

30 years later, \$215,000 for officer's sex assault

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The Toronto Police Services Board has been ordered to pay Marian Evans \$215,000 – plus her legal costs – after she sued for an "outrageous and despicable sexual assault" committed by a former Toronto police officer nearly 30 years ago.

The court also ordered John David Sproule to pay \$25,000 in punitive damages. Sproule, a constable who fondled and tried to kiss Evans in 1979 after a traffic stop, refused to attend the trial.

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The court-ordered award is considered one of the largest against Toronto police. Susan Vella, Evans's lawyer, said Ontario Superior Court Justice Sandra Chapnik's landmark decision is "very important for women" across the country.

"This is the first decision in Canada in which a court has held a police board, or force, vicariously responsible for sexual misconduct committed by one of its officers," Vella said yesterday. Vella said she based this on a case-law analysis and "no other examples came up."

The ruling in the Evans case is also an important decision that applies to historical sexual assault cases because it affirms the Supreme Court of Canada's view that, in circumstances such as this where there is an abuse of power, the four-year limitation period can begin accruing decades after an incident occurred.

"This means there can be a substantial lapse of time and that will not be an automatic bar to seeking compensation," Vella said.

The victim, Evans, has asked that her name be made public.

On Jan. 6, 1979, Evans, then 24, was driving home alone in Scarborough at 3:30 a.m. when Sproule pulled her over in a marked cruiser and found her licence had been suspended for nonpayment of a fine. He said she could go to prison for 14 years and that he would take her to 41 Division.

Sproule left her waiting at the scene and returned a short time later in an unmarked car. He then parked her car in a lot, told her to get into his car and drove to a secluded area where he grabbed her breast and tried to kiss her.

When Evans complained to police, Sproule was charged. At the time, he was 32 and had been on the force for five years. He pleaded guilty to indecent assault and was fined \$1,000. Back in 1979, Sproule's father headed the Toronto police morality squad.

After the conviction, Sproule quit the force and moved to Northern Ontario. He defied a subpoena to attend the civil trial.

During a hearing in September, Evans, now 54, gave an emotional account of her ordeal and the years of embarrassment and shame that prevented her from confronting what had happened.

"I've never been so scared in my life before or after," Evans testified during the proceedings.

Chapnik wrote Evans "was trapped for a time in a police cruiser in a parking lot in the middle of the night. The fact that she had committed an infraction made her particularly vulnerable to intimidation by the officer."

Before the attack, Evans was a person her sister Kathleen described as "talented, charming, witty, very beautiful and charismatic," a person who "lit up the room."

Afterward, Evans testified that she became estranged from her otherwise tight-knit Scarborough family, and over the years has battled depression, low self-esteem, sleeplessness and nightmares about "faceless authority figures." She continues to panic when she sees police cars, she told the court.

It was only after she began seeing a psychiatrist in 2001 that she figured out how the incident had ruined her life, so much so that she began thinking she was "mental."

That led to her suing the Toronto Police Services Board, the civilian body that 30 years ago was called the Metropolitan Toronto Board of Commissioners of Police.

The ruling was released Nov. 13; the board has 30 days to appeal. Douglas Smith, the lawyer who represented the board, could not be reached for comment yesterday.

Evans alleged the police board was "vicariously liable" for Sproule's wrongful conduct because "the opportunity to do what he did was directly attributable to his employment position and the power and authority."

Chapnik, who wrote that Evans "was subject to an admittedly outrageous and despicable sexual assault," agreed.

"Sproule's actions were so connected with matters authorized by the board that they may be properly linked with them so as to justify the imposition of vicarious liability on the board," she wrote in her 28-page ruling.

Chapnik also noted that Rhonda Hearn, representing the Toronto police board's legal services department, had "produced evidence in Sproule's file that documented an unrelated incident of somewhat similar nature to that in this matter."

As for deterrence, Chapnik wrote that imposing liability on the board "may well serve to prevent a recurrence of the wrongful conduct. It may, for example, provide an incentive for vigilance and the imposition of preventative measures, such as ensuring that no police officer be on night patrol without a partner and vigilant reporting measures are in place for suspicious circumstances of infractions involving one of them."

"Had that police officer reported (the unrelated incident) in a timely manner, there's a very good chance the officer in question ... would not have been on the streets the night he pulled over Marian Evans," Vella said.

Evans, she added, "is very grateful to the court for the care in which it composed its decision and its recognition of what she has suffered and what her family has suffered over many, many years."

A decade ago, Madam Justice MacFarland awarded rape victim Jane Doe \$220,000 in damages after ruling that the Toronto police owed a duty of care to the women in her neighbourhood and that they had "utterly" failed in their duty to protect these women.