

Exhibit # 134

CLIFF No: 377532
DATE: August 12, 2010

MINISTRY OF ATTORNEY GENERAL
CRIMINAL JUSTICE
BRIEFING NOTE

TOPIC:

Charges against Robert Pickton Stayed by Crown in 1998.

PURPOSE OF NOTE:

ONLY FOR INFORMATION OF: Deputy Attorney General and Attorney General
MEETING REQUIRED: No

ISSUE:

Information released to the public has caused concerns to be raised with respect to the decision by Crown in 1998 to drop charges against Robert Pickton in connection with an attack on a sex trade worker.

EXECUTIVE SUMMARY/RECOMMENDATION:

In the wake of the Supreme Court decision upholding Robert Pickton's murder convictions, information has been publicly released in connection with an incident March 23, 1997 which resulted in charges including attempted murder being laid against Pickton. It was alleged that Pickton picked up the complainant, a sex trade worker, on the Downtown East Side in Vancouver and took her to his farm in Port Coquitlam. There they had intercourse. Afterwards Pickton attempted to handcuff her. The complainant fought back, slashing Pickton's throat and causing him significant injury. The complainant also suffered a number of stab wounds in the struggle. She was able to escape and survived her injuries. While in hospital Pickton claimed that the complainant had gone crazy, had cut him and that he had tried to put a handcuff on her to get her under control. Pickton was arrested and charged several days later.

On January 26, 1998 the Crown directed a Stay of Proceedings on these charges. Crown Counsel had experienced significant difficulty in arranging pre trial interviews with the complainant. When finally interviewed, the complainant was in such a disoriented state due to chronic drug abuse that the Crown had no confidence that she would be able to provide coherent and effective testimony. As a result, after discussion with the Administrative Crown Counsel in Port Coquitlam, the Stay of Proceedings was entered.

The Criminal Justice Branch has reviewed the circumstances and has concluded that the Stay of Proceedings was a proper exercise of Crown discretion based on the strength of the available evidence at the time.

BACKGROUND:

- On March 26, 1997, before the disappearance of 22 of the 26 identified victims he was ultimately charged with murdering, Robert Pickton is alleged to have committed attempted murder and other offences against a sex trade worker from the Downtown East Side of Vancouver. As with many of Pickton's other victims, at the time the woman was drug addicted and living a marginalized existence.

- The complainant stated that after picking her up and taking her to the farm Pickton had intercourse with her. She then went to the washroom, after which she tried to collect the money promised for the sex act. Pickton would not pay. He tried to handcuff her and got a loop around one wrist. She was able to grab a knife and in the ensuing struggle both suffered knife wounds that resulted in each losing approximately 3 litres of blood.
- Pickton was charged several days later and was released on bail on April 8, 1997. At the time there was no indication to Crown Counsel that he was a person of interest in relation to the disappearance of prostitutes from the Downtown East Side. Many of the women he was ultimately charged with killing did not disappear until after this incident.
- The complainant initially admitted possessing heroin and cocaine, and using heroin before the encounter, but denied using any drugs while with Pickton. She later acknowledged injecting a mixture of heroin and cocaine while in the washroom, but said she had missed the vein and it had not affected her. In testimony at the preliminary inquiry in the murder case she also admitted lying about being paid. She said that she had been paid beforehand, but she did not want to tell the police that because she thought they would keep the money.
- In preparing for the hearing a number of attempts were made to contact the complainant to set up interviews. The complainant was difficult to locate, and on one occasion when Crown Counsel and a Victim Assistance worker went to Vancouver for a scheduled appointment the complainant did not show up for the interview.
- Crown Counsel eventually succeeded in locating the complainant with the assistance of her mother. Crown arranged to have the complainant brought to Port Coquitlam in a taxi for an interview. When the complainant was interviewed Crown found that she was significantly under the influence of drugs and could not communicate coherently. A Victim Services worker was also present for this interview.
- Based on the circumstances as a whole the Crown had no confidence that the complainant would be able to provide effective, coherent evidence in Court. The lifestyle of the complainant at that time was such that the Crown also did not believe that the situation was likely to improve in the foreseeable future. There was therefore no substantial likelihood of conviction.
- The Crown handling the file discussed the situation with Richard Romano, the Administrative Crown Counsel in charge of the Port Coquitlam office at the time. He agreed that based on the circumstances it was appropriate that Crown Counsel direct a Stay of Proceedings on the charge.
- The Crown Counsel court file on this case was apparently inadvertently destroyed prior to Pickton's arrest for murder, however a Victim Services file survived and police were able to provide a copy of their original Report to Crown Counsel.
- While the condition of the complainant was the determining factor in the Crown decision, even had she been able to testify the Crown case was not overwhelming. The complainant's recollection of aspects of the incident was affected by drug use, both parties had received significant injuries, and both parties alleged that they were acting in self defence. At the time there was not any compelling corroborative evidence to prefer the version of one over that of the other.

- Other evidence from police reports which was not in the possession of Crown Counsel at the time of the Stay of Proceedings, but which was put before the Court in the murder case, describes incidents both before and after the encounter with Pickton in which the complainant acted in a paranoid, agitated, erratic and sometimes violent manner apparently as a result of drug abuse.

IMPACT ON OTHER MINISTRIES OR BRANCHES: None

PREPARED BY: Neil MacKenzie
Communications Counsel
(250) 387-5169

APPROVED BY:


David Loukidellis
Deputy Attorney General

Date: SEP 15 2010

Missing Women Commission of Inquiry	
EXHIBIT No: 134	
Date:	April 13, 2012
	Registrar

