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# Rape ruling forces police to warn public

## Could hurt investigations, says prof

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An Ontario court decision that said police were responsible for informing the public about a serial rapist could be "hog-tying the police," says a University of Alberta law professor.

But the decision, which awarded more than \$220,000 in damages to a rape victim, known only as Jane Doe, who claimed she had been used as "bait," is also being hailed as a victory that could protect women.

In her decision, Justice Jean MacFarland ruled that Toronto police had been "irresponsible and grossly negligent" for failing to warn women about the rapist.

But she went further, finding Doe's right to gender equality under the Constitution's Charter of Rights and Freedoms had been violated because police based their investigation on "sexist stereotypical reasoning about rape, about women, and about women who are raped."

"They adopted the policy not to warn her because of a stereotypical discriminatory belief that as a woman she and others like her would become hysterical and panic and scare off an attacker."

U of A law professor Len Pollock called the ruling "crap."

"The concept that we should hold the police responsible for crime is ridiculous," he said. "Sometimes, the police may have a responsibility not to warn people, because it could create panic or interfere with the apprehension of a criminal.... You're hog-tying the police. Now they've got to disclose everything they know as soon as they know it or they're going to get sued."

Beyond that, Pollock can't understand the judge's argument that Jane Doe was a victim of sexual discrimination under the charter.

How, he asks, would the situation have been any different if the case involved a pedophile who attacked boys or a burglar who preyed on men and women?

"I haven't read the decision, and I don't know all the evidence," he says.

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— U of A law professor Len Pollock

"But if the judge made a decision not based on law, not based on evidence, but on some cockamamie political position, there should be a complaint to the judicial council."

But Edmonton lawyer Shirish Chotalia said the decision is "... a great message to send to people."

"It's confirming what the Charter's said all along, that the police and other government entities must put the Charter into practice," says Chotalia, the northern director of the Alberta Civil Liberties Association.

Chotalia hopes the decision will encourage other rape victims to file civil suits for damages.

Prof. Annalise Acorn, who teaches feminist legal theory at the University of Alberta, said police reliance on sexist stereotypes has meant a failure to protect women from crimes such as rape and domestic abuse.

"What's potentially interesting about this decision is that it's saying that relying on a gender stereotype is sufficient to find a violation of the right to equality."

Sgt. Bryan Boulanger, who speaks for the Edmonton Police Service, didn't want to comment on the work of Toronto police, nor on the decision, which may be appealed.

But the philosophy of many police departments, including his own, has changed a lot since 1986, when the rape of the Toronto woman occurred.

"Generally, we're now very quick to release information to the media."

At the same time, police wrestle with concerns that releasing too much information could hamper an investigation. They also worry about scaring people by publicizing reported assaults before they've had time to be sure that a crime has taken place.

"But we feel that we do have a responsibility, when we're conducting an investigation, to err on the side of public safety."

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