



“BESTIALITY” AS REFLECTED IN CANADIAN CASE LAW

Summary Report

CURRENT LAW

Section 160 of the *Criminal Code* prohibits “bestiality”, compelling anyone (an adult or a child) to commit bestiality, and committing bestiality in the presence of a child. Bestiality is not a defined term in the *Criminal Code*. In 2016, the Supreme Court of Canada clarified that the term is limited to penetrative sexual acts.¹ There are two bills currently before Parliament to broaden this definition.²

C3P’S RESEARCH

Following the Supreme Court of Canada’s decision on the meaning of bestiality, C3P set out to learn more about the nature of bestiality offending in Canada by looking at reported Canadian cases where a bestiality charge was laid, or where sexual contact with an animal was an element of the behaviour referred to in the case. 38 such cases were located.³ C3P also looked at cases involving possession of “child pornography”⁴ charges where the accused’s collection was noted to contain bestiality imagery, and information from Cybertip.ca, Canada’s national tipline to report the online sexual exploitation of children, about visual content reported to the tipline and assessed as involving bestiality. The resulting paper, “*Bestiality*” as reflected in Canadian case law, is posted on CanLII.org (full citation in footer below).

¹ *R v DLW*, 2016 SCC 2 [DLW].

² Bill C-84, *An Act to amend the Criminal Code (bestiality and animal fighting)*, 1st Sess, 42nd Parl, 2018 (government bill referred to the Standing Committee on Justice and Human Rights on October 29, 2018), and Bill C-388, *An Act to amend the Criminal Code (bestiality)*, 1st Sess, 42nd Parl, 2017 (private member’s bill still at first reading as of January 18, 2019).

³ One case was unreported but a transcript of the proceeding was obtained. Almost all cases occurred between 1980 and 2017, and over half occurred after 2000 (26). Acquittals, cases with unknown outcomes and cases where bestiality was mentioned as a past behaviour were included to obtain as much information as possible. Six of the cases involved an acquittal on the bestiality count (including the DLW decision), but only one involved an acquittal on all charges.

⁴ The term “child pornography” is a legally defined term used in s. 163.1 of the *Criminal Code* of Canada. When referring to criminal charges, this term is used for accuracy; in all other instances the term “child sexual abuse material” is used as it more accurately reflects the nature of this type of content.

WHAT WE LEARNED FROM THE CASES (38 CASES)

The numbers below represent the information known and may not total 38 because the cases did not necessarily contain all information sought.

Case information

TYPE OF ACT. Coerced oral sexual acts with an animal, and manual stimulation of an animal, were more common forms of abuse than penetrative acts. There were:

- 9 cases involving non-penetrative sexual acts
- 7 cases involving penetrative sexual acts⁵

SPECIES OF ANIMAL VICTIM. In almost all cases, a **dog**—often the family dog—was targeted for the abuse. This was especially true for cases where the offender forced an animal and a child into a sexual act—all such cases involved a dog⁶

OFFENDER SEX. All 38 cases involved a male offender. 8 cases also involved a **female offender**.

Child sexual abuse

82% of the cases involved the sexual abuse of a child (or children) (31 out of 38). More specifically:

- 14 cases involved the sexual abuse of an animal as well as at least one **separate act of sexual abuse against a child**
- 13 cases involved a child being **incited or compelled** to commit bestiality (in addition to other acts of sexual abuse)
 - In these cases, non-penetrative acts were more common. Where the type of bestiality the child was compelled to engage in could be ascertained, 5 cases involved non-penetrative sexual acts and only 2 involved penetrative sexual acts
- 2 cases involved a child being **forced to watch** an act of bestiality and 2 involved a child **witnessing** an act of bestiality

RELATIONSHIP BETWEEN OFFENDER AND CHILD VICTIM. The offender was usually in a position of trust in relation to the child (68%, 21 out of 31) — many offenders were close family members such as a parent or stepparent.⁷

CHARGES. 87% of the cases involved more than one offence (33 out of 38). Other charges included sexual interference (section 151 of the *Criminal Code*), sexual assault (section 271), child pornography (section 163.1), and online luring (section 172.1).

Evidence of bestiality used to charge/convict

From the cases reviewed, it appears acts of bestiality typically only come to light if there is a human victim or witness or a visual recording depicting the activity is made. On the issue of recordings:

- A **recording** of the activity was mentioned in **11 cases**, all of which occurred after the year 2000 (there were a total of 26 cases in that timeframe).
- In at least **8 cases**, it is apparent the visual recording was the **primary evidence** relied upon to obtain a conviction in relation to the bestiality charge.

⁵ There were also 5 cases involving attempted penetration.

⁶ Refers to 11 cases of this type in which the species of animal was identified. Note that in two of these cases, a horse was also victimized.

⁷ The offender's relationship to the animal (e.g., owner, caregiver, no relationship) was often unclear, but it appears that in many cases the animal was a family pet.

WHAT WE LEARNED ABOUT VISUAL CONTENT DEPICTING BESTIALITY

Another way to begin to understand the nature of sexual offences against animals, and the intersection of child and animal sexual abuse, is to look at “child pornography” cases where the court referenced that the imagery possessed by the offender included “bestiality”.⁸ Note that bestiality-themed material (along with that depicting sadism) is categorized as the most severe form of child sexual abuse material on the COPINE scale—a categorization system with levels that reflect increased impact on the victim as they ascend.^{9,10}

Courts did not adhere to the strict legal definition of bestiality when it came to visual content—the term was used to refer to both penetrative and non-penetrative sexual acts.¹¹ While not arising often, when bestiality was noted to be in the collection of an individual charged with “child pornography” and described in sufficient detail to determine what type of sexual act was depicted, it was much more common for non-penetrative sexual acts to be depicted.



Information from Cybertip.ca can provide a lens into what form bestiality takes when it is present in the images and videos analyzed by the tipline. **The majority of the bestiality content including children assessed by Cybertip.ca since 2013 depicted non-penetrative activity (79%), with over half of the content (55%) involving oral sexual activity.**¹²

Role of technology & visual content

Technology played a role in many of the cases that occurred after 2000. There were examples of technology being used to:

- Record an act of bestiality (see “Evidence of bestiality” above)
- Connect an offender with likeminded individuals
- Discuss and engage in sexualized chats about bestiality
- Share visual content or stories of bestiality
- Communicate with children about bestiality (4 offenders were charged with online luring)

Connected to the role of technology is the use of sexually explicit material, often acquired online, to normalize sexual activity as part of the grooming process. **In the 13 cases where a child was incited or compelled to engage in a sex act with an animal, four mentioned that the child was shown visual content depicting bestiality.**

⁸ Cases were included if the court noted that “child pornography” involving bestiality was located or if it mentioned that bestiality content involving adults was part of the overall content found because both types of cases can provide insight into how child sexual abuse and animal sexual abuse can intersect.

⁹ Combating Paedophile Information Networks. A number of Canadian child pornography cases have referred to adapted version of this scale provided in *R v Oliver*, [2002] EWCA Crim 2766. All adaptations have sadism and bestiality at the top end of the scale.

¹⁰ Hannah L. Merdian et al, “Accessing the internal structure of the COPINE scale”, [2013] 19:1 Psychology, Crime & Law 21 at 22.

¹¹ See *R v Kiefer*, 2018 ONCA 925 at para 61.

¹² The numbers are based on coding of 167 images and videos by Cybertip.ca analysts between December 2013 and January 2018.

WHY WE'RE CONCERNED

The analysis of these cases, as well as of data from Cybertip.ca, has highlighted that coerced sexual acts involving animals (or at least, the ones for which a reported decision was issued) often occur in conjunction with other very serious behaviour that involves human victims. What's more, C3P has continued to locate cases of offenders possessing and sometimes sharing visual content depicting bestiality through its regular monitoring of reported criminal cases.¹³ Yet, there has been relatively little research into the risk offenders who victimize animals may pose or the potential harms that may be associated with the creation and distribution of visual content depicting bestiality. These areas warrant attention and exploration to better protect children and animals from those who are interested in abusing them.

WHAT NEEDS TO CHANGE

The following are recommendations for action, beyond defining the term bestiality:

- 1. EXPRESSLY MAKE VISUAL CONTENT DEPICTING BESTIALITY ILLEGAL** — This will help protect animals from being sexually abused as well as assist in preventing the use of such material to groom a child for sexual abuse.
- 2. ENHANCE DATA COLLECTION TO ACCURATELY CAPTURE ALL INSTANCES WHERE AN ANIMAL IS ABUSED FOR A SEXUAL PURPOSE** — This will assist future research efforts into this understudied problem, leading to an improved evidence base from which to make legal and policy decisions.
- 3. PROMOTE CROSS-REPORTING BETWEEN ANIMAL AND CHILD PROTECTION AGENCIES¹⁴** — This will lead to better detection of the abuse of both children and animals, enabling protective intervention that might not otherwise happen as both types of abuse tend to be very difficult to uncover.
- 4. CONSIDER ADDING QUESTIONS ABOUT ANIMAL SEXUAL ABUSE TO COMMON RISK ASSESSMENT TOOLS USED IN FORENSIC AND THERAPEUTIC SETTINGS** — This will enhance efforts to detect those who pose a risk for committing a sexual offence or re-offence against a human or an animal, and help guide treatment and risk management decisions.
- 5. ADJUST THE CRIMINAL CODE TO ENABLE A COURT TO PROHIBIT AN INDIVIDUAL CONVICTED OF A BESTIALITY OFFENCE FROM HAVING ACCESS TO AN ANIMAL** — This will better protect animals and is consistent with the protections for children in section 161 of the *Criminal Code* (which restricts a person's access to children after having been convicted of a sexual offence against a child).

¹³ For example, see *R v SPC*, 2017 SKQB 24 (dangerous offender designation) and 2018 SKCA 94 (Crown appeal of sentence) — the offender had his daughter watch visual content depicting bestiality (and child sexual abuse material) as part of the sexual offences perpetrated against her.

¹⁴ Those in the animal welfare and social services fields have advocated for this. For example, the Canadian Federation of Humane Societies hosted Canada's first-ever National Violence Link Conference in 2017. The Conference explored how law enforcement, social services, child protection agencies, veterinarians, and animal welfare organizations can work together to better address the link between animal abuse and violence against people in their respective fields, including through cross-reporting.