

STATE V. BYRON WARD HOWLAND

CASE SYNOPSIS

Suzanne Sells is a 42 year-old real estate agent and a single mother who resides in Georgetown, the state capitol of the state of Major. Her daughter is 16 year-old Jenny Sells, who attends Eckstein High School. On May 13, 20XX-1 (last year), Suzanne Sells was in her daughter's room. Jenny was then 15 years old, her birthday being on March 16, and she attended Roosevelt Middle School. Curious and knowing her daughter's password, Suzanne turned on her daughter's desk top computer, and went to the e-mail inbox. There she found an e-mail dated March 17, 20XX-1 addressed to "teengirl" by "lawman@comcad.net." that read: "THINKING ABOUT U ALL DAY. U MADE ME LATE FOR A MEETING – HEY BUT IT WAS WORTH IT." Suzanne checked for other e-mails from lawman but none were saved and Jenny's delete box and recycle bin had been emptied.

Because Suzanne's relationship with her daughter was strained and because she knew that her daughter would resent her looking in the computer without her daughter's permission, she did not tell Jenny about what she had found. Rather, Suzanne installed a computer program on her daughter's computer to track e-mail communications. For the last two weeks of May, Suzanne recorded and printed out e-mail communications between her daughter and lawman. The sexually explicit e-mails from her daughter shocked her, including one that read: "Today, I was thinking about that time in your condo when you did me in the Jacuzzi. . . that was a very erotic thought for me today." Other e-mails from her daughter contained poems that involved sexual experiences. E-mails from lawman to teengirl were not sexually explicit in nature but did express concern about her miserable home life and how much "I care for you."

Suzanne took her e-mail printouts to Georgetown Police Detective Bill Hutchinson, who, in turn, took the printouts to Special Agent Clancy Flynn of the state Internet Crimes Against Children Task Force (ICAC). Using administrative subpoenas, Flynn was able trace "lawman@comcad.net" to identify the customer of the IP address as Byron Ward Howland.

Byron Howland is 48 years old and a prominent citizen of Cle Elm, a small town on the east side of the state. He is a legislator (in the state being a legislative representative is a part time occupation with the legislature in session from January to June) and a partner in a top law firm in Cle Elm. Howland was a sheriff's deputy in Cle Elm before he became a lawyer. He is married and has three children, two boys and a girl. When he serves in the legislature, Howland lives in a condominium in Georgetown. As a legislative representative Howland initiated legislation to outlaw various forms sexual exploitation of minors including child pornography and communicating with a minor for immoral purposes through electronic communication.

Georgetown Detective Hutchinson and Special Agent Flynn went to the Sells'

residence and met with Jenny Sells to question her. When first questioned, Jenny denied knowing or ever communicating with Byron Howland. Then, when she was confronted with the e-mails, she at first said that she only communicated with lawman over the internet. Then, when confronted with the e-mail indicating that she had been in Howland's condominium, she admitted that she had.

Eventually, Jenny gave a statement to the investigators as follows. Jenny first communicated with "lawman" when she visited a chat room late in the summer two years ago. Howland expressed concern about Jenny's difficult home life, particularly his concern about her being unable to get any understanding from her mother. Howland suggested that they meet at Inner Visions, a coffee bar in the Georgetown mall. They met and talked for several hours. Howland explained to her that he was a legislator in town for hearings. She was impressed to meet a legislator. She was doubly impressed when he told her that he used the name "lawman" because he was a lawmaker and used to be a police officer before becoming a lawyer and legislator. She felt safe with him. Howland expressed sympathy for her situation and told her how much he admired the poetry she showed him. Over the fall when Howland was in town they met several times usually at the mall.

On December 1st two years ago, Howland invited Jenny to his condominium which is in the Laurelhurst building near the state capitol building. He ordered in Thai food. They ate dinner in the small dining room. He served her wine, telling her it was a particular favorite of his called "Woodpine" from a Washington state winery. After dinner they were sitting on the couch when Howland began kissing her. She began kissing him back. However, when Howland put his hand under her blouse, she told him that she needed to go home. Howland continued, unbuttoning her blouse and kissing her. Howland would not stop and pulled off her pants. Jenny told him, "No. No. I want to go home." Howland put his hand over her nose and mouth, and she gasped for breath. Afraid that he'd hurt her more, Jenny stopped resisting. Howland digitally penetrated her and forced her to have oral sex on him. Afterwards, he told her that he was sorry that he had put his hand over her nose and mouth and that he really cared for her. He helped her clean up. He apologized again and drove her to a location near her home and dropped her off. Jenny told no one what happened – in part because she was ashamed, embarrassed and in part because she both feared and cared for Howland.

According to Jenny, this was not the end of their relationship. Howland met with Jenny the next day. He again expressed remorse for putting his hand over her face. They began meeting in January at least once a month on the 15th at Howland's condo, drinking wine and having intercourse. In March, they met on the 16th, rather than the 15th. These regular meetings at mid-month lasted through March. Howland told Jenny that he loved her, but given his position, no one could know about their relationship. "It's our secret." However, in March, 20XX-1 Jenny confided in her friend Sherry Vinton.

Detective Hutchinson obtained a search warrant for Howland's condo, taking photographs of the condominium, seizing bottles of Woodpine wine and the computer located in the living room. A key word search for "teengirl" disclosed ribbons of e-mails

between Howland and Jenny. A key word search of Jenny's computer revealed the same communications. E-mails from Howland expressed affection and concern but were not sexually explicit. No mention was ever made of Jenny's visits to the condo. On the other hand, Jenny's e-mails contained sexually explicit short stories and poems with references to Howland. Detective Hutchinson also spoke to Sherry Vinton who said that in early April Jenny had confided in her that she was seeing a legislator who she really cared for. Jenny swore Sherry to secrecy.

Detective Hutchinson arrested Howland. Howland made no statements to Hutchinson. The Douglas County Prosecutor charged Howland with rape in the second degree, communicating with a minor for immoral purposes through electronic communication and three counts of child rape in the third degree. Howland is out on bail awaiting trial. When interviewed by the media, Howland called the allegations "patent falsehoods."

During his investigation, Detective Hutchinson ran a records check on Jenny Sells and discovered that on February 9, 2009 at 2:00 a.m. Georgetown Police arrested Jenny Sells just outside the Georgetown mall. Jenny was drunk and carrying a beer bottle. Jenny told the arresting officers that she met a man she described as in his mid-thirty's. She said he told her his name was Drake. Jenny said that they drove down to the river in his car, and they sat in the car, drank beer and talked. She said that Drake sexually attacked her, putting his hand over her nose and mouth until she could not breathe and forced her to perform oral sex on him. He threatened that if she told anyone, he knew where she lived and he would come after her. Drake drove her back to the mall and dropped her off.

According to the police reports, the officers called Jenny's mother and took Jenny to Lakeview Medical Center for a sexual assault examination and the Georgetown Police Sexual Assault Unit took a report. Suzanne Sell's came to the Medical Center and drove her daughter home. The case was eventually closed for lack of a suspect. The officers also had cited Jenny for being a minor in possession of alcohol. Eventually, Jenny's case was diverted to a Juvenile Conference Committee and Jenny had to perform community service hours.

When Detective Hutchinson questioned Jenny about what happened on February 9, 2009, she admitted that she had been with Howland that night. She said she made up the story about Drake to get her mother to "ease off" her about being drunk, to explain how she got the beer and to protect Howland.

Jenny still expresses love for Howland and doesn't see the problem with her relationship with Howland. She is uncooperative.

Pursuant to state of Major discovery rules, Mr. Howland provided notice of an alibi defense and listed two witnesses: Kyle Evans, Howland's political adviser and campaign manager and Marco Busono, his campaign finance chairman. Detective Hutchinson interviewed them and took written statements. Both men stated that they that were with Howland on the evening of March 16, 20XX-1. They remember that they met

at Evans' home to plan Howland's campaign breakfast. Jenny Sells, in her written statement said that she was with defendant Howland in his Georgetown condo on the evening of March 16, 20XX-1 drinking, having sex and celebrating her birthday. She was celebrating with Howland that night even though her sixteenth birthday actual was on the next day because Jenny had to be with her mother on her actual birthday.