# ONTARIO COURT OF JUSTICE

DATE: 2019 07 08
COURT FILE No.: Ottawa 19-6210

**B E T W E E N :**

**HER MAJESTY THE QUEEN**

**Applicant**

**— AND —**

**REBECCA REID**

**Respondent**

**— AND —**

**OTTAWA CITIZEN, A DIVISION OF POSTMEDIA NETWORK INC. and CANADIAN BROADCASTING CORPORATION**

**Affected Parties**

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Before Justice Norman D. Boxall
Decision released on July 8, 2019

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**Ms. Meaghan Cunningham ..... counsel for the Crown**
**Mr. Oliver Abergel ..... for the Defendant**
**Mr. Richard G. Dearden & Ms. Anastasia Semenova ... for the Affected Parties Ottawa Citizen, a division of Postmedia Network Inc. and the Canadian Broadcasting Corporation**

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**BOXALL, J.:**

## APPLICATION

**[1]** An application was brought by the Crown for a publication ban and a sealing order relating to the proposed victim impact statement of the victim in this case, Lisa MacLeod.

**[2]** Rebecca Reid has pleaded guilty to threatening and criminally harassing Ms. MacLeod between February 8, 2019 and March 1, 2019. During this period of time she sent Ms. MacLeod over one hundred emails and left seven voice mail messages that are angry and threatening in nature. The emails and voicemail messages have been filed as exhibits on the guilty plea.

**[3]** Ms. MacLeod would like to submit a victim impact statement in this case but will only do so if she can be assured its contents will not be published or broadcast. Accordingly, in the interest of obtaining this information for the court, the Crown has brought an application for a publication ban on the contents of Ms. MacLeod's victim impact statement should she submit one.

**VICTIM IMPACT STATEMENTS - S. 722 OF THE *CRIMINAL CODE***

> **Victim impact statement**
>
> **722 (1)** When determining the sentence to be imposed on an offender or determining whether the offender should be discharged under section 730 in respect of any offence, the court shall consider any statement of a victim prepared in accordance with this section and filed with the court describing the physical or emotional harm, property damage or economic loss suffered by the victim as the result of the commission of the offence and the impact of the offence on the victim.
>
> **Inquiry by court**
>
> **(2)** As soon as feasible after a finding of guilt and in any event before imposing sentence, the court shall inquire of the prosecutor if reasonable steps have been taken to provide the victim with an opportunity to prepare a statement referred to in subsection (1).
>
> **Adjournment**
>
> **(3)** On application of the prosecutor or a victim or on its own motion, the court may adjourn the proceedings to permit the victim to prepare a statement referred to in subsection (1) or to present evidence in accordance with subsection (9), if the court is satisfied that the adjournment would not interfere with the proper administration of justice.

**Form**

**(4)** The statement must be prepared in writing, using Form 34.2 in Part XXVIII, in accordance with the procedures established by a program designated for that purpose by the lieutenant governor in council of the province in which the court is exercising its jurisdiction.

**Presentation of statement**

**(5)** The court shall, on the request of a victim, permit the victim to present the statement by

- **(a)** reading it;
- **(b)** reading it in the presence and close proximity of any support person of the victim's choice;
- **(c)** reading it outside the court room or behind a screen or other device that would allow the victim not to see the offender; or
- **(d)** presenting it in any other manner that the court considers appropriate.

**Photograph**

**(6)** During the presentation

- **(a)** the victim may have with them a photograph of themselves taken before the commission of the offence if it would not, in the opinion of the court, disrupt the proceedings; or
- **(b)** if the statement is presented by someone acting on the victim's behalf, that individual may have with them a photograph of the victim taken before the commission of the offence if it would not, in the opinion of the court, disrupt the proceedings.

**Conditions of exclusion**

**(7)** The victim shall not present the statement outside the court room unless arrangements are made for the offender and the judge or justice to watch the presentation by means of closed-circuit television or otherwise and the offender is permitted to communicate with counsel while watching the presentation.

**Consideration of statement**

**(8)** In considering the statement, the court shall take into account the portions of the statement that it considers relevant to the determination referred to in subsection (1) and disregard any other portion.

**Evidence concerning victim admissible**

**(9)** Whether or not a statement has been prepared and filed in accordance with this section, the court may consider any other evidence concerning any victim of the offence for the purpose of determining the sentence to be imposed on the offender or whether the offender should be discharged under section 730.

## MS. MACLEOD AS A VICTIM

**[4]** It is important to make clear that Ms. McLeod is a victim not a witness or a complainant, but at this stage of the proceeding she has been found to be a victim.

**[5]** As a victim Ms. Macleod has a right to submit a victim impact statement.

Section 15 Canadian Victims Bill of Rights, S.C. 2015, C. 13, S. 2

**[6]** If a victim impact statement is filed, the court is required to take it into consideration in determining the appropriate sentence.

S. 722(1) *Criminal Code of Canada*

## ROLE OF VICTIM IMPACT STATEMENTS

**[7]** Victim Impact Statements serve a number of important purposes in the sentencing process.

1) They assist the victim by providing a voice to the victim in the criminal proceedings and serve to enhance the victim's perception of, and ultimately the community's confidence in, the legitimacy of the criminal justice system;

2) They can also help to instill in the offender a sense of responsibility for his or her conduct;

3) Victim Impact Statements assist the court in more fully understanding the effect of the offence and thus the offence itself;

4) The also inform the public in more fully understanding the effect of the offence and the offence itself.

**REASON FOR THE PUBLICATION BAN REQUEST**

**[8]** I have before me evidence that Ms. MacLeod would like to submit a victim impact statement in this case. I am advised her victim impact statement would describe the significant effects these offences have had on her personal and professional life and well-being.

**[9]** However, due to the intensely personal and private nature of the impact to Ms. MacLeod, as well as the very public nature of her employment, it would cause her undue trauma if the contents of her victim impact statement were made available to the public.

**[10]** Ms. MacLeod would choose not to submit a victim impact statement at all if it is not subject to a publication ban and sealing order.

**[11]** It is important to emphasize that is the Crown not Ms. Macleod that is seeking the publication ban. The Crown is of the view that if there is no victim impact statement that this would deprive the Court of important and relevant information on sentencing and would also deprive Ms. MacLeod of her right to participate fully as a victim in the criminal justice system. Accordingly, the Crown has brought this Application.

**VICTIMS' BILL OF RIGHTS**

**[12]** In addition to the *Criminal Code* allowing for and requiring consideration of any victim impact statement filed, the *Victims Bill of Rights* also sets out relevant rights of victims. The relevant section of this *Act* as it relates to this application are reproduced below.

> **PROTECTION**
>
> **Security**
>
> **9** Every victim has the right to have their security considered by the appropriate authorities in the criminal justice system.
>
> Protection from intimidation and retaliation

**10** Every victim has the right to have reasonable and necessary measures taken by the appropriate authorities in the criminal justice system to protect the victim from intimidation and retaliation.

**Privacy**

**11** Every victim has the right to have their privacy considered by the appropriate authorities in the criminal justice system.

**Identity protection**

**12** Every victim has the right to request that their identity be protected if they are a complainant to the offence or a witness in proceedings relating to the offence.

**Testimonial aids**

**13** Every victim has the right to request testimonial aids when appearing as a witness in proceedings relating to the offence.

**PARTICIPATION**

**Views to be considered**

**14** Every victim has the right to convey their views about decisions to be made by appropriate authorities in the criminal justice system that affect the victim's rights under this Act and to have those views considered.

**Victim impact statement**

**15** Every victim has the right to present a victim impact statement to the appropriate authorities in the criminal justice system and to have it considered.

## IS THERE JURISDICTION TO MAKE THE ORDER REQUESTED?

**[13]** Counsel for the media argue there is no jurisdiction in the Ontario Court of Justice to make the order sought. The Crown argues that jurisdiction exists either at common law or pursuant to s. 486.7 of the *Criminal Code*.

**Common Law**

**[14]** The Crown argues:

> 3) The Courts have placed strong emphasis on giving the public and media full access to the courtroom and evidence heard in criminal cases to assist in ensuring justice is done and seen to be done.
>
> *Dagenais v. Canadian Broadcasting Corp.,* [1994] S.C.J. 104,
>
> *R. v. Mentuck,* [2001] 3 S.C.R. 442,
>
> *Canadian Broadcasting Corp v. New Brunswick,* [1996] S.C.J. 38.
>
> 4) However, the rights of the public and media are not unfettered. As noted by Bellefontaine, J.:
>
> > 9 As the Supreme Court of Canada has held in *CBC v. New Brunswick*, restricting public access may well be in the interest of justice where to do so will;
> >
> > 1. Protect the innocent from unnecessary harm;
> >
> > 2. Prevent significant physical or psychological harm to victims and witnesses;
> >
> > 3. Protect the privacy interests of victims and witnesses;
> >
> > 4. Encourage the reporting of sexual offences by protecting the privacy interests of complainants.
>
> *R. v. Stratton,* 2009 ONCJ 181
>
> 5) The test for the common law publication ban and the sealing order sought by the Crown is the same:
>
> > To obtain a sealing order, a party must satisfy the two-part *Dagenais - Mentuck* test. First, the party must show that the sealing order is necessary to prevent a serious risk to the proper administration of justice because alternative, less intrusive, measures cannot prevent that risk. Second, the party must demonstrate that the benefits of the sealing order outweigh its negative impact on the rights and interests of the parties and the public, including the effects on the right to free expression, the right of the accused to a fair and public trial, and the efficacy of the administration of justice.

*R v. Vice Media Canada Inc.*, 2017 ONCA 231 at para. 44

> 17) The Crown submits that both the publication ban and the sealing order are necessary to prevent a serious risk to the proper administration of justice, and that alternative measures cannot prevent that risk. If the orders are not made, the court will be deprived of important and relevant information, and the victim will be deprived of the opportunity to fully participate in the sentencing process.
>
> 18) The Crown further submits that the accused's rights are not affected by the orders sought, and the benefits of the publication ban and the sealing order outweigh the negative impact on the rights of the public and the media to fully access the evidence in this case.
>
> 19) Permitting public access to or publication of the Victim Impact Statement is not necessary for the public to fully understand the offences before the court nor to see justice being done in this case.

**[15]** Counsel for the media argue that the Ontario Court of Justice is a statutory court and without common law powers and certainly no common law power to make this type of order.

**ANALYSIS OF JURISDICTION AT COMMON LAW**

**(1) Does an OCJ Judge have Jurisdiction at Common Law to make the Order sought?**

**[16]** The Ontario Court of Justice is a statutory court, and therefore its authority to make any order must be derived "expressly or impliedly from its enabling legislation", i.e. the *Criminal Code*: *R. v. Hynes*, 2001 SCC 82, at para. 28.

**[17]** If there is no specific statutory authority for the court there is an argument that an OCJ judge assigned to hear a trial has authority that derives from the authority of a statutory court to control the process before it, which includes the power to make orders "necessary to permit a particular proceeding to be successfully and justly adjudicated": *Criminal Lawyers Association v. Ontario*, 2013 SCC 43, at para. 44.

**[18]** The ancillary authority of a statutory court was described by Rothstein, J. in *Cunningham v. Lilles*, 2010 SCC 10, as follows (at para. 19):

> Likewise in the case of statutory courts, the authority to control the court's process and oversee the conduct of counsel is necessarily implied in the grant of power to function as a court of law. This Court has affirmed that courts can apply a "doctrine of jurisdiction by necessary implication" when determining the powers of a statutory tribunal:
>
> ... the powers conferred by an enabling statute are construed to include not only those expressly granted but also, by implication, all powers which are practically necessary for the accomplishment of the object intended to be secured by the statutory regime ....
>
> (*ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, 2006 SCC 4, [2006] 1 S.C.R. 140 (S.C.C.), at para. 51)
>
> Although Bastarache, J. was referring to an administrative tribunal, the same rule of jurisdiction, by necessary implication, would apply to statutory courts.

**[19]** In *Criminal Lawyers Association v. Ontario*, 2013 SCC 43, both the majority and minority judgments of the Supreme Court of Canada recognized the authority of a statutory court to appoint *amicus curiae* under its ancillary power to control its own process. Karakatsanis, J., writing for the majority, described this power as the "jurisdiction implied by the ability of statutory courts to function as courts of law" (para. 16) and noted that it includes jurisdiction to make orders appointing *amicus curiae* "where this is necessary to permit a particular proceeding to be successfully and justly adjudicated" (para. 44).

**[20]** It is thus clear that at least as it relates to counsel, the Ontario Court of Justice has the power to refuse to permit counsel to be removed from the record at a preliminary inquiry or to appoint *amicus curiae.*

**[21]** The Crown referred to *Canadian Broadcasting Corp. v The Queen*, [2011] 1 S.C.R. 65 as authority for the position that in the absence of applicable statutory provisions, it is up to the trial judge to decide how exhibits can be used so as to ensure that the trial is

orderly and that by analogy sitting as a trial judge, I have authority to rule how the victim impact statement is dealt with.

**[22]** The Canadian Broadcasting Corporation ("CBC") case arose in the context of a Superior Court Trial so it is not explicitly authority that Trial Judges in the Ontario Court of Justice the Ontario have common law powers. That having been said there must be some powers in a Trial Judge in the Ontario Court of Justice to ensure the trial is orderly, fair and that constitutional rights are protected including some power over the exhibits.

**[23]** I think it can fairly be said that the existence of and extent of common law powers in the Ontario Court of Justice is both complicated and unclear. However, the Ontario Court of Justice's implied powers could include powers practically necessary to ensure proceedings are adjudicated successfully and justly.

**STATUTORY AUTHORITY - SECTION 486.7**

**[24]** The Crown argues that jurisdiction to make the Order sought is found within s. 486.7 of the *Criminal Code*:

> **Security of witnesses**
>
> **486.7 (1)** In any proceedings against an accused, the presiding judge or justice may, on application of the prosecutor or a witness or on his or her own motion, make any order, other than one that may be made under any of sections 486 to 486.5, if the judge or justice is of the opinion that the order is necessary to protect the security of any witness and is otherwise in the interest of the proper administration of justice.
>
> **Application**
>
> **(2)** The application may be made, during the proceedings, to the presiding judge or justice or, before the proceedings begin, to the judge or justice who will preside at the proceedings or, if that judge or justice has not been determined, to any judge or justice having jurisdiction in the judicial district where the proceedings will take place.
>
> **Factors to be considered**
>
> **(3)** In determining whether to make the order, the judge or justice shall consider

- **(a)** the age of the witness;
- **(b)** the witness's mental or physical disabilities, if any;
- **(c)** the right to a fair and public hearing;
- **(d)** the nature of the offence;
- **(e)** whether the witness needs the order to protect them from intimidation or retaliation;
- **(f)** whether the order is needed to protect the security of anyone known to the witness;
- **(g)** society's interest in encouraging the reporting of offences and the participation of victims and witnesses in the criminal justice process;
- **(h)** the importance of the witness's testimony to the case;
- **(i)** whether effective alternatives to the making of the proposed order are available in the circumstances;
- **(j)** the salutary and deleterious effects of the proposed order; and
- **(k)** any other factor that the judge or justice considers relevant.

**No adverse inference**

**(4)** No adverse inference may be drawn from the fact that an order is, or is not, made under this section.

**[25]** The Crown argues:

> 6) Section 486.7 permits the court to make any order other than one that may be made under sections 486 to 486.5, if the judge is of the opinion that the order is necessary to protect the security of any witness and is otherwise in the interest of the proper administration of justice.
>
> 7) The order sought by the Crown in this case cannot be made under section 486 to 486.5, as it does not relate to the use of a testimonial aid, nor a publication ban relating to the identity of a victim or witness.
>
> 8) The courts have long held that an individual's security rights are engaged by psychological trauma, as well as threats to physical security.
>
> 9) The Crown submits that when the factors set out in s. 486.7(3) are considered, the court should conclude

> that publication ban and sealing order are necessary to protect the security of Ms. MacLeod, and making those orders is otherwise in the interest of the proper administration of justice as it promotes the full participation of the victim in the criminal justice system, and permits the court to consider all of the relevant evidence in determining the appropriate sentence.
>
> 10) An application under this section may be made at any time, and unlike s.486.5, does not require written notice to be provided to those who may be affected by the order.

**[26]** Counsel for the media argue that the scope of s. 486.7 is limited to testimonial aids and is not intended or broad enough to authorize publication bans on the content of witnesses testimony or victim impact statements.

**ANALYSIS OF THE SCOPE OF 486.7**

**[27]** A plain reading of s. 486.7 suggests that it is broad in scope:

> **486.7 (1)** In any proceedings against an accused, the presiding judge or justice may, on application of the prosecutor or a witness or on his or her own motion, make any order, other than one that may be made under any of sections 486 to 486.5, if the judge or justice is of the opinion that the order is necessary to protect the security of any witness and is otherwise in the interest of the proper administration of justice.

**[28]** I am not prepared nor do I believe it is possible to set out with particularity all of the potential orders that could be made under this section but I am not prepared to find it is limited solely to testimonial aids.

**CONCLUSION ON JURISDICTION**

**[29]** I have serious concerns about the existence or scope of a common law power in the Ontario Court of Justice to make the order requested.

**[30]** It may be that a different factual and evidentiary basis might establish the necessity of the type of order sought leading to the conclusion that the order is necessary for the Court to function as a court of law.

**[31]** I also have some concern if there is statutory power under s. 486.7 to make the order requested.

**[32]** However, it is not necessary to definitively answer these questions, as I find that considering the evidentiary basis I have before me, and considering the relevant test to make the requested order, I am not satisfied the Crown has met its burden.

## THE TEST TO BE APPLIED ASSUMING JURISDICTION EXISTS

**[33]** Counsel are in agreement that if a common law power existed to prohibit publication of the content of a victim impact statement, the applicable test is the *Dagenais / Mentuck* test as that test applies to all discretionary decisions that affect the openness of the proceedings.

**[34]** Furthermore, that test is intrinsically involved in the application of a decision pursuant to s. 486.7 assuming that section provided authority. Thus regardless if I was proceeding at common law or under s. 486.7 the test I should apply under s. 486.7 is essentially the same test as at common law, that being the *Dagenais / Mentuck* test:

> To obtain the order, a party must satisfy the two-part *Dagenais - Mentuck* test. First, the party must show that the order is necessary to prevent a serious risk to the proper administration of justice because alternative, less intrusive, measures cannot prevent that risk. Second, the party must demonstrate that the benefits of the sealing order outweigh its negative impact on the rights and interests of the parties and the public, including the effects on the right to free expression, the right of the accused to a fair and public trial, and the efficacy of the administration of justice.
>
> *R. v. Vice Media Canada Inc.*, 2017 ONCA 231 at para.44.

**THE EVIDENTIARY FOUNDATION**

**[35]** I have before me the affidavit of Constable Virgin.

**[36]** The affidavit states that Ms. MacLeod would like to provide a victim impact statement however if the contents were subject to publication or publically available it would cause her and her family undue psychological trauma. Furthermore, if there is no publication ban she would not feel safe providing such a statement and would not file a victim impact statement at all.

**[37]** Counsel for the media argue that the necessary convincing evidentiary foundation required to make such an order is not before the court.

**[38]** Counsel for the media argue the affidavit is double hearsay, conclusory in nature and falls far short of establishing the statements contained therein or the preconditions required to make the order sought. In particular, it is argued the evidence fails to establish that publication of a victim impact statement would result in serious harm to Ms. MacLeod. Furthermore, it is argued that there is an absence of evidence that without the protective order in place there would be a serious risk to the proper administration of justice.

**[39]** The Crown points out that the risk alleged to the administration of justice is the risk of proceeding without a victim impact statement and that risk is established on the evidence as Ms. MacLeod simply will not file one without the order.

**[40]** I agree there are some weaknesses in the strength of the evidence filed, to establish that publication of the victim impact statement would cause serious harm to Ms. MacLeod. It is very difficult to rule with a high degree of certainty, when I do not have knowledge of the actual content of the proposed victim impact statement and a fairly general description of the proposed harm.

**[41]** I recognize however, the impossible dilemma this puts the Crown or Ms. MacLeod in. To put before the Court the best evidence would effectively require them to place before the Court a detailed description of the proposed harm without the certainty it would be protected and thus expose Ms. MacLeod to the very harm she seeks to avoid and will chose to avoid if there is no publication ban.

**[42]** Furthermore, although I recognize the evidentiary weaknesses in the material before me in this case, it is not difficult to conclude that in some cases, the public exposure of the contents of a victim impact statement would cause serious harm to the victim.

**[43]** The potential harm to a victim in presenting a victim impact statement is recognized in a number of the procedural protections set out in the *Criminal Code.*

**[44]** First and foremost, a victim impact statement unlike a witnesses' testimony is not compelled nor under oath. It is the victim's right to present or not present a victim impact statements.

**[45]** To encourage victims' participation there are a number of procedural protections.

**[46]** Section 722(5) provides a number of protections with respect to how the statement may be presented:

> (5) The court shall, on the request of a victim, permit the victim to present the statement by
>
> - **(a)** reading it;
> - **(b)** reading it in the presence and close proximity of any support person of the victim's choice;
> - **(c)** reading it outside the court room or behind a screen or other device that would allow the victim not to see the offender; or
> - **(d)** presenting it in any other manner that the court considers appropriate.

**[47]** Importantly there is no automatic right of cross-examination on a victim impact statement.

*R v. W. (V.)* (2008), 229 C.C.C. 3d 344 (Ont. C.A.)

**[48]** Considering the nature of the offence, the information I have about Ms. MacLeod's personal circumstances, I am prepared to act on the basis that serious harm could result to Ms. MacLeod if her proposed victim impact statement was made public.

**SECTION 486.7 (3) MANDATORY FACTORS TO BE CONSIDERED**

**(3)** In determining whether to make the order, the judge or justice shall consider

- **(a)** the age of the witness;
- **(b)** the witness's mental or physical disabilities, if any;
- **(c)** the right to a fair and public hearing;
- **(d)** the nature of the offence;
- **(e)** whether the witness needs the order to protect them from intimidation or retaliation;
- **(f)** whether the order is needed to protect the security of anyone known to the witness;
- **(g)** society's interest in encouraging the reporting of offences and the participation of victims and witnesses in the criminal justice process;
- **(h)** the importance of the witness's testimony to the case;
- **(i)** whether effective alternatives to the making of the proposed order are available in the circumstances;
- **(j)** the salutary and deleterious effects of the proposed order; and
- **(k)** any other factor that the judge or justice considers relevant.

**[49]** I find paragraph **(a)** and **(b)** to have no relevance to the current application.

**[50]** I find paragraph **(c)** favours declining the order.

**[51]** I find paragraph **(d)** of minimal assistance and neither favours granting or declining the Order.

**[52]** There is no evidence that paragraph **(e)** is relevant.

**[53]** Paragraph **(f)** favours making the Order although I note that if the Order is not made the statement will not be filed and thus the security of the victim is not at risk in that

sense. Victims making victim impact statements unlike witnesses on the trial are not compellable.

**[54]** Paragraph **(g)** favours making the order in that it encourages the victims participation in the sentencing phase of the trial.

**[55]** Paragraph **(h)** favours the order to a limited extent as the Court can provide justice in the absence of a victim impact statement.

**[56]** Paragraph **(i)** favours making the order as there are no other effective means of obtaining the statement.

**[57]** Paragraph **(j)** favours declining the Order as the deleterious effect on the public's right to know and the right of free expression is severely impacted by the proposed order.

**CONCLUSION**

**[58]** Even if I proceed on the basis that the Court has jurisdiction and the evidence is sufficient to establish that Ms. MacLeod will suffer harm if her statement is made public, the Applicant must also establish that it is otherwise in the interest of the proper administration of justice to make the Order.

**[59]** I decline to make the Order in this case.

**[60]** I recognize that in declining the requested Order it creates the risk and in fact apparent certainty the Court will have to proceed without the benefit of a victim impact statement.

**[61]** However, the importance of the open court principle in a democracy places a burden on the applicant seeking the order to displace the presumption of openness.

**[62]** Furthermore, the publication ban sought is not limited to the identity of the victim or witness, but goes to the content of their statement. It is the content of the statement that would assist in informing the Court and the public and the denial to the public of the content denies them the full understanding of the impact, but more importantly could also deny them a proper and full understanding of the sentencing decision the Court makes.

**[63]** I do not want to be seen as insensitive to the concerns of Ms. MacLeod or in fact any other victim who would seek a publication ban on their victim impact statement.

**[64]** In fact, it is not uncommon for victims to decline to file a victim impact statement. I suspect that in many of these cases this decision is made because the victim wishes to keep private the harm done and effects on them of the offence.

**[65]** Procedures are in place to provide maximum testimonial aids to victims in presenting victim impact statements while acknowledging their right to make or not make a victim impact statement.

**[66]** Nevertheless many victims decline to present victim impact statements.

**[67]** Every day, the Ontario Court of Justice imposes sentence in cases where a victim impact statement has not been filed. I am completely satisfied that in those cases, there is a proper administration of justice just as I am that there will be in this case, if the Court proceeds to a sentencing hearing without a victim impact statement.

**[68]** An order prohibiting publication of content, as opposed to identity, is a very significant order limiting the public's right to know and it is not in the interest of the proper administration of justice in this case.

**[69]** I decline to make the requested Order.

**Released: July 8, 2019**

Signed: Justice Norman D. Boxall