

# Dangerous offender label a quandary

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Kirk Peterson told the court about his plan. It was just a germ of an idea he had to ask authorities to release him in Western Canada after his latest stretch of jail time was done.

Distance, he told the judge back in December, would solve the problem. Putting some distance between wherever he ended up and his girlfriend in Prince Edward Island was the answer.

It was her fault he drank too much. It was her fault his relationship with his children was frayed. It was her fault he hit her. That he pulled her hair out by the handful. Twisted, or punched her ankle until it broke. Punched her in the face until her ears bled.

Mr. Peterson, 47, has been convicted of assaulting the same woman, whose name has been withheld at the request of the Crown prosecutor's office in Charlottetown, eight times over a 10-year span. (He was convicted of assaulting a previous partner in 1996).

After the most recent bout of violence -stretching from Aug. 11 to Sept. 30, 2009 -the Crown sought to have Mr. Peterson declared a dangerous offender, a designation that would keep him behind bars indefinitely.

On Monday, Chief Provincial Court Judge John Douglas rejected the application and instead sentenced Mr. Peterson to two years in a federal penitentiary.

"The Crown has not established beyond a reasonable doubt a likelihood that Mr. Peterson will injure or inflict severe psychological damage in the future. The Crown has not established a substantial risk to reoffend," the judge said in his ruling.

"The pattern of aggressive behaviour established has been directed [at the victim] in the context of mutual alcohol abuse. It certainly appears that in an extremely dysfunctional manner, they both cared for each other."

They often do. The perpetrator is not a stranger in domestic violence cases. It is a husband, a partner, a lover and a person the victim, on some level, consciously chose to be with before the first punch flew.

It is a profoundly human relationship. Silvia Samsa is the manager of the YWCA's Arise women's shelter in Toronto. Battered women have talked to her about how they "provoke" the violence. How they light the fuse, they say, to be in control, so they can see the violence coming instead of waiting for it to come out of nowhere.

"These are not healthy relationships," Ms. Samsa said. "There is no such thing as a perfect abused woman or a perfect abusive man."

"Everything is intertwined." One basic truth is that the severity of abuse tends to escalate over time. Establishing a pattern is essential when attempting to attach the dangerous offender label to a convict.

Prosecutors are obliged to show a pattern of repetitive behaviour and project into the future to prove that, upon release, an abuser, such as Mr. Peterson, would revert to past behaviour and cause serious injury, death or severe psychological trauma to others.

It is a tricky legal test. Especially when the stakes are depriving someone of freedom for an indefinite period.

"The general policy of sentencing is to punish offenders for things that they have done," says Hamish Stewart, a professor in the faculty of law at the University of Toronto. "We don't generally detain people on the grounds that they are likely to be dangerous."

We punish the guilty for what they have done. Not what they might do. Yet for experts working in the field of domestic violence, the past is precisely the problem, and best predictor of future events.

Mr. Peterson's lengthy criminal history involved a stint in Dorchester Penitentiary, in New Brunswick, for assaulting his partner. Upon his release, he hopped on a bus after reporting to his parole officer, headed straight back to Prince Edward Island and started assaulting her again.

He has breached 17 orders to stay away from the victim over the years. She is under similar orders. In December, Mr. Peterson told the court about starting fresh out West.

To Peter Jaffe, the director of the Centre for Research on Violence Against Women & Children at the University of Western Ontario, Mr. Peterson's suggested solution is not reassuring.

"The idea that suddenly you are going to move from East coast to West coast and stop abusing, well, it doesn't work like that," Prof. Jaffe said. "In fact, if that's your solution, you are likely to be a danger on the West coast because you're just going to continue the pattern in future relationships."

Prof. Jaffe has acted as an expert witness in domestic abuse cases where a dangerous offender application has been made. He is aware of at least four serial abusers currently behind bars for an indefinite term.

Statistics suggest the stiffest of penalties may be warranted. There were 184 domestic homicides in Ontario between 2002 and 2008. The victims, in 91% of the cases, were women, while 92% of the perpetrators were men. Men stabbed, shot, beat and strangled their partners to death. In 75% of the cases, they had a criminal record, and the killing was the final chapter in a long, well documented history of abuse.

"These killings don't happen out of the blue," Dr. Jaffe says. "They are predictable and preventable, especially where there is an ongoing pattern of violence. The courts should take them very seriously."

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