# Publicity and the Bringing of Criminal Negligence Charges for Safety Incidents



Since Bill C-45 was enacted in response to the Westray mining tragedy, few serious safety incidents have resulted in criminal negligence charges being brought against either individuals or companies.

So when such charges *are* filed after a safety incident, what makes these cases different from all the rest' Naturally, prosecutors can only bring criminal negligence charges when the facts satisfy the requirements in the law for those charges.

But it would be naïve to ignore the other, non-legal factors that may also play a role in deciding whether criminal negligence charges are warranted. One such possible factor is the amount of publicity the incident gets.

When an incident gets a lot of coverage in the media, the result is often increased public awareness of workplace safety issues and sometimes increased outage. Plus, unions can drive publicity specifically in an effort to get criminal negligence charges brought.

Such charges were recently laid in a very high profile incident in Québec.

In July 2013, a train carrying 72 cars of crude oil slipped

downhill, derailed and exploded near downtown Lac-M□gantic, Qu□bec, killing 47 people and causing massive destruction. The tragedy was covered by the media internationally for days afterwards.

Less than a year later, prosecutors announced criminal negligence charges against three individuals and the company that owned the train in relation to the derailment.

We recently asked how big of a role you thought publicity was in the bringing of criminal negligence charges for safety incidents. Most respondents said that it was a factor, even a big one:

- 41% said publicity is one of many factors, while another 41% said it plays a big role
- 10% said publicity plays a minor role
- Publicity is irrelevant according to 8%.

Other 'high-profile' safety incidents that resulted in criminal negligence charges include:

- The collapse of part of an Ontario shopping mall parking garage that killed two people resulted in criminal negligence charges against a professional engineer
- The Christmas Eve scaffolding collapse in Ontario that launched OHS reform in the province resulted in a guilty plea by Metron Construction to criminal negligence'and a $750,000 fine
- A ferry boat officer in BC was convicted of criminal negligence for the sinking of the ferry, and disappearance and presumed deaths of two passengers.

As to the Lac-M□gantic incident, criminal negligence charges aren't that surprising given the number of deaths and extent of the property damage and environmental contamination. In addition, Qu□bec has proven to be more aggressive than other jurisdictions in bringing criminal negligence charges for workplace safety incidents.