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Judge upholds researchers' right to protect confidentiality

(Ottawa- January 22, 2014) A Quebec Superior Court judge has denied Montreal police access to a tape-recorded interview with accused killer Luka Magnotta, upholding, for the first time, researchers' right to protect confidential information necessary for their academic work.

"This decision is the first court recognition of researcher – participant privilege," said James L. Turk, executive director of the Canadian Association of University Teachers that funded the researchers' case. "Courts have recognized the social importance of journalists being able to protect confidential sources, and this decision extends a similar recognition to academic researchers."

Judge Sophie Bourque said in her ruling that "much academic research ... provides useful information on certain aspects of the human condition that are normally kept silent." She added that "The evidence demonstrates that much of the research involving vulnerable people can only be conducted if human participants are given a guarantee that their identities and the information that they share will remain confidential."

The interview with Luka Magnotta was conducted in 2007 as part of the research of University of Ottawa criminologists Chris Bruckert and Colette Parent on sex workers. The judge noted that Bruckert and Parent's "work contributes not only to the academic community's understanding of the sale and purchase of sexual services, but also to the broader public policy and society-wide discussions on this important, and controversial, aspect of Canadian life."

Judge Bourque was clear that researcher-participant privilege is not absolute, depending in each case on the balance between the public interest in permitting important research with other interests such as facilitating the investigation of serious crimes.

"The impact of this decision is that researchers can now have confidence that courts will recognize and will treat seriously promises of confidentiality vital to the conduct of their research," said Turk.

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