.

Victims were given brief attention though. The federal Public Safety Minister, Anne McLellan, said victims need to be considered in the development of sentencing and correctional reforms. In addition, victim surcharges were briefly raised. FPT officials will examine the barriers to effectiveness of the surcharges and the possible need to raise the amount. One problem that



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should be examined is that some provinces are not spending the money raised through the surcharge on victim services.

Ministers discussed a variety of other issues. The federal Minister of Justice is going to ask the Commons Justice Committee to restart their review of conditional sentences. Some hearings were held prior to the last federal election but the committee never issued a report. The CRCVC testified during those hearings.

Ministers also discussed Dangerous Offender and Long Term offender provisions in the Criminal Code. FPT officials have been tasked with further study of these issues.

Prior to the meeting, Ontario Attorney-General Michael Bryant said, "for those who pose a danger, let's not wait until the worst happens. Why do we have to wait until that person causes a serious injury before we put them back before the courts to be considered as a dangerous offender," Bryant said.

In our letter, the CRCVC raised the ongoing problems with the Long Term Offender provisions. In the past, we have also raised the issue of high-risk offenders being released from prison after serving their entire sentences. There is currently no effective mechanism to deal with these offenders and Canadian society is forced to simply wait for the next victim.

BC MINISTERS RESPOND TO CRCVC LETTERS

Since taking power, the BC Liberal government has done significant damage to crime victim services in the province. Most notably, is the decision to cut all Crown-based victim services. The CRCVC has been critical of the government.

Recently, we wrote to both Attorney General Geoff Plant and Solicitor General Rich Coleman on different issues related to victim services and victims' rights.

The letter to Plant was in relation to the Crown's decision to oppose Steve Moore's request to adjourn the sentencing hearing of Todd Bertuzzi so he could attend and read his impact statement. The *Criminal Code* says Moore has such a right. The Crown argued against Moore's lawyer request for an adjournment since Moore could not be there (the sentencing hearing had been moved up a month due to a last minute deal between the Crown and defence). The Crown said victims have no right to deliver their impact statement in person, and his claim was repeated the following day by the Minister.

The CRCVC wrote to the Minister and challenged his interpretation of the Criminal Code. In his response to our letter, the Minister explained Bertuzzi's sentence, which was not raised in our letter. We have written back and asked that he respond to the issues we actually raised.

The letter to Minister Coleman was with respect to the victim services being provided to the families of the Robert Pickton case. It is our understanding from some of the families that the services are not meeting their needs. Given there is at least a year until the trial, we asked the Minister to do a complete review of the services and to consult the families about their needs.

The Minister responded, saying he accepted our suggestion and did a review and he is satisfied the services are working well. He did not, however, speak to the families to get their views, which would have differed from the views of those providing the services.

We have written to Minister Coleman again and asked him to follow through on our complete suggestion and speak to the families.



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We will keep you updated on these ongoing issues. Hopefully, whoever is writing the responses for the Ministers actually read our letters this time!

ALCOHOL USE DOES NOT CAUSE SEXUAL VIOLENCE

Understanding the role drinking does and does not play in sex assaults is essential to prevention efforts.

By: Scott Hampton, Psy.D.

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Alcohol and sexual assault often happen together. According to Greenfeld (1998), 30 percent of all sexual assaults occur when the perpetrator is under the influence of alcohol. In some cases, the victim also is intoxicated. Drinking makes it easy for the perpetrator to ignore sexual boundaries, while the victim's intoxication makes it more difficult for her to guard against an attack.

A common misunderstanding is that if people commit sexual assaults only when drunk, then (a) the drinking must have caused the assault and (b) sobriety and alcohol counseling are adequate to prevent future assaults. These erroneous conclusions confuse correlation and causation. To illustrate, consider the correlation between consciousness and sexual assault. Perpetrators of sexual assault typically commit sexual assaults only when they are awake, but it would be ridiculous to suggest that being awake caused them to commit sexual assaults. So, what is the relationship between alcohol and sexual violence?

First, alcohol use does not cause sexual violence. Putting alcohol into your system does not cause you to commit a sexual assault anymore than putting gasoline into your car causes you to drive to the airport. Gasoline makes it easier to do what you want to do (e.g., drive a car) while alcohol also makes it easier to do what you want to do (e.g., grope women). If you do not at least think about doing something when sober, you are not likely to do it when drunk. For example, no one worries about becoming so intoxicated that he will lose control and stab himself in the eye with a fork. Why? Because he would never consider doing that when sober.

Alcohol acts as a permission slip. By reducing inhibitions, alcohol often makes it more likely that someone will choose to sexually assault another person. As one man in a violent offender program noted, "When I first came to your program I told you that I hit my wife because I was drunk; now I realize that I drank so that I could hit her." He realized that alcohol did not excuse or even explain the abuse. Instead, alcohol was the way that he had tried to avoid responsibility for the abuse.

Sexual assault occurs despite alcohol use, not because of it. When someone is extremely intoxicated, we call that person "impaired." "Impaired" means that you have more difficulty performing tasks. Therefore, if you are going to sexually assault someone when drunk, you have to try harder, focus your attention and be more determined than if you were sober. In effect,



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people who sexually assault when drunk, do so, not because they are intoxicated, but despite their intoxication. They have to overcome the impairment to commit the sexual assault.

Memory loss is not the same as lack of intent. If a perpetrator of sexual assault claims that he has no specific recollection of the assault that does not mean that he had no intention of doing it at the time. All it means is that the perpetrator is currently either unable or unwilling to report his state of mind when the assaults occurred. For example, sometimes we hear perpetrators report on events that were acceptable (e.g., "I remember drinking and dancing") but not the events that could result in arrest and prosecution (e.g., "I don't recall fondling that person"). Or the perpetrator will not recall the offense, but will be able to assert with confidence what his state of mind was at the time (e.g., "I had no desire for sexual gratification."). How can you NOT remember what you did, but be absolutely certain what your motives were when you did it? How does alcohol know which memories to delete and which to keep intact?

Sexual assault and substance abuse are separate issues. If someone violates sexual boundaries while drunk, that person has two problems that need to be addressed. Taking responsibility for alcohol consumption addresses only half of the problem. The perpetrator also needs to take responsibility for the sexual violence. On the most basic level, the perpetrator needs to learn that all sexual contact without permission is sexual violence.

To address this, good sex offender programs teach the principles of sexual consent. These principles are:

- (1) Privilege. Sex is never a right; it is always a privilege, an honor, a gift that can either be granted or taken away by the person you wish to have contact with.
- (2) Permission. Since sexual contact is always a privilege, you always must seek permission before initiating contact. In addition, you need to be sober enough to know whether or not you have been given permission. Permission requires that the other person is capable, at the time, of giving you permission (e.g., that person is old enough, sober enough, and not coerced by you to say "Yes.") If the other person is afraid to say "No" because you have a position of power or authority, you cannot know whether your potential sexual partner truly wishes to have contact with you (even if he or she does not actively resist your advances).
- (3) Justification/Intent. There is no excuse for engaging in sexual contact without consent. Sexually respectful people adopt the philosophy of "First Do No Harm." Those who do not respect sexual boundaries should not be allowed to explain or minimize their use of aggression as the result of alcohol or other drug use, stress, deviant arousal patterns, loss of control or misunderstandings.
- (4) Responsibility. The only person who ever is responsible for a sexual assault is the perpetrator. The victim never is. We, as members of their community, share responsibility for holding perpetrators accountable for their violence. How do we do this? By never blaming victims for the harm they suffered. By remembering that sexual violence is not "just a part of the disease of alcoholism." By never letting a perpetrator's sexual access and satisfaction become more important than the victim's sexual safety and autonomy. By keeping these principles in mind, we can make great strides in achieving sexual safety in our community.

TORONTO POLICE REQUEST ASSISTANCE IN IDENTIFYING LOCATION OF SEXUAL



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ABUSE

By: Jesse Henneberry. Jesse is a third year Criminology student at Carleton University.

The child exploitation section of the Toronto Police Service and members of Toronto Crime Stoppers are investigating the case of a nine-year old girl who was sexually abused two or three years ago.

Police released crime scene photographs hoping to find the hotel where the abuse took place. Investigators found these photographs while they were monitoring an online public newsgroup. The photos are the actual places where the sexual abuse occurred, however the photos have been digitally altered to remove the images of the victim.

Since the pictures were released, two Toronto callers were able to identify a hotel in one of the pictures which police now say is somewhere in the southern United States. The police are now working on identifying a suspect.

Forensic examination of the photographs dates them to be taken between 2001 and 2002 and it is believed that the girl would have been nine years old at that the photos were taken.

Today, the victim would be approximately twelve-years-old with long blonde hair. It is believed that she lives somewhere in southeastern Canada or northeastern United States.

FAMILY WANTS PREDATOR MOVED

By: Jesse Henneberry.

Murderous sex predator Ralph Power, 51, is currently serving a life sentence with no chance of parole for 25 years in the 1981 slaying of Toronto model Sheryl Gardner. Power bludgeoned Gardner to death with a hammer after gaining access to her apartment by posing as a repairman. To date, Power has served 24 years of his prison sentence and is now eligible for day parole. In July 2006, he can seek full parole.

Gardner's family believes that Power would have become a serial killer if he had not been caught after Sheryl's death.

In December 2004, Power was transferred from a British Columbia penitentiary where he served two decades behind bars to Bath institution, a medium-security institution, in Kingston, Ontario.

Officials from Correctional Service Canada said that they have a legal mandate to keep offenders in the least restrictive setting. This "least restrictive" setting is of great concern to Gardner family as several members live within two hours of Kingston. They are concerned for their safety and fear they may run into Power if he is released on parole in the area.

"It's just too close for comfort," said Carolyn Gardner, Sheryl's youngest sister.

CRCVC President, Steve Sullivan said that Power's "actions have changed [the Gardner family's] entire lives." Sullivan also called for Power's removal from the Kingston area so that the Gardner family will no longer have to be impacted by his presence.



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MURDER VICTIM'S FAMILY WANTS ANSWERS FROM PAROLE BOARD

By: Jesse Henneberry.

Julie Boisvenu's family wants to know why her killer was given parole despite a rape conviction.

The family from Sherbrooke, Quebec is outraged and can't understand why the offender Hugo Bernier was released.

Bernier was sentenced to 18 months in prison when he was convicted on rape charges in 1999 in Gaspé. However, he was given parole only three months into his sentence even though the judge said he was likely to re-offend. Two years later, Bernier raped and murdered Julie Boisvenu.

Now the Boisvenu family says that the Quebec parole board won't give any explanation as to why this happened.

Quebec's information laws prevent open access to intimate files such as parole board decisions; however this is not the case concerning parole board decisions in the rest of Canada.

"If we are victims, why do we have to fight again to know what happened in Julie's case? That kind of information should be public," says Boisvenu's father.

The Quebec Parole Board recommended that the province loosen its access laws. The National Parole Board provides victims access to parole decision sheets which explain the parole board's rationale for its decision.

The CRCVC is writing to the Minister of Public Safety in Quebec to encourage him to allow crime victims greater access to Quebec parole decisions so that families like the Boisvenu's can get the information they so desperately need.

PARENTS UPSET BY KILLER'S RELEASE

By: Jesse Henneberry.

Farook and Denise-Marie Aman are irate that their son's killer has received day parole, only eight months into his three-year sentence for killing their son.

Nineteen-year-old Tareq Aman was killed on September 28, 2001, by Erick Iozzo after being stabbed following an altercation outside a bar near Carleton University in Ottawa. The court found that Tareq was killed inadvertently when the bottle used to hit another man on the head, broke and sliced Tareq's neck.

While two other men were involved in the incident, Iozzo was sent to prison for manslaughter. The other two men involved received conditional sentences.

Prior to his parole hearing Iozzo was serving time in Pittsburgh Institution, a minimum-security prison just outside of Kingston, Ontario.

Both Mr. and Mrs. Aman read victim impact statements at the hearing that took place on February 16. Their son's death has deeply affected the entire family. Tareq has not only left behind two parents but two siblings as well, Layla and Amir.



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Representatives from the CRCVC accompanied the Aman family to Izzo's parole hearing. It was particularly difficult for the family to attend and speak at this hearing given the short amount of time that has passed since Tareq's life was taken.

Izzo was granted day parole by the National Parole Board. The Aman's feel that they and their dead son have been let down by the courts and the parole board. "This concludes the circle of failure," said Farook Aman. "They went overboard saying good things about him. In the meantime, we lost a son. Murderers get eight months in a five-star hotel and on top he gets released."



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