

Citation: *R. v. McCrimmon*, 2021 YKTC 28

Date: 20210623  
Docket: 19-00194  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**  
(Before His Honour Judge Brooks)

REGINA

v.

ALLAN DONALD McCRIMMON

Appearances:  
Ludovic Gouaillier  
Lorna Fadden

Counsel for the Crown  
Counsel for the Defence

**REASONS FOR SENTENCE**

[1] BROOKS T.C.J. (Oral): Mr. McCrimmon has pleaded guilty to the offence that, on or about March 14, 2019, near Whitehorse, he had in his possession child pornography, contrary to s. 163.1(4) of the *Criminal Code*.

[2] The position of Crown counsel was that the number of images, impacting as it does the moral culpability of Mr. McCrimmon, plus the impact of the Supreme Court of Canada decision in *R. v. Friesen*, 2020 SCC 9, in addition to the other sentencing factors resulted in a sentencing position of three to four years.

[3] The defence took the position that the mitigating factors in this case and the proper application of sentencing principles meant that the appropriate sentence in this case was one year in jail.

[4] In order to properly evaluate the sentencing submissions given by counsel, which were extremely helpful, it is necessary to review the circumstances of the offence and the circumstances of the offender before analyzing the positions taken by counsel.

[5] There is an Agreed Statement of Facts which was filed in this matter, which I will not read in its entirety, but, I will note, that at the time that Mr. McCrimmon was arrested, he made an admission that he felt he was addicted to child pornography and that the police were likely to find some on his devices. He also gave a statement to the RCMP in which he repeated that concern that he was addicted to child pornography.

[6] The investigating police officer ultimately identified 33,605 unique images and 4,696 unique videos that met the definition of child pornography. Attached as Exhibit A to the Agreed Statement of Facts was a description of some of the images, and because they are important to the Crown's position taken, I will review them.

[7] On page 2 of that Exhibit A to the Agreed Statement of Facts it is said as follows:

...The images determined to be Child Pornography are of females and males, ranging in age from approximately 6 months old to 17 years of age. The content of the images consists of young children in erotic poses with their genitals exposed, urinating, anal intercourse, fellatio, vaginal intercourse, group sex, cunnilingus, use of sex toys, masturbation, ejaculation, bondage, sadism, digital penetration of the vagina and anus. All the images had exposure of the breasts, vagina, penis and or anal region of the children. There are images of children engaged in

sexual activity with other children as well as engaged in solo masturbation. There are images of non-penetrative sexual activity between adults and children. There are images of penetrative sexual activity between adults and children. There are images of sadism and bestiality. ...

[8] While it was not entirely clear, it appeared that the images, certainly from page 4, extended over a four-year period and, when the totality of the circumstances were reviewed, it appears that, in fact, these images were viewed over a period of approximately a decade.

[DISCUSSIONS]

[9] The presentation was made as I have referred to in an earlier order of what was contained in the items found to be in Mr. McCrimmon's possession. For the reasons stated earlier and with the agreement of counsel, I viewed a selection of those images in the presence of counsel, the concern being dissemination of the images and the disturbing nature of those images.

[10] There was certainly no dispute about these images forming a part of an extension of the Agreed Statement of Facts as agreed to by counsel. The images involved 12 series that were "Vicky" series, "SpongeBob" series, "Lighthouse" series, "Misty" series, "Jennies" series, "At school" series, "Blue-pink" series, "Pink heart sisters" series, "Cinderblock blue" series, "Cindy" series, "Jan socks" series and "Sweet sugar" series. In addition, there was a "Miscellaneous" grouping which was also viewed as well as some excerpts from 19 videos.

[11] The actual images seen and the videos seen supported and formed part of what I have already described from the Agreed Statement of Facts as the analysis of what was seized, so in short, these images show bondage, bestiality, and sexual activity with children who were clearly as young as two to three years of age. The bondage included mechanisms used in order to hold a child's mouth open. They were of the most serious kind.

[12] It is important at this stage, I think, to refer to the Victim Impact Statements as part of the circumstances of the offences. I do that at this stage in part as recognition of what was said in *Friesen* at para. 85, that courts must be clearer in their understanding of the harm to victims of crime.

[13] The expressed concern in *Friesen*, as I understood it, was that that issue has not been adequately analyzed and reviewed, and I was greatly assisted by the work that was done to put before the Court information relating to the impact on victims that related to some of the material that was downloaded by Mr. McCrimmon.

[14] I will excerpt some of what I have read. It is voluminous, it is all important, and I have read it all closely, but I think it is important that there be some sense of it as given in the materials which were marked as Exhibit 2 in these proceedings.

[15] The first is with regard to a Victim Impact Statement of a person described as [redacted] from the "Misty" series. She said this:

I feel like I've always led a double life. First I had to lie about what my abuser was doing, then I had to act like it didn't happen because I was too embarrassed to tell anyone. Now I'm always aware that there is another little me being seen

by abusers on the internet, and I do not want to be there, but I have no choice. I want every person who downloads my pictures to be punished. Why should they be free when I am not? They are as bad as my abuser. Child pornography is not a victimless crime. I am a victim, and I still suffer every day and every time someone sees me being abused.

[16] The next is a Victim Impact Statement of [redacted]. She talked about the knowledge that her images were being circulated on the internet, and she said this:

The enormity of this has added to my grief and pain, and given me paranoia. I wonder if the people I know have seen these images. I wonder if men I pass in the grocery store have seen them. I feel totally out of control. They are trading around my trauma like treats at a party – and it feels like I am being raped all over again by every one of them.

[17] And on page 3, she says:

I also have a constant fear for my children's safety as pedophiles have continued to stalk me over social media and have hacked into my Facebook and Instagram account to steal pictures of what I look like now to post on their own anonymous forums. They successfully discovered and posted on one of those forums a former address of ours, so we moved and I shut down my social media accounts. This was a loss for me because it limits me socially. It also made me feel incredibly violated and sick to my stomach for weeks.

[18] The next one is from [redacted], who says on page 1:

I am a victim of child molestation and rape. I was filmed, photographed and exploited so others could watch. The person who did this to me made it so that not only could he get what he wanted, but so that other pedophiles could share and extend my abuse and rape. They share photos and videos of me, sell them, a succession of my torture going on forever. It never ends. It is never over. It keeps coming back day after day, year after year, and I can never escape it.

[19] With regard to a person identified as [redacted], she is asked about her future and she says:

It doesn't give me a very bright future. I don't see myself ever getting a husband. I'm just attracted to not all that good people. I don't see myself having children. I don't want kids because I'm so fearful of something happening to them, like a school shooting, rape, or their dad ends up being a psycho. I see a lonely future. I don't think I'm going to make it very far, like the social problems I have. ...

[20] The Victim Impact Statement of [redacted]:

I remember being forced to pose for some of the pictures and even at around 8 years old I remember feeling used. I often feel the longing inside for that childhood I never had. The effect of the abuse has not only robbed me of my childhood years, but remains in my young adult years as well. I've had to work through a lot of turmoil in my life. I have suffered greatly with depression and low self-esteem. I used to be suicidal, which led to many psychiatric hospital stays. When I was 18 I had to leave high school and go to a residential treatment facility. I should have been going to prom and having all the high school senior moments that are forever important memories to people, yet I have none. Instead, I was working on learning how to live with severe depression, self-harm and suicidal thoughts. I was in that program ten months.

[21] Then on the last page:

For a short time in college, I opted into the victim notification system, where each time a picture of me came up in a case I would get a letter letting me know. After a month or so and countless notifications, I realized just how many people were viewing and using these pictures of me. I couldn't handle it so I opted right back out of it. It was an overwhelming and very revictimizing experience realizing the reality of the situation.

[22] It is critically important, and I do keep in mind, the significance of the impacts on these victims.

[23] I turn to the circumstances of the offender. Mr. McCrimmon is 64 years old. He has no criminal record. He has had, described on his behalf, a long and consistent work history. Importantly, he has support from people he has known for many years. It is important that that support is for lengthy periods of time. It shows a stability in him and it shows a solidity to the foundation of the opinions which are held of him.

[24] There are a total of 10 character letters on his behalf, and it is important to refer to them as well, as they, too, reflect on principles of sentence which need to be applied in his case.

[25] Pam Walden describes her knowledge of Mr. McCrimmon in this way:

I have known Al since 1975. We both came to the Yukon to attend the Carcross Community Education Centre and stayed in the Yukon and made our adult lives here. We both worked in the road construction industry in our twenties, have many mutual friends and have been living in the same neighbourhood for the past 15 years. We have a solid, friendly relationship. When I separated from my husband (a high school friend of Al's) in 1994, Al invited him to housesit so he would have a place to live and a place to be with our three children when they visited him. Al was in town intermittently over the seven-year period my ex-husband stayed at his house and was present when my children were at his house many times. My children still call Al "Uncle Al" and they all have a friendly, healthy relationship with him. They are relaxed and happy around him and consider him family. Al has come to our house for holiday dinners and summer barbecues many times over the years. He has never done anything to make me uncomfortable as a friend or as a mother in a relationship with my children.

[26] Katie Kuiper says the following:

I was definitely surprised to learn he had been charged with possession of child pornography. However, what I was not surprised at was the fact that he was completely forthcoming and transparent to me about it. Very shortly after it happened, he came to tell me, and did not try to downplay or diminish the severity. The thing that struck me more than anything was his feeling of remorse and that he was starting a new chapter in his life. He wanted to lay everything on the table as the first step to a path to positive change. We have kept in touch quite often since that time, and he has described often his journey to recovery. I remember a period of time in AI's life some years ago when he at times would be seized up with arthritis and experiencing depression and anxiety, which now I can see may have contributed to his behaviour. I know AI worked hard to improve his health and I could see his mental health improve as a result. To his credit he has taken the initiative to engage a psychologist who he sees regularly and has made significant progress in learning where the behaviour came from and the path forward from here. I have seen his determination and have no doubt about his ability to succeed.

[27] Ronald Newsome describes his lengthy friendship with the accused, and says this:

...I believe AI has chosen to deal with his problems in a positive way and shown remorse for his actions and for not seeking help earlier. He has made the effort to talk personally to family, friends and anyone close to him of his conviction and apologized for the disappointment and disgust they feel towards him. AI and I have discussed at length the terrible consequences surrounding the child involved in child pornography. I believe that AI understands those consequences and that he truly shows empathy towards victims and acknowledges that his understanding is essential for the change required to put himself back on track, to be able to move forward in a constructive and positive manner.



[28] As I say, those are a sampling of the character supports.

[29] There is reference to him going to see a psychologist, and that is contained in a report of Dr. Baumbach dated April 20, 2021. He describes his own extensive experience here in the Yukon and his educational background and describes having seen Mr. McCrimmon for a total of 18 sessions over nearly two years.

[30] Dr. Baumbach's report is important to my consideration of Mr. McCrimmon and, accordingly, I must as well quote from that at some length:

Mr. McCrimmon described growing up in a home in which nurturance and support were in short supply. The context was one of poverty, hoarding, physical abuse by his father and domestic violence. He said he felt ashamed of his family and home, and not surprisingly, he was socially anxious from a very young age. As a teenager, he wondered how he would handle it if he was ever with a girl and she wanted to meet his parents. Mr. McCrimmon described continuing to struggle with anxiety and depression as an adult, and as he aged also with health and financial problems. His relationships with women were compromised by his low self-esteem and his orientation to not assert himself. This led to a vicious circle in which he tolerated hurtful behaviour from his partners, and then was left with wariness and suspicion about women and their motives.

[31] On page 3, Dr. Baumbach says:

While Mr. McCrimmon was motivated to reduce these memories and fantasies from the outset, he became much more successful in his efforts to do so after we discussed victim impact. Mr. McCrimmon said that prior to that discussion he had been able to step aside from the reality of what he was doing, focus on his own gratification, and feel he was just an anonymous computer user. After our conversation about the effects of child abuse and the making of child pornography on the child, Mr. McCrimmon began to use that awareness to intervene when images, fantasies, or

the desire to view child pornography came to mind. By his own report, this would immediately counter his arousal or interest.

...

We did discuss self-esteem and interpersonal issues quite thoroughly, especially assertiveness and relationships with women. I think Mr. McCrimmon has quite a good understanding of his interpersonal issues; however, there are limitations to what can be achieved in individual sessions with a male therapist, especially during COVID. I think there could be value in Mr. McCrimmon participating in a men's group in the future. Hopefully, that would provide a setting in which Mr. McCrimmon could get some emotional support, explore assertiveness and his struggles with women, and try out new interpersonal behaviours.

[32] So, from that, just to summarize, I take it that it is clear and I find that Mr. McCrimmon took steps on his own to deal with the issues that led to his offending behaviour and those steps that he took had success and, indeed, show a path forward for him. This is important, obviously, for his future behaviour and also important for the ultimate goal of sentencing, which is the protection of the community.

[33] In summary, on the circumstances of the offence and the offender, we have a terrible offence. It is clearly aggravated by the quantity of the images, which indicate Mr. McCrimmon's engagement with those images. They indicate the amount of time he spent at it and they indicate the seriousness of the behaviour he was prepared to watch.

[34] On the other hand, we have an offender with no record who has support in the community and has clearly shown remorse. Mr. McCrimmon has taken active steps and the results of those steps were positive.

[35] I note that *Friesen*, at para. 165, says that those steps having been taken by an accused shows that the remorse has an added significance to what it might otherwise have.

[36] Mr. McCrimmon has also been on bail for over two years on restrictive terms with which he has fully complied.

[37] The question comes down to, really, how do these issues get balanced in order to create a proportional and individualized sentence. How do I arrive at that individualized sentence while recognizing that we have in this case, in the circumstances of the offence, an industry-sized destruction of children? That is extremely important to acknowledge, recognize, and respond to, for the law must respond to it.

[38] I have considered all of the cases which are contained in the books of authorities of counsel, and so that is clear, they are as follows: *R. v. Alexander*, 2019 BCCA 100; *R. v. Capewell*, 2021 BCSC 904; *R. v. Hagen*, 2021 BCCA 208; *R. v. Hamlin*, 2019 BCSC 2266, and *R. v. Watson*, 2018 BCCA 329.

[39] The Crown's authorities were: *R. v. Butler*, 2017 YKSC 63; *R. v. Finn*, 2012 YKTC 106; *Friesen*; *R. v. Inksetter*, 2018 ONCA 474; *R. v. Kim*, [2019] O.J. No. 5267 (C.J.); *R. v. Nowazek*, 2009 YKTC 51; *R. v. Partsch*, 2018 ONCJ 962, and *R. v. Russell*, [2020] O.J. No. 3841 (C.J.).

[40] I have already expressed what the sentencing positions of counsel were, and I have received the very helpful submissions about those cases. It is never a

mathematical calculation or some kind of arithmetic in order to discern what should be the appropriate sentence in any particular case. It is a situation of some difficulty to apply the cases.

[41] I find myself in agreement with what Madam Justice Gerow said in *Capewell* at para. 42. She said:

I have read and considered the cases provided by the Crown and the defence. As has been noted in some of the cases, other sentencing authorities are of limited assistance. They are relevant in terms of general principles, but the fit and just sentence in each case must be decided taking into consideration the particular offence and offender.

[42] Having said that, I do accept some general propositions which have been put before me. I certainly do accept, particularly in light of *Friesen*, that the penitentiary is a possible sentence for this offence. That is something which should be clear so that every individual who might contemplate committing this offence of possessing child pornography realizes that a sentence of penitentiary is, as it were, on the table.

[43] I also accept, in a general sense, that *Friesen* has directed myself as a sentencing judge to require closer consideration of the harm done to individuals as a result of this offence, but the issue really comes down to, how do those general considerations apply in this specific case. I intend to deal with the Crown's point with regard to *Friesen* in order to deal with that particular submission.

[44] First of all, with regard to *Friesen*, it did not specifically mention child pornography as one of the offences, but it is clear from paras. 44, 48, and 51, that the considerations clearly implicate child pornography and that the considerations in that

decision clearly do apply to this particular offence, although it was not specifically mentioned early on in *Friesen*.

[45] Paragraph 85 of the *Friesen* decision referred to the issue of the harms caused by this offence, and they are worthy of reference at this stage. There, it was said:

When possible, courts must consider the actual harm that a specific victim has experienced as a result of the offence. This consequential harm is a key determinant of the gravity of the offence (see *M. (C.A.)*, at para. 80). Direct evidence of actual harm is often available. In particular, victim impact statements, including those presented by parents and caregivers of the child, will usually provide the "best evidence" of the harm that the victim has suffered (*R. v. Gabriel* (1999), 137 C.C.C. (3d) 1 (S.C.J. Ont.), at p. 11). Prosecutors should make sure to put a sufficient evidentiary record before courts so that they can properly assess "the harm caused to the child by the offender's conduct and the life-altering consequences that can and often do flow from it" (*Woodward*, at para. 76).

[46] Here, that has clearly occurred, as the prosecution has put that evidence before the Court.

[47] I would note, with regard to the cases, some are from before 2015, and *Friesen* has added to the analysis. The cases where the maximum was, in fact, half of what it is today are of limited value.

[48] In analyzing the impact of *Friesen*, I find myself driven to look at those cases before *Friesen* and after *Friesen* to see if I can discern what the impact is. In doing that, I looked at *Alexander* from the British Columbia Court of Appeal in 2019. That was a sentence of eight months and 18 months' probation where the Crown had sought 12 months' incarceration. The number of images were far below those contained in this

case in number and in severity. In that case, the appeal was dismissed and the Court said that the range was four months to two years.

[49] After *Alexander* came *Friesen*, which, as I have said and hope have made clear, demanded of sentencing judges that they evaluate the harm caused and that the sentencing ought to go up with regard to these kinds of offences.

[50] With that in mind, we have *Capewell*. Again, it was a much lower quantity involved, but it did have the aggravating factor that Mr. Capewell had been warned by the police to stop his access to child pornography, and he still did it. There were, for Mr. Capewell, very positive steps to his rehabilitation. The Crown had sought 10 months in custody and the defence was seeking a conditional sentence. The decision was eight months in custody.

[51] That was the same sentence as *Alexander*. Madam Justice Gerow was well aware of *Friesen*, as it was referred to in her decision, and yet the sentencing did not appear to go up.

[52] More importantly is *Hagen* from the British Columbia Court of Appeal. That is subsequent to *Friesen* and the Court was clearly aware of *Friesen*. The sentence was 10 months and three years' probation. There was a good deal of discussion of the morale blameworthiness of that offender given his particular background and given that, at the time of the offences, it appeared that he was on the verge of suicide.

[53] For our purposes, it is important that at para. 68, the Appellate Court determined that the range was four months to two years. I confess to some surprise at that in light

of *Friesen*, for there is an appellate court saying that the range is the same in light of what *Friesen* has said. My surprise, of course, is of no consequence. It is required that I look at decisions that are appellate decisions and take guidance from them.

[54] Here is what I can say in response to the Crown's particular submission about what to do with the comments in *Friesen* and, indeed, the directions from *Friesen*. In light of what I have just referred to from the *Hagen* decision, there is not a dramatic change in range as suggested by the Crown. That is simply the only way I can reconcile *Hagen* and *Friesen*.

[55] It appears, certainly at this stage in the development of the case law, that the change of sentences to a more serious sentence must be considered to be more incremental. I certainly do not take it from *Hagen* because it simply cannot have been that appellate decision that there is no change in the result of sentences as a result of *Friesen*. That simply is beyond surprising and would be incomprehensible. The sentences must be more serious as a result of *Friesen* but, as I say, the change cannot be as dramatic as has been suggested by Crown counsel.

[56] Having said all of that, it comes to consider the second point as raised by Crown, that is, that the nature of the images here and the totality of the circumstances as I have attempted to summarize them are ones that require a much higher sentence.

[57] This, of course, comes in the context that a sentence in this case does have as its dominant sentencing factors general deterrence and denunciation. It is clear that is the case, and all the cases make that clear.

[58] It is also, and must be acknowledged, that the *Criminal Code* has set the ultimate goal of all sentencing to be the protection of society and has said that in using the sentences available, the court must have a proportionate response to the individual circumstances before it. That, again, leads me to look at the cases and to have some sense of those cases as to where they fit.

[59] I will deal first with what the defence has said by way of an appropriate disposition of one year. I do not agree with that, with the greatest of respect. I say that in light of a number of circumstances.

[60] First and foremost, I note that in *Watson*, a case pre-dating *Friesen*, there was a sentence of 12 months. That was described as light in circumstances that were not nearly as serious as those here. The sentence, in my view, must be more than 12 months.

[61] I do agree with the Crown that the seriousness of the images are a very important factor here, and they are an important factor in at least two ways.

[62] First and foremost is the harm to the victims and to society at large by the seriousness of these images, the number of images, and the encouragement to those images that is created by the users who possess them. It is also important to take into account, when considering the seriousness of the images, what they say of the particular offender who is before the court and what is the moral culpability of that offender. Certainly that was very important to Madam Justice Gerow in the case before her.



[63] It is my view that this aspect of it does tell in the defendant's favour. As was stated by the psychologist, he was an individual who has, for many years, dealt with the issues of depression and anxiety. He did take immediate steps to deal with that which brought him before the Court and that he has been, to some extent, successful.

[64] I accept that what the psychologist has said is not a formal risk assessment, but certainly the application of common sense that an individual who has developed empathy for the victims, who has taken steps, who has followed those steps, is surely on the road to success. Common sense dictates this is the position that we are now at. That brings us again back to the issue of what is the amount of time in custody that must be served by Mr. McCrimmon for, as I hope is crystal clear, this offence requires incarceration.

[65] I have considered the amount of time involved and I am of the view that a penitentiary sentence is not necessary, but I am of the view that *Friesen* dictates that something higher than what would have otherwise been imposed if it were not for *Friesen*, is appropriate. In those circumstances, I have come to the conclusion that a sentence of 20 months' incarceration is required.

[66] I am also of the view that there should be a probationary term. I appreciate the Crown's submission that a probationary term would not have a great significance in this case. With the greatest of respect, I disagree with that. I disagree with that for the following reasons.

[67] It is something which the psychologist appears to have recommended. It is something which, in my view, is also a part of what ought to occur as a restriction of his

liberty into the future. It is something which would impact any consideration of deterrence as well.

[68] I am of the view that two years of probation ought to be attached to this order.

[69] I am satisfied that such a sentence does satisfy general deterrence and denunciation because any person who would have regard to the risk that they are taking would be clear in their own minds about what has happened in this case. Mr. McCrimmon is facing five years of consequences, at least. He has had the time on bail in which his liberty has been restricted. He has had this sentencing, which has resulted in jail, and there has been anxious consideration of whether penitentiary time was appropriate, and there will be a consideration of restriction of his liberty on probation and, finally, the ancillary orders which will impact him far into the future. That totality of circumstances and totality of sentence, in my view, does serve the issues of general deterrence and denunciation.

[70] There will be an order pursuant to s. 161 of the *Criminal Code* as an ancillary order. I will deal with those and then come back to see if there are submissions with regard to the issue of probation.

[71] I understand that the scope and duration of a s. 161 order ought to be informed by the nature and the extent of the risk. I have already referred to what I view as the extent of the risk insofar as Mr. McCrimmon has achieved some considerable success. That is shown in the character letters and in the report of his psychiatrist. Accordingly, the order is for a period of five years.

[72] It shall have the term that Mr. McCrimmon is not to seek, obtain, or continue any employment, whether or not the employment is remunerated, or become, or be a volunteer in a capacity that involves being in a position of trust or authority towards persons under the age of 16 years. He is not to have any contact, including communicating by any means, with a person who is under the age of 16 years except under the supervision of another adult.

[73] The term of the sub (d) internet term is going to be in the term as used by the Ontario Court of Appeal in *R. v. Brar*, 2016 ONCA 724; he is not to use the internet or similar communication service to access any content that violates the law, directly or indirectly, access any social media sites, social network, internet discussion forum, chat room, or maintain a personal profile on any such devices, including, but not limited to, Facebook, Twitter, Tinder, Instagram, or any equivalent or similar service.

[74] With regard to the *SOIRA* order, there will be one in Form 52 for a period of 20 years.

[75] We now come to the issue of the terms of probation, and I have looked at what was imposed in *Capewell* and considered that. I will hear any submissions that counsel have as to the terms of probation.

[DISCUSSION]

[76] The terms of probation are as follows:

1. Keep the peace and be of good behaviour;

2. Appear before the court when required to do so by the court;
3. Notify the Probation Officer, in advance, of any change of name or address, and, promptly, of any change in employment or occupation;
4. Report in person to a Probation Officer within two business days of your release from custody, and, after that, you must report as and when directed by the Probation Officer;
5. You must provide your residential address and telephone number to your Probation Officer. You must not change your residence or the telephone number without the written permission of your Probation Officer; and
6. Attend and actively participate in all assessment and counselling programs as directed by your Probation Officer, and complete them to the satisfaction of your Probation Officer, as dealing with any issues, including but not limited to, psychological issues, and provide consents to release information to your Probation Officer regarding your participation in any program you have been directed to do pursuant to this condition.

[77] In order to ensure your compliance with the order made pursuant to s. 161(d) at the time of your sentencing, you shall, while possessing or using any such device pursuant to that order:

- (a) not delete your browsing history;

- (b) having consented, sign any release of information forms as will enable your probation officer to monitor your compliance with the s. 161(1)(d) order;
- (c) any information obtained by the probation officer can be given to a peace officer; and
- (d) you are to provide the device and any password used to lock the device to your probation officer or peace officer upon their request in order for him or her to monitor the compliance with s. 161(1)(d).

[78] I understand there is a victim surcharge that would also apply in this case. Is that correct?

[79] MR. GOUAILLIER: That's correct.

[80] So that is to apply as well. He can have 18 months to pay.

[DISCUSSIONS]

[81] Mr. McCrimmon shall provide within 30 days of today's date to a peace officer a sample of his DNA, and it is a primary designated offence.

[DISCUSSIONS]

[82] I will make the forfeiture order and I will leave the precise terms and reference to terms and any exceptions that may be necessary in order to allow Mr. McCrimmon to

retrieve lawful materials. I will leave the precise drafting of that to discussion between counsel.

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BROOKS T.C.J.