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<p>CRIMES AGAINST CHILDREN Rebecca S. Zaretsky Release No. 1, April 2024</p>

What’s New in this Update:

This release features updates to Appendix B — Sentencing Digests for VII — Child Pornography.

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Highlights:

● **Sentencing Digests — Child Pornography — Alberta** — After a search warrant executed by the Southern Alberta Internet Child Exploitation Unit (SAICE) revealed the second largest number of Category 1 images in the history of SAICE, which collection included 180,000 images and over 27,000 videos amassed over at least a decade. The collection also involved the highest number of “hands-on” victims that SAICE had ever investigated. The 36-year-old Métis accused pleaded guilty to 26 charges relating to child pornography and sexual offences, but appealed the sentence of 18 years imprisonment and a ten-year long term supervision order. The accused claimed that the sentencing judge did not properly consider *Gladue* factors, including the intergenerational trauma his family had experienced; the sexual abuse and other traumas he had suffered as a child; and his struggles with addictions to alcohol and drugs. The Court of Appeal rejected the accused’s suggestion of a reduced sentence of 18 years for both custodial and supervisory components, and dismissed his appeal – the appellate court found the sentencing judge to have properly balanced all considerations, and to have been entitled to conclude that the *Gladue* factors had minimal bearing on the custodial sentence, that the offences were of the highest level of gravity, and that the accused’s moral culpability was extremely high. With respect to the long term supervision order, the court noted that the accused’s offending history had shown a pattern of predatory, escalating sexual violence against vulnerable victims while he was in a position of trust, which solidly supported the judge’s decision to impose the maximum period of community supervision: *R. v. CJJ.*, 2022 ABCA 190, 2022 CarswellAlta 1253 (Alta. C.A.).

● **Sentencing Digests — Child Pornography — Ontario** — The 38-year-old accused pleaded guilty to possession of child pornography. He was found with a small amount of child pornography, which he claimed to have accessed out of boredom or curiosity over a two-month period. As a child, he was the “black sheep” of his family and often subjected to corporal punishment administered by his stepfather. A loner who had undergone counselling for behavioural issues in his youth, he left home when he was 19 years old and had no difficulty obtaining employment before joining the Canadian military. He anticipated being dishonourably discharged as a result of this offence. He fathered four children with four different women – phalometric testing supported his claim of sexual preference for adult females and revealed no strong evidence of sexual interest in pre-pubescent males or females. He did not abuse drugs or alcohol and denied having been subjected to traumatic experiences in the military. He also had a good work history and a good military record. The court found the accused likely to violate terms of release by using the Internet for a sexual purpose but unlikely to commit an offence

against a child. Mitigating factors included the accused's guilty plea and strong family support, while aggravating factors included the nature of the pornographic images he had accessed and his practice of watching then erasing these images. Viewing the principles of denunciation and general deterrence to be of primary importance, the court recognized the availability of a conditional sentencing order but held such a sentence not to be appropriate in this instance. After finding the applicable sentencing range to be between six and eighteen months in custody, the court imposed a sentence of nine months' imprisonment to be followed by 18 months' probation, a s. 161 order regarding the accused's internet use and his contact with persons under the age of 16 years, and a 20-year SOIRA order: *R. v. A.M.*, 2023 ONCJ 181, 2023 CarswellOnt 5967 (Ont. C.J.).

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