

**REPORT TO THE ATTORNEY GENERAL OF ONTARIO
ON CERTAIN MATTERS RELATING TO
KARLA HOMOLKA**

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CONCLUSION

Many public comments have been made which imply that the Crown has shown favouritism towards Karla Homolka. This sentiment is expressed in many different forms. It can be summarized in two contentions: that Karla Homolka got a "sweetheart deal" and that she was given "preferential treatment". Because those implications could be seen to cast aspersions upon the integrity of the persons who made the decisions, I should say something about them by way of conclusion to this report.

The first decision, to agree to a twelve year sentence, was driven by sheer necessity and not by a desire to treat Karla Homolka differently than any other criminal. I have no doubt that the Crown would have preferred that Karla Homolka appear in the prisoner's dock with Paul Bernardo facing first degree murder charges. However, without her evidence, at the time the decision was made, the police did not have the evidence to charge Paul Bernardo with the offences arising out of the deaths of Leslie Mahaffy and Kristen French, much less convict him of them.

Distasteful as it is, the practice which has existed for over three hundred years of giving immunity or a "discount" to an accomplice to obtain her evidence against a co-perpetrator is sometimes a necessary one and it is a legal one. Regrettably, the

investigation and prosecution of crime is rarely easy and often requires the taking of steps which are unpleasant. Nevertheless, in the proper discharge of their responsibilities, prosecutors must take those distasteful steps if, in a particular case, it is necessary to do so and the steps taken are legal ones. In the Paul Bernardo case, the step was both necessary and legal. It is a step which has been taken countless times in the past and, if certain criminals are to be brought to justice, will have to be taken countless times in the future.

Serious crimes had been committed and the Crown had information which led it to the conclusion that Paul Bernardo was the brutal killer of two young women. At the time that the Crown made the decision to deal with Karla Homolka, the crucial videotapes, which turned out to contain so much incriminating evidence, had not been found. At that time, the Crown did not know whether they would ever be found. The evidence to prove Paul Bernardo's guilt was available if an agreement could be reached with Karla Homolka to provide it.

The Crown did not have the luxury to wait and see whether, at some time in the indeterminate future, the necessary evidence would come from another source. In the meantime, the Crown probably would have lost the opportunity to get it from her. The Crown, therefore, did what it had to do, and what it will have to do again and again in the future; it dealt with the accomplice. In the

light of what was known at the time, the Crown paid an acceptable price for Karla Homolka's evidence. It was only when the videotapes emerged that the value of her evidence was diminished. If the authorities had been in possession of the videotapes on May 14, 1993 they would not have dealt with her. They would have offered her nothing for her evidence.

The second decision, made on May 18, 1995, was not made for the purpose of benefitting Karla Homolka. It was a considered decision taken to advance the Crown's case against Paul Bernardo. The decision was advocated by two trial prosecutors who, between them, had accumulated over forty years of trial experience. The decision was made by four other lawyers who between them brought over one hundred years of trial experience to the problem. It was a tactical decision which turned out to be right. The risk that was seen in charging Karla Homolka with the June 7, 1991 assault on Jane Doe was that serious damage would be done to the case against Paul Bernardo for the murders of Leslie Mahaffy and Kristen French. The benefit of charging her was some uncertain increase in the sentence which she was then serving. It was decided that the risk of charging her was too great to be taken. I, for one, am not prepared to second guess that decision.

The persons who made these two decisions are long time public servants with well deserved reputations for competence and probity. The implication that any one or more of them made his decision for

the purpose of benefitting Karla Homolka, giving her a "sweetheart deal" or "preferential treatment", is unfair and unjust. It is entirely without foundation. I reject it completely.