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Blogging makes trial publication bans hard to enforce

David Reevly, The Ottawa Citizen

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The judge handling Robert William Pickton's trial on the first six murder charges he faces has done an admirable job keeping the proceedings open to public view, but the pressure to make such important trials even more open is growing.

Justice James Williams has issued fairly routine rulings on what reporters can't report: the real names of undercover officers who helped build the case against the alleged serial killer, and evidence discussed in Pickton's preliminary hearing and in voir dires -- the sidebar discussions with the jury out of the room in which Crown and defence argue about whether certain evidence is admissible.

The point is to protect investigators doing their jobs, and more importantly to make sure the Pickton jury never hears any facts that the police might have turned up by breaking rules governing the work they do.

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Fair enough. But even such basic publication bans are leading to silliness in the coverage, now that anybody can be a reporter.

CBC Radio found itself in the peculiar position of interviewing a former sex-trade worker who is covering the trial from a personal perspective for a Vancouver-based website. CBC was able to name the woman, Trisha Baptie, but too fearful to name the site, orato.com because it is a violation of the court's order even to identify any other news source that's offering prohibited information. Not that Orato is. But it might.

Orato.com is one of many attempts at "citizen journalism," a bad name for a noble idea. Orato invites non-professional writers to write, factually, about things that interest them; the theory behind getting Ms. Baptie (and another ex-prostitute, Pauline VanKoll) to cover the Pickton trial is that they know more about the sex-worker life than any full-time reporter and can provide unique insight.

The worry, though, is that because Baptie and VanKoll aren't experienced court reporters, they might reveal information covered by one of Judge Williams's publication bans, and then where would the CBC be? VanKoll has already come uncomfortably close to convicting Pickton in her writing, concluding her third dispatch with the implication that his attitude on a police video of his initial questioning leaves her too angry to continue. Who knows what else she might say?

If she breaks the rules, Judge Williams can always kick her out of the courtroom, as he can any professional reporter. But what if one of the family members of one of Pickton's alleged victims started ban-busting -- on a website, or into a reporter's microphone?

That's always been a danger, but never more so than today, now that the once-bright line between public and private communication is dimmed.

Here in Ottawa, some employees of Farm Boy grocery stores tested the limits of privacy by mouthing off about their jobs to each other through the website facebook.com . They found out this month that their experiment had failed when seven of them lost their jobs, on the grounds that they'd been openly discussing insubordination and theft and had been defaming the company in public.

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