

Protecting children from sexual abuse

by David Matas

Canada is not doing enough to protect children from sexual abuse. That much seems clear from the Peter Whitmore saga. Peter Whitmore, a chronic convicted sex offender is accused of kidnapping two boys, a 14 year old from Winnipeg and a ten year old from Whitewood, Saskatchewan. The police negotiated his surrender in Kipling, Saskatchewan last week.

There are at least four ways protection could be improved. One is raising the age of consent for sex with adults. Right now it is fourteen. It is chilling to realize, but Peter Whitmore can not be charged with sexual abuse of the 14 year old from Winnipeg unless it can be established either that Whitmore sexually exploited the child or that the child did not consent to sex.

The Government of Canada has introduced legislation into Parliament to raise the age of consent from 14 to 16 with a close in age exemption for a partner who is less than five years older. That legislation needs to be enacted as soon as possible.

Second, the threshold for dangerous offender designation needs to be lowered. Dangerous offender designation means that an offender can be sentenced to life in prison not for what he has done, but for the danger he poses, what he will do.

Peter Whitmore was never designated a dangerous offender because, though he had been convicted many times for sexual abuse of children and was an obvious danger, he had never met the threshold for that designation. The designation can be imposed only if a person has committed a serious personal injury offence.

None of the offences for which Peter Whitmore was convicted fit that description. When it comes to chronic sex offenders, the potential future danger combined with

convictions of any sort relevant to the danger should be enough.

Third, dangerous child sex offenders should not be given passports. Whitmore had violated a supervision order in 2000, going to Mexico, where, according to media reports, he "cultivated relationships" with children. He was found with a notepad containing the names and ages of 13 children.

The Canadian Passport Order authorizes the Government of Canada to refuse a passport for only one offence, the fraudulent use of a certificate of citizenship. The list needs to be expanded to include repeated sexual offences against children.

That same order allows revocation of a passport if the passport is used in committing a serious offence abroad. But a passport can not be revoked simply because a person has committed child sexual abuse offences in Canada and is likely to do so abroad. Yet, that should be possible.

Fourth, Canada needs a public accessible sex offender registry. The BC police allowed Whitmore to visit Alberta for four days and even issued a press release he was going there. Whitmore stayed in Alberta beyond the authorized time. His court ordered supervision expired, in mid June, while he was still there. A court date was set for the end of June to extend the supervision order. But Whitmore did not show up.

If the public in Alberta had known, through a publicly accessible sex offender registry, who Whitmore was, the public could have been after the police to get a court ruling to extend the supervision order before it expired. The police oversight would have been a good deal less likely to have happened.

Right now, there is a national sex offender registry maintained by the RCMP. But the information on the registry is available to police only and not to the public. Moreover,

even for police, the registry is available only to investigate unsolved crimes of a sexual nature. The police in Alberta knew about Whitmore. But it was no thanks to the sex offender registry, which even they could not access, because at the time Whitmore was not a suspect in an unsolved sexual crime.

A sex offender registry can be too accessible, as the case of Stephen Marshall showed. Marshall, a Canadian from Cape Breton, looked up on the internet the names and address of two sex offenders, Joseph Gray and William Elliott, on the Maine sex offender registry, went down to Maine and shot and killed them. When confronted by police on a bus in Boston in April this year, he shot and killed himself.

There are legitimate issues, once public sex offender registries are established, about who should be on the registry, how access is obtained, and how much information should be available to the public about the offender. Only those who are truly a danger to the public should be on a publicly accessible registry, not every person who has committed a sexual offence. Public access should require some form of police screening for those who seek information about offenders, to prevent vigilantism. Information about the offender on the registry should be specific enough to prevent cases of mistaken identity.

It is easy to think of what, for a sex offender registry, might be too much. But what we have now nationally, a registry accessible only to police and only even for them for the purpose of investigating unsolved sex crimes, is far too little.

The Whitmore incident has made it as plain as day that Canada is not doing enough to protect children. We should learn from the drama to improve our protection.

.....
.David Matas is a Winnipeg lawyer and a counsel to Beyond Borders.