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Standing Committee on Justice, Human Rights,  
Public Safety and Emergency Preparedness**

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**Chair**

**Mr. John Maloney**

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Wednesday, April 6, 2005

•(1735)

[English]

**The Chair (Mr. John Maloney (Welland, Lib.)):** I call the meeting to order. This is meeting number 22 of the subcommittee on solicitation laws.

Welcome. We very much appreciate your presence here today. From the Canadian Association of Chiefs of Police, I understand Mr. Vince Westwick will begin the presentation, followed by Chief Superintendent Frank Ryder.

Go ahead, Vince.

**Mr. Vincent Westwick (Co-Chair, Law Amendments Committee, Canadian Association of Chiefs of Police):** Thank you.

[Translation]

Mr. Chairman, members of the Subcommittee on Solicitation Laws of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness, my name is Vincent Westwick. I am the co-chair of the Law Amendments Committee of the Canadian Association of Chiefs of Police. I am accompanied today by Chief Superintendent Frank Ryder, co-chair of our committee, Brian Malone, manager of Policy and Planning, from the Saint John, New Brunswick, Police Department, Staff Sergeant Terry Welsh, who is a member of the Ottawa Police Department, as well as Sergeant Richard Dugal, also a member of the Ottawa Police Department. The latter is here today to help me answer your questions, if need be.

The Canadian Association of Chiefs of Police represents over 900 chiefs, assistant chiefs and other senior officials in the policing sector, as well as more than 130 police departments throughout Canada.

[English]

By advocating legislative reform, innovative solutions for crime, and public issues, as well as promoting community partnership and high professional standards, the CACP is dedicated to professional change in policing. It is always a pleasure, Mr. Chair, to appear before Parliament and make representations on new legislation and issues of public importance. It is an important aspect of the work of the association to listen to our communities and our members, consult with government, and make representations to members of Parliament.

I've had the pleasure of appearing before the Standing Committee on Justice, Human Rights, Public Safety, and Emergency

Preparedness in the past on a variety of topics, but I must admit that this is one of the most difficult topics we have had to address.

The original plan was that the presentation was to be made by Chief Allen Bodechon of the Saint John, New Brunswick, Police Service, but Chief Bodechon is not available, so we have been asked to step in on his behalf. Chief Superintendent Ryder will present to you the bulk of the presentation and Staff Sergeant Welsh will make some comments at the end.

**Chief Superintendent Frank Ryder (Co-Chair, Law Amendments Committee, Canadian Association of Chiefs of Police):** In researching this topic, Chief Bodechon came to the conclusion that there is an absence of common understanding and common purpose concerning prostitution in Canada. Simply put, there is not consensus.

Chief Bodechon says that there may not be a Canada-wide understanding and sense of purpose on prostitution, but there is relative agreement on the nature of related activities and outcomes that represent much of the collateral damage. These include substance abuse, assaults and homicide, organized crime, nuisance, exploitation of children and juveniles, human trafficking, public health and sexually transmitted disease, public safety, and public order.

While there is agreement that these are undesirable activities and outcomes, there is little agreement on strategies. But having the power to identify the problem is a good start. There is limited consensus in policing circles about systemic intervention strategies—e.g., for enforcement and harm reduction—to address the undesirable activities and outcomes related to prostitution. This is understandable, given that there is so little agreement on prostitution issues within and between the various communities that we serve.

Police have significant experience with successful strategies and initiatives in response to the symptoms of the undesirable activities. When there is common understanding and common purpose—and legislation consistent with common understanding and common purpose—police services will be equally successful with strategies and initiatives that are systemic in nature, strategies that account for the relationships between all activities and influences associated with prostitution.

I'd like to speak to the topic of competing interests. In the absence of common understanding and common purpose, police in Canada often find themselves in the unenviable role of arbiter when the courts, community, and politicians have not resolved the competing interests of sex-trade workers, advocate groups, and community.

Police serve a public trust. We are granted legislative powers in order to maintain public safety and public order, but we are also mindful of the rights and the safety of the individual, including the rights and safety of sex-trade workers.

Enforcement of solicitation laws often comes in response to public complaints concerning the symptoms of street-level prostitution, what you might call collateral damage. When the symptoms disappear, the demands for enforcement decrease. Given the legislative tools at our disposal, the strategies to remedy symptoms that harm public stakeholders may inadvertently harm the individual sex-trade workers.

For example, street prostitution is recognized as a venue that frequently puts sex-trade workers at risk, and the less visible the venue, the greater the danger. Directed policing prevents prostitution in highly visible locations, so that locations that would invite public complaint tend to displace prostitution to less visible locations. The symptomatic public harm is reduced, and the risk to the sex trade worker is increased.

Similarly, enabling off-street prostitution has been proposed as an alternative that may reduce the risk of street prostitution. But this initiative may institutionalize other risks such as human trafficking and greater involvement by organized crime. Again, one risk is moderated, another is elevated.

Being an arbiter of competing interests is not a role the police should play. We should not be required to resolve issues of public interest that the courts, community, and the politicians have not resolved. Police are often expected to care for those who can't or won't care for themselves. Being an arbiter of competing interests tends to compromise that expectation of care.

At this point, Mr. Chair, I'd like to ask Staff Sergeant Welsh to present to you some of his observations on prostitution, based on his 31 years of street-enforcement experience, many of which have focused on street-level prostitution.

• (1740)

**Staff Sergeant Terry Welsh (Ottawa Police Service):** Thank you, Chief Superintendent.

In my experience in enforcing street-level prostitution laws and the introduction of education-related programs such as john school, I have noticed certain patterns of behaviour occurring over the years that I have been involved in the investigations.

One of the patterns or observations I've noticed is an increasing trend towards youth in terms of supply and demand. The trend in Ottawa towards younger and younger sex trade workers is certainly present. One youth worker within our organization describes girls as young as 12 years of age trading oral sex for cigarettes and drugs. Youth are a marketable commodity, and they know it.

Another observation is that there are trends away from the streets. In our years dealing with the john school and educational programs

related to the john school, we're noticing that prostitution is moving indoors: hotels, Internet, escort services, and clubs. The changes are to some extent a function of enforcement.

You might ask, what is a john? A typical john in Ottawa is a male, 30 to 40 years of age, married, employed, and earning an income of approximately \$60,000 or better. New Canadians make up a percentage of the john population in Ottawa.

In terms of preference, younger is better. Interestingly enough, this is often based on an idea that younger means the sex trade worker will be healthier.

It is impossible to separate prostitution from drugs, as a culture, as a commodity, and often as a starting point. Sex trade business revolves around the drug culture, and therein lies the dilemma. Drugs are part of prostitution.

Male prostitution is significantly unreported and tends to be confined to smaller communities and to private club settings.

In conclusion, running through all these observations there's clearly a disturbing trend towards youth, which is very damaging to a community at large.

Thank you.

• (1745)

**C/Supt Frank Ryder:** Where do we go from here? From our perspective, not only is there no consensus on where to go, but there are conflicting views even within the individual stakeholders. It is clear that prostitution is a serious problem, with profound consequences for the sex trade workers and for communities and of real concern to us for youth at risk.

Police, like the rest of the communities, have differing views. As was alluded to earlier, this is not an easy topic. However, we ask that whatever recommendation this committee makes, serious consideration is given to the impact that your recommendations will have on youth, on the community, and on existing intervention strategies. We also ask that your recommendations anticipate enforcement consequences for police. Perhaps the solution lies in a process that works to achieve conciliation and consensus, not conflict.

That concludes our presentation. We would be most pleased to answer any of your questions.

**The Chair:** Thank you very much.

Mr. Hanger, for a seven-minute round of questioning.

**Mr. Art Hanger (Calgary Northeast, CPC):** Thank you, Mr. Chairman.

I thank you, gentlemen, for appearing and testifying before the committee.

I thought you might get into a little more detail on the solicitation law itself, but I'll ask the question. I'll also pose questions regarding all the laws related to prostitution, the common bawdy house, and living off the avails—or living on the avails; I'm not sure which way it's put.

I'm going to ask first, in removing the communication law, what will happen?

**S/Sgt Terry Welsh:** In removing the communication law, you're going to develop a double standard, I would see, on the street. Certainly you would have an element that would present themselves in the various clubs, the strips clubs, and the escort agencies, but you would still have an element on the street creating the issues that we are facing on a day-to-day basis with respect to community-related concerns. You would still have that youth, within the context of our presentation, at risk.

**Mr. Art Hanger:** Can you decriminalize all activity around prostitution, and just dump it on the shoulders of the municipalities to manage, without some negative consequence? And if there are negative consequences, what would they be?

**C/Supt Frank Ryder:** First, to do that... First of all, there is an element of organized crime with regard to prostitution. Anywhere there is an opportunity to make money from illegal activities, that's where organized crime will move into, and you—

**Mr. Art Hanger:** But it's legal.

**C/Supt Frank Ryder:** Well, even if it were legal, I would suggest some illegal activities would be related to it. For example, if this were a tremendous money-maker, it could lead to the trafficking of human beings from other countries—bringing in young prostitutes, both female and male, to make this illegal. Although it might be legal, they would certainly use other—

**Mr. Art Hanger:** The trafficking part is illegal.

**C/Supt Frank Ryder:** The trafficking part, yes, and other related functions like that.

**Mr. Art Hanger:** In a community, if the practice of common bawdy house law, the living off the avails, were all removed from the Criminal Code and virtually decriminalized, how would the police, then, operate? Would you have anything, really, to do with the activity on the street, if all these laws were removed?

**Staff Sergeant Richard Dugal (Ottawa Police Service):** Basically, our hands would be tied to intervene into the most harmful activities associated with prostitution. That would be living on the avails and procuring and obtaining the services of people under the age of 18, which are all encompassed under the present laws. Not having the ability to enforce that, we have absolutely no power to be able to get at the people who are profiting most by these activities.

• (1750)

**Mr. Art Hanger:** The reason I ask these questions is very simple: those proposals have been put to this committee by others appearing. The sex trade would be able to operate with impunity, just as the mechanic, as it has been put, who works in the corner garage just down the block would have the same kind of freedom as he would to run his operation. That's some of the thought that has put before this committee. Of course, we've heard the downside to that as well, but I was just interested from a police perspective.

**C/Supt Frank Ryder:** If I may add on that point, that suggests some of the issues we just talked about in our presentation—for example, the interdependency between prostitution and the drug culture. Many of these people are not in this profession by choice; they've been drawn in there by their need to obtain money to obtain

drugs. Although you may legalize the activity and some of these people may be going into this legalized activity, if I could call it that, the only reason they would be there is because of their dependency on drugs.

**Mr. Vincent Westwick:** Perhaps the other way to look at it is that, quite frankly, whatever step you take, there are going to be consequences. The difficulty of your job is trying to anticipate what those consequences will be for the community, and then what enforcement consequences will flow from that.

If you were to move towards a decriminalization model, then perhaps there would be less Criminal Code enforcement by the police, but regulatory work would still have to be done, assuming there's some kind of regulatory scheme in place. Whether that would fall to the police or some other agency would have to be determined. But it would still remain to be seen if some of the other—and I hate to use the word, and please don't take it in any sort of disparaging way—collateral aspects of prostitution, collateral issues, are still there: the drugs, and the violence, and so on. And if they're there, that would certainly call for police intervention.

Our point is we would ask you, in your deliberations and recommendations, to give careful consideration to what the impact for police on enforcement will be, so we will be in the best position to act in a fashion complementary to whatever the legislation may end up being.

**Mr. Art Hanger:** We have heard what I call the sad story of what has happened in Amsterdam, where the demand has increased so much since their legalization that they now bring women in from the outside. They traffic in women. Of course, that is another issue in itself. In Canada, I don't believe we have a trafficking in women law in the Criminal Code, do we?

**Mr. Vincent Westwick:** There's a provision dealing with human trafficking. I'm not sure that it's specific to women associated with prostitution—I stand to be corrected—but I believe so.

**Mr. Art Hanger:** I know some time back, a few years ago, there certainly wasn't anything. Maybe there's something more recent.

**Mr. Vincent Westwick:** Having said that, if I may, sir, notwithstanding the provision and how it may be worded, it presents very difficult enforcement challenges. Regardless of what the legislative prohibition may be, the scope of enforcement is limited and is difficult.

**Mr. Art Hanger:** That was actually leading into my next question. It is believed that if you get rid of the soliciting law and the bawdy house law, it puts the prostitute in less danger because now she allegedly has time to evaluate her client and she won't be in this rush just to jump in a car and drive down the road. That may be coming from some element of the presentations that have been made here that once those laws are removed, prostitution will move indoors, and there will be less danger and fewer irritants out on the street, in the community. I hear otherwise. There have been witnesses who have testified to the contrary, who say that once you license and legalize then girls have to be examined, and it's a health care issue and it's a drug issue, and anyone who fails, of course, isn't permitted into these legalized brothels or whatever you want to call them, and the prostitution on the street is as intense as it ever was.

What does your experience tell you?

• (1755)

**C/Supt Frank Ryder:** I would like to hear from Staff Sergeant Welsh, but I'd like to make a preliminary comment. I believe that by having these off-site legalized premises you may reduce it, but we will still have illegal street prostitution. Once again, going back to the issue of dependency on drugs, there would still be the sex trade worker who would want to quickly get money to then get the drugs they need to sustain their particular habit, and they wouldn't be interested in being in some kind of licensing scheme and within some kind of a brothel scheme. They want instant availability to cash and they will still resort to prostitution on the streets.

**S/Sgt Terry Welsh:** I would certainly agree. You would form two standards. As you mentioned, you would have those who would qualify and/or who could obtain a license, and those who would not. Based on the drug activity that I've seen in prostitution, I would suggest that probably the majority of them would not. Therefore, you would have a segment of the trade finding a location in which they feel relatively secure and plying their trade on the street, and therefore not eliminating our problem.

You also have the drug trade that follows, very intently and very closely, the prostitution trade. Where you suggest that it may take the activity indoors, well, you're going to have the activity of a drug house very close to that indoor activity. That in itself may not be troublesome in the nuisance-related concerns that the police get, but certainly if the activity is in a high-rise apartment, and usually it is, or in some sort of low-rise, multi-unit operation, you get the same sorts of high-traffic visitors bringing the same sorts of problems—noise, debris, and otherwise—to those communities, so it will be concentrated. In other words, it won't be all the streets, it will be certain locations within our communities, so I don't think it will remedy the situation.

You made that statement about just taking away all the laws, with no age limit. We have 12-year-olds and we have 10-year-olds. It seems to be some sort of new lack of tolerance. Basically, our communities tolerate pornography. This is part of it, and the young people are the commodity in this trade. If you take away all of the laws related to protecting youths, we're going to be dealing with the drug houses—they're going to be there—but the younger people will be on the street.

**The Chair:** Thank you, Mr. Hanger.

Did you have a comment?

**S/Sgt Richard Dugal:** I was going to add something, if I may.

We've talked about offering a different level of enforcement to either municipalities or even at the provincial level. If we're trying to deal with licences that are being dealt with in Ottawa for exotic dancers, who have to apply for a licence to be able to work, it's a nightmare. Enforcement just doesn't have the power to be able to deal with that aspect of what I'll call sex trade workers, although probably not to the extent of the understanding used in this context. Enforcement is extremely difficult in that aspect of a bylaw and it has no bearing.

So if we're dealing with people who are being either coerced or seduced into sex trade work and we have very little in terms of enforcement ability, then we essentially have no control over all the negative aspects of sex trade work.

• (1800)

**The Chair:** Thank you.

Mr. Ménard.

**Mr. Réal Ménard (Hochelaga, BQ):** I'm going to speak in French.

[*Translation*]

I agree with you that you are in a difficult situation, because there is no consensus on this subject matter within society. It is not up to you to do any adjudication. Your organization is responsible for law enforcement, not the passing of these laws. Adjudication must be made upstream, before you intervene. This task is the responsibility of parliamentarians.

I would like to start from the basic premise. Let us start from the year 1985 when, following a decision made by the Supreme Court, the Criminal Code was amended in order to add the new section 213. In the light of the initial purpose of Criminal Code provisions aiming to stop street prostitution, and given the prohibitionist strategy as we know it—let us not go back to the XIXth Century, but only to 1985—, do you believe that the existing Criminal Code provisions, particularly section 213, have enabled us to put a stop to street prostitution?

If you answer yes to this question, there is no problem and the status quo must be maintained. If you answer no, you must help us find some alternatives. If need be, I will ask you questions on this subject matter, but let us proceed in a logical way by first answering the first question.

[*English*]

**S/Sgt Terry Welsh:** I would say yes, that it has helped, and over the past seven years I've been dealing with using section 213 to assist with the education of both the customers and the sex trade workers.

In dealing with section 213, it gives me the authority to arrest individuals, give them the option of attending an educational program—john school—and give them the education, show them the risks, the threats, the issues that are on the street to allow them to make a conscious decision about what is really happening in our community.

We're not eliminating it, and certainly I'm not suggesting by any stretch of the imagination that the john school concept would eliminate prostitution per se, but it certainly has redirected some individuals in their thoughts. Included in that is also the additional education program that we offer to the sex trade workers. This is certainly something they have to reach out for.

[Translation]

**Mr. Réal Ménard:** Mr. Welsh, with all due respect, you are not answering the question.

You say that you are using section 213 for rehabilitation purposes. If that is your motivation, so far so good. It is certainly honourable that you would consider it as a rehabilitation tool rather than a tool for repression and coercion.

The statistics that I have seen do not cover the years that have gone by since 1995. The Canadian Centre for Justice Statistics, through its publication *Juristat*, gave us information about the number of arrests made until 1995 under section 213—I'm not talking about section 210 or other sections—and these statistics were going up.

If we are logical, this should mean that between 1985 and 2005, prostitution was less prevalent and consequently there were fewer arrests that were linked to this problem. My question is not whether section 213 allows you to intervene for preventive or rehabilitation purposes. In fact, I want to know whether that section has decreased street prostitution in our communities compared to the period before 1995. You are answering yes to this question, but it seems to me that statistics tend to contradict your view.

Does your national association keep its own statistics? Do you have statistical data on the number of arrests made in Canada under section 213 in 2002, 2003 or 2004, for example?

• (1805)

[English]

**S/Sgt Terry Welsh:** I personally don't have those stats with me for Canada.

[Translation]

**Mr. Réal Ménard:** Will you find them for us? It would be kind of you to do this for us.

[English]

**Mr. Vincent Westwick:** Our association doesn't keep statistics. We would rely on the same statistics that you would have access to, those at StatsCan. We don't compile statistics.

[Translation]

**Mr. Réal Ménard:** So you cannot give any opinion about the impact of section 213 on the number of girls or boys, alternatively, although we know that prostitution is overwhelmingly a female trade.

This brings me to my second question that I would like to put to Mr. Dugal.

[English]

**Mr. Vincent Westwick:** The answer to that is no, we can't say it conclusively. That's the difficult part about this topic and why we find it so challenging. Since we can't say it conclusively, we thought

the best we could do is to provide some anecdotal information to you, and that's why we have brought the front-line officers with us tonight. But we take your point.

**The Chair:** Mr. Ménard, the statistics that you request can be made available through the justice department or Statistics Canada.

[Translation]

**Mr. Réal Ménard:** They cover the period ending in 1995. Do we have any data for the following years? In the papers from the library, I have read that there are no statistics after 1995. If there are any for the period immediately after that year, I would be quite pleased to examine them. However, in the documents that I have read—and I have read them all—statistics from *Juristat* ended in 1995. If these statistics do exist, we will share them.

[English]

**The Chair:** Okay, Mr. Ménard.

I think Mr. Ryder has something to add.

**C/Supt Frank Ryder:** Perhaps I might just add, when you're looking at those statistics—and I stand to be corrected—in some strategies there are charges laid under section 213, but then they're diverted and therefore wouldn't show up in the statistics. They may have used section 213 as the power to make an arrest, and then depending on some other intervention strategy, the charge isn't proceeded with.

Is that not correct?

**S/Sgt Terry Welsh:** That's correct.

I can speak for Ontario. We have two systems—post-charge and pre-charge diversion. Post-charge certainly would imply that the person is arrested, charged, goes to a diversion program, and then the charge is subsequently stayed or removed. Pre-charge is, as was mentioned, individuals are not charged at all; they're just offered diversion and they accept it or qualify for it.

**C/Supt Frank Ryder:** I only raise that point because the statistics that may be available may be somewhat misleading as to whether or not there's a need for section 213. The actual arrest under section 213 may be deemed to be necessary to move to the intervention strategy.

[Translation]

**Mr. Réal Ménard:** I am a member of Parliament for Montreal and in my constituency, in Eastern Montreal, 150 girls are known to law enforcement organizations. I have thought for a long time that a system of licenced establishments, although there is no magic to it, could represent an interesting avenue, because in my view, even though people are not passing judgment in a moral sense, no one, not even the most open minded person, likes to see any act of soliciting when their daughter walks to school in the morning or when their wives are going to the restaurant.

If there was a network of brothels, with a licensing system, this would establish some rules. There would have to be some provisions to make sure that this would not get into the realm of organized crime. Conditions would have to be met to obtain a licence. You seem to be saying, Mr. Dugal, that such a system would raise operational problems. I do not see where the problems would lie.

**S/Sgt Richard Dugal:** Two reasons. First, municipal laws are hard to follow.

**Mr. Réal Ménard:** And on the federal level?

**S/Sgt Richard Dugal:** Since there was a suggestion earlier about repealing the existing federal legislation, I thought that the issue would be delegated to provincial authorities.

**Mr. Réal Ménard:** We will not be able to delegate this file. There are in Western Canada and even in Montreal some municipalities that have pursued this all the way to the Supreme Court. There is no way we can delegate the criminal law dimension to municipalities.

However, I asked for a bill to be prepared. I have not introduced it because there was an election, but I could send it to you. I don't know whether I will introduce it.

In my view, there is the Solicitor General, who is now the Minister of Public Safety, who grants licences. An appendix to the bill indicates that if you have been found guilty of first degree murder, you cannot obtain a licence. There are as well conditions for keepers: the brothel must be located in a commercial district and cannot be near a church, a school, a park, etc.

Even though there will always be women who will remain marginal, as legislators, we cannot pass laws in this way. Just because there are people who do not pay their taxes, it would not occur to us that we should repeal the income tax act. That seemed to me to be a good solution. Of course, there was an outcry from feminists and also, but to a lesser degree, from the police.

Would you consider as a possible solution a federal public network of officially recognized brothels with a public licensing system?

● (1810)

**S/Sgt Richard Dugal:** I will give you my personal opinion, which does not necessarily reflect that of the community.

The problem that I perceive in this scenario is that it does not solve the street soliciting problem. The persons who would be accepted as being healthy or who would comply with all conditions that could be imposed could perhaps work in a licensed establishment, but what would happen to the persons who could not get a licence for health reasons or because of past abuse or criminal records, etc.? The problem remains in its entirety for these persons. Where will they go? They will go back to the street and in your scenario, we would not have the power to intervene to help the people who are affected by street prostitution: the communities or the ladies who are being solicited by potential customers.

**Mr. Réal Ménard:** There would still be section 197 and acts of indecency; some provisions would still allow you to intervene.

**S/Sgt Richard Dugal:** Still, there are some practical difficulties in terms of law enforcement and effective intervention. Someone asked earlier to what degree the enforcement of section 213 was effective

to stop prostitution. I believe that we were all in agreement: we will never eliminate it completely.

However, we can try—and I believe such is the intent of existing laws—to minimize the risk for the community and the problems that are linked to soliciting in a public place. The existing law recognizes that people are affected by street soliciting and all that results from it: people are being solicited, johns are roaming, there are public health problems, condoms and hypodermic syringes are left everywhere. These problems will still exist even if we have—

**Mr. Réal Ménard:** But the status quo does not solve them.

[English]

My time has expired?

**The Chair:** Yes.

Libby Davies, please.

**Ms. Libby Davies (Vancouver East, NDP):** Thank you very much, Mr. Chairman.

And thank you to the witnesses for coming today, because I think your perspective and your experience on the street is very important and very helpful to us.

I do want to say at the outset that I don't actually think we've had any witnesses who have suggested that we repeal all laws pertaining to this in terms of sexually exploited youth or trafficking. The debate has focused more on looking at repealing some sections as pertains to adults—and primarily that's been section 213, on the bawdy house law, and on some aspects, or all aspects, of the procurement section.

There definitely have been a lot of witnesses who have suggested that, but nobody has suggested that all these laws be repealed. If anything, there's been a very strong consensus that we need to focus more on enforcement and prevention and all the rest of it for sexually exploited youth. I think the committee agrees with that, and I think the witnesses do.

One of the questions I have is why we do not see youth in licensed premises. We know generally that street prostitution is about 5% to 20%. Off-street prostitution is about 80%. We generally tolerate that. It doesn't have, as far as I know, any enforcement.

I'm actually trying to remember whether any witness at all has raised any issue about youth in any of these facilities that are licensed, like escort agencies or massage parlours or exotic dance bars, you know, places that are known to be fronts for prostitution. I'm just curious as to whether you have come across that at all, and if so, how prevalent is it? And if it's not a big issue, why is that the case? That's my first question.

● (1815)

**Mr. Vincent Westwick:** I'll let the officers answer your question in detail, but I'll speak for a moment to your preliminary remarks. In preparing for this and in looking at some of the evidence of other witnesses, we were aware of that and of the focus of the committee on adults, and not on youth.



Our reason for stressing it was that—and I have been involved in this kind of work and policing for some time—I was overwhelmed by what my colleagues in Ottawa, and others who are not here tonight, had to say about youth and how youth is so inextricably linked to prostitution. I'm not sure that takes away from the point you were making.

**Ms. Libby Davies:** Not in the 80%, though, or maybe you can show differently.

**Mr. Vincent Westwick:** Well, again, I'll let them answer. I'm not sure that the 80% figure is one we would necessarily accept, but we would certainly accept that it's the lion's share; it's higher.

And I wasn't trying to debate with you. I think you're right. It's just that—I'm sure you've seen this in your deliberations and with the witnesses you've had as you've crossed the country and elsewhere—it's very striking, particularly when you hear the age and the manner in which young people are getting involved in this. It's a bit unnerving, quite frankly.

**Ms. Libby Davies:** Yes, I would agree.

**S/Sgt Terry Welsh:** I'd certainly have to agree with Mr. Westwick's statements. There is a younger element in the clubs, but as you can appreciate, ID is not one of the first and foremost things they ask for when they're in the exotic dancing trade, for example. Certainly in the escort business, I have seen—and maybe Richard has—some examples of escorts where the general age is of a younger nature, under 18 or right around the 18 years of age mark.

**Ms. Libby Davies:** But nothing like we see in street prostitution—am I right in that? I mean, there might be some examples of it, but in terms of where most sexually exploited youth are engaged in prostitution, they're on the street, not in facilities.

**S/Sgt Terry Welsh:** I can say that it's very difficult to track that type of activity. As soon as you take it off the street, you have to actually be dealing with an ongoing investigation. We do see, as I mentioned earlier, the younger ages coming out of the high schools now. It is becoming very prevalent, this type of activity, which is associated with both making money—small amounts of money—and/or exchange for drugs.

In my experience, I have seen the younger individuals—women—in the dancing strip clubs. I have been party to committee work in the city of Ottawa where they tried to license exotic dancers and met with a number of very vocal outreach groups that just absolutely did not want to have anything to do with licensing. In the city of Ottawa we attempted to license and it was challenged, and rightly so. We didn't do our homework properly.

**Ms. Libby Davies:** How do they exist then in Ottawa? Are you saying they're illegal?

**S/Sgt Terry Welsh:** The exotic dancers just enter into a contract. It's usually a group of individuals who go between Toronto, Ottawa, and Montreal.

**Ms. Libby Davies:** Okay, so they're not illegal, but is it just that they're not specifically licensed here in Ottawa?

**S/Sgt Terry Welsh:** Yes, that's correct, they're not licensed.

Of course, the younger ones slip between the cracks because there is no network. There's certainly no licensing within the city of

Ottawa, so it's on an observation and/or complaint-driven basis that the police would be brought into those establishments.

**Ms. Libby Davies:** You probably know that a number of witnesses have urged us to look at the so-called Swedish model, where it is decriminalized for the sex worker and you basically go after the customer. We have also heard a lot of people say they're very concerned that model will actually drive it underground and make the trade less visible and more violent. I don't know what your opinion is, but if that model were to be the case, how would you prevent these things from happening?

• (1820)

**S/Sgt Terry Welsh:** Violence?

**Ms. Libby Davies:** If we adopted that model and there was some evidence to show that it's going underground, because people are trying to escape in terms of their dealings with the customer, which are then illegal, what strategy might you have to deal with that?

I'm trying to figure out pragmatically how we get at this issue in terms of the violence and exploitation, or in terms of improving safety. My own feeling is that the status quo isn't working very well; in fact, it's possibly dangerous.

**Mr. Vincent Westwick:** I suspect this is not a very satisfactory answer, but I think the simple answer is we don't know. It's pure speculation what might happen, whether it might become more or less violent. We don't know.

The point I want to continue to make, Mr. Chair... You know that we have appeared on a number of controversial and difficult issues and that we've not been shy about taking a firm position on things, but there's not a consensus on this in the police community. There's not consensus on what the best approach is; there's a lot of debate, a lot of healthy debate, but there just simply isn't consensus.

Quite frankly, I don't want to go beyond my scope of expertise, but in preparing for this I discussed it with my own teenagers and family, and we couldn't agree even within my own family. They couldn't tell me what to do, which they're normally very happy to do.

**Ms. Libby Davies:** I appreciate your saying that, because sometimes it's easy to present this as a black and white issue, and it isn't, but very complex. It's about reducing the harms that are there and the best way to do that.

Maybe I could switch for a moment to the question of youth, because I think there are some issues there. We actually have heard some testimony where there seems to be a confusion about how charges are laid and what enforcement there is. I'd really like to know, from your perspective, do you feel the laws we have now are adequate in terms of giving you the tools you need to deal with sexually exploited youth? Or is it more a case of it being difficult to get a prosecution because you have to rely on the victimized youth to provide the evidence? How do we get around that? Do you have any suggestions for how we deal with that?

I think there is a very strong consensus there, if we could just figure out what we needed to recommend to make it more airtight, so to speak.

**S/Sgt Richard Dugal:** I'll speak from my experience in terms of some investigations of people who lived off the avails of prostitution, both younger people and those over 18.

As you stated, the difficulty is that a lot of times we have to rely on the evidence of somebody who has been involved in sex trade work. That witness is akin to a battered spouse, where at the best of times it's extremely hard to get a reported occurrence and for somebody to follow through in the court proceedings. The atmosphere and environment in the sex trade work is extremely exploitative. You're dealing very much with people who have been brainwashed—and there's no other way to describe it. So even if they've been horrendously assaulted—

**Ms. Libby Davies:** We've actually heard real experiences of this, too.

**S/Sgt Richard Dugal:** Yes, and still they wouldn't go through in following up. That doesn't say there's nothing we can do. There are still some collateral things—

**Ms. Libby Davies:** In domestic violence, though, at least in B.C., the police have to lay the charges whether or not the victim agrees; I believe that's still the case. Is there not a way this could be applied to the issue of sexually exploited youth, so that you don't have to rely solely on that person's willingness to come forward?

**S/Sgt Richard Dugal:** It's obviously part of the evidence, but the courts tend to rely a lot on it, and there are very specific facts and issues we have to prove. In circumstances of a domestic assault, I guess the judiciary has taken a stance that you can allow a lot more collateral evidence—or a wider spectrum of evidence than direct evidence, I would suggest—than my experience has been when proceeding in court with pimping charges or “living on the avails”. Certainly, evidentiary laws that would make it a bit easier to work from association—that doesn't mean we'd just give up an investigation and lay charges left, right, and centre, but to make the investigations easier—are something.

We're touching on, for instance, attempts to obtain the services of a person under 18. There used to be a provision in law that if I was going to present, for instance, to say, “I can get you this person”, clearly under the age of 18, “you can buy sex for money from”, there's a presumption. That presumption was removed, and therefore our ability to actually get a conviction under it is very much restrained.

•(1825)

**Mr. Vincent Westwick:** The other difficulty when you're dealing with youth and those who see the sex trade workers as victims as opposed to perpetrators is that then the argument is made that you're criminalizing the victim, which causes other consequences and generates problems.

We met with a couple of very experienced youth workers in preparing for today. In one case, there was a very impassioned plea that had nothing to do with the sex trade aspect of it, but was calling for a more enhanced ability to maintain rehabilitation programs and decrying the fact that the offence was often not serious enough to

justify the length of program needed to effect an actual rehabilitation. This is a theme you hear often in the YCJA.

**Ms. Libby Davies:** YCJ...?

**Mr. Vincent Westwick:** The Youth Criminal Justice Act; if I had said it right, you would have understood it. I apologize.

Often you will hear this in terms of children and young persons: that they in fact need to be held in a custodial setting for a longer period of time than is justified by the offence they're facing—a longer period in time in order to put in place a rehabilitation program that would be effective and efficient and would in fact work. But to put someone who has a minor offence there is very much like the old juvenile delinquency act's philosophy of *parens patriae* and so on.

So it's not an easy topic at all—not an easy topic, I'm afraid.

**The Chair:** Thank you, Ms. Davies.

Mr. Hanger, you have three minutes.

**Mr. Art Hanger:** Thank you, Mr. Chairman.

In this whole business of escorts, bathhouses, massage parlours, strip joints—and stripper agencies, I guess—I get the impression sometimes that people want to paint it with a nice rose-coloured brush and make it look neat and tidy, when in effect we've had one lady who came and claimed to be an activist, an escort service businesswoman, and a madam. This tells me all she's doing is skimming from a bunch of girls she might have in her stable; 50% is what she draws from each one of them. I don't find that exactly what you would call “non-exploitative” when it comes to women. In fact, it's more of a hidden activity, yet it proceeds.

Can you tell me, over the last little while—you represent the Canadian Association of Chiefs of Police, and there's obviously been discussion over much of this issue before—what kind of concentration there is on these escort services, the bathhouses, massage parlours, and the strip joints when it comes to enforcement? What are you finding when you go there?

**S/Sgt Terry Welsh:** I can say that in our experience in Ottawa it is complaint-driven. In our experiences there are numerous violations with the drug world, weapons, and certainly with prostitution within strip clubs.

For escort services it's a very difficult investigation, to say the least, because, as you mentioned, you have an individual with one phone line attached to 10 or 12 others, and by the time we trace these lines, we're dealing with communities well outside our own. So it's very difficult to investigate an escort agency these days.

Richard might have first-hand knowledge on that particular aspect, but I can say for the strip clubs we have in our community—seven of them—that there is an element of prostitution going on in what they call the “champagne rooms”, the small rooms just off the main floor. So you have the dancing going on, and then the entertainers are invited back with a fee to a smaller room, where things occur that are out of the sight of the owner, but they are in fact run and regulated by the owner and the people in there. So that is definitely occurring.

Then the criminal element that joins into that activity tends to do business within that atmosphere. So you have the trafficking of drugs within that organization, and we've found weapons of various descriptions in some of our raids.

• (1830)

**Mr. Art Hanger:** Crime-ridden.

You haven't really mentioned anything about massage parlours. The escort agencies or services and the massage parlours, and maybe to some degree the gay bathhouses.... To remove any kind of law that regulates a bawdy house.... I know that none of the ones I just mentioned there open the door to prostitution or sex for money, or whatever, I would assume, when they're licensed. I'm saying when they're licensed, whether it's a massage parlour or an escort service, prostitution is not permitted.

**S/Sgt Terry Welsh:** I would say that's a misnomer.

**Mr. Art Hanger:** It's permitted?

**S/Sgt Terry Welsh:** It's absolutely permitted. Most of the massage parlours that I have investigated are set up under the premise that we invite you in—the shingle is out for a massage—but once inside the room there are other items offered, and certainly the client has the ability to choose whichever he wants.

In some of the storefront operations that I've investigated, that's the beginning and end of the premise to the business. It's strictly taking sex trade off the street and bringing it into a controlled environment. We use regional health, in our case, to deal with the health-related issues to enforce.... They get a licence from the city to operate, but certainly it's very difficult again, without a complaint from a customer, to deal with that type of activity.

**Mr. Art Hanger:** What about children? How many children are involved in that? Do you have any idea? There are some, I know.

**S/Sgt Terry Welsh:** As service providers, there are some. In my experience, I've seen younger individuals in the massage parlours, but generally speaking, they have identification to show that they are at least 18.

**The Chair:** Thank you, Mr. Hanger.

Mr. Ménard, please. Three minutes.

[*Translation*]

**Mr. Réal Ménard:** If you will allow me, Mr. Dugal, let us pursue this further.

I have a question that is highly hypothetic and speculative at this time. Suppose this committee calls for a public system of licensed establishments, with licensing conditions that would protect us from prostitution in residential districts. Getting the prostitution out of residential districts is precisely my objective. You are saying that it

would be difficult to reach that objective because some women would be excluded by the keepers or would refuse to be involved in this public system. Some women—or some men, because I do not want to make any discrimination—are more comfortable in some form of marginal life.

At this time, soliciting is prohibited but women are still doing it. I have some difficulty understanding how the status quo would give us a better opportunity to reach our goals, that is security for the ladies and peace in our communities.

In the South-Central part of Montreal, in the Hochelaga-Maisonneuve district, it came very close to citizens taking up baseball bats and going out on hooker-bashing expeditions. Surely you have seen that in the news. I am told that in some Ottawa neighbourhoods, the situation was very tense.

How would the status quo allow us to reach the objectives of safety for the ladies and peace in our communities?

**S/Sgt Richard Dugal:** I will give you my personal opinion. Safety or the lack of safety for sex workers has certainly more to do with their lifestyle than with law enforcement. It is a lifestyle where self-esteem is very low, where there are personal hygiene problems, where people are psychologically at risk because of their involvement in this trade. Security problems are mostly caused by these conditions.

Unfortunately, as you know, communication for the purposes in public places remain a problem for the community and this problem will persist. In fact, some persons will not be able to work in a controlled environment. Let's take the ideal case of a prostitute or a sex worker who would decide in an adult and consenting way to work in this trade. In my experience, the people who want to continue working in this trade of their own free will constitute a minority. A few persons might possibly go and work in a structured environment under the law, but I believe that it would be safe to say that the vast majority of them would continue having behaviour problems that would affect communities, neighbourhoods and districts. They will keep doing it.

• (1835)

**Mr. Réal Ménard:** Let's talk about section 213. You are in favour of the status quo. You wish that we would not do anything, or at least you do not wish that this section be repealed.

Mr. Welsh said earlier that we could intervene in a reparatory or rehabilitatory fashion. That philosophy is interesting. However, we will begin to see sex workers in the streets again in April, May, June, July and August. The people will come to my office to complain about it. I do not see what tool the Criminal Code has to offer to restore peace in the communities.

**S/Sgt Richard Dugal:** I would like to come back to the safety of the girls. I believe that the best form of prevention in this regard is still a change in the lifestyle associated with this trade. To do so, we must have tools that are probably outside the judiciary system. We are talking about social workers, resources offered by social agencies that could have an impact when a person wishes to make some change in his or her life.

On the other hand, the law cannot eliminate prostitution as such, but it gives us the possibility of reducing the level of injurious activities in a given community. Of course, this result is temporary and will decrease over time. That is why we can go back and make more interventions.

Moreover, the legislation on communication targets not only sex workers, but also the johns, which allows us to reduce their numbers. If police interventions are based on this, we can play an important role, or at least help reduce the level of injurious activities associated with street soliciting.

**Mr. Réal Ménard:** In Ottawa, how many known sex workers are there?

[English]

**The Chair:** Thank you, Mr. Ménard.

Ms. Davies.

**Ms. Libby Davies:** I think you said something that is very significant, which is that safety is related more to lifestyle than enforcement, and that really takes us back to the drug issue as well. I think part of the problem is that because what those drug users are doing is illegal, they're already in a criminalized element, and then this gets added on top of that.

I agree with you, but I question why we wouldn't focus more on dealing with that health issue of addiction, instead of further prosecuting someone or threatening to prosecute them or chasing them around from neighbourhood to neighbourhood. It just seems so futile—well, more than futile. I represent east Vancouver, where we have a lot of dead bodies, and I basically have come to the conclusion that the laws play a role in that. It's not the only thing. That's why I agree with what you're saying.

I do have serious questions about the status quo. What we should be focusing on is minimizing the risks and improving safety, and law enforcement isn't necessarily the primary tool to do that. I think it has a place, but I question whether it's the primary tool, given what we're facing now.

I don't know if you want to respond to that.

• (1840)

**Mr. Vincent Westwick:** I'm not sure our comments tonight should be interpreted to suggest that we're supporting the status quo. Uncharacteristically, we have not made specific recommendations to you. We have avoided doing that, and I will again repeat to you that there isn't consensus within the police community on this.

There is a huge amount of frustration in the police community for reasons that you have articulated, Ms. Davies, but I think the point where we may be able to build with you is that the problem is not just a criminal problem. It's not just an interdiction problem, a prohibition problem, to stop people. In our submission and what we were aiming at in our remarks is to suggest that it's much broader than that. It involves...when we say "lifestyles," it isn't just drugs, although drugs are hugely connected to this. It's also, as the sergeant was pointing out, associated with the personality, the history, and the difficulty that so many of these people have faced and how they find themselves in this situation. And we're equally disturbed, or perhaps more disturbed, by some of the—"trend" might be a bit of an

overstatement, so I tread cautiously in saying "trend"—when we see the ways in which young people are engaging now in this kind of thing.

There was an article in this morning's *Ottawa Citizen* about young people trading sex for drugs in school. Certainly this is something we're seeing signs of.

We're not being dogmatic in any way whatsoever on this topic. We are really struggling with it.

**Ms. Libby Davies:** Yes. We are too.

**C/Supt Frank Ryder:** As one final comment in relation to the comments that were made earlier with regard to the 150 sex trade workers who were known to Montreal, when you said that, I was thinking, how many are unknown, and even if we were to license and put these individuals into some kind of licensed environment, how many of those 150 are really there by choice? How many there would still be exploited? Those are the things that go through my mind, using that example.

Thank you.

**Mr. Brian Malone (Manager, Policy and Planning, Canadian Association of Chiefs of Police):** Perhaps I could just clarify a point. The question about licensing establishments has been raised by a number of members, and I think you have to distinguish between activities that you take under federal legislation and activities that can only be done through the provinces for municipal purposes.

Quite often when our colleagues here refer to licensing establishments, what they're talking about is licensing under a municipal land use or planning type of bylaw. There has already been case law across Canada that says basically you can't prohibit those types of activities. You have to provide a place for them, and in fact there has to be a real location in the real world, and not in some industrial park where exotic dancing clubs would be allowed.

That may be the nature of licensing that we experience and that you may be thinking of. It tends not to be specific to the things that we now try to cover under the Criminal Code, under the solicitation laws.

**The Chair:** Thank you.

At this time I'd like to ask our researchers if they have any questions.

**Ms. Laura Barnett (Committee Researcher):** I just have a question about enforcement tools, because we keep on hearing that the police lack the necessary enforcement tools to ensure effective application of the laws that exist.

I'm wondering what your suggestions would be for more effective enforcement tools, whether federal law or not. Some provinces have seizing johns' cars as a mechanism. How do you feel about tools like that, or do you have suggestions about other tools that could make application more effective?

**S/Sgt Terry Welsh:** I've reviewed some of those different tools, if you will, seizing vehicles and what have you. I think that's a possible approach to street-level prostitution. In looking at the comments from the chief superintendent, we can see identification is a big issue here. The communication law, section 213, is a summary conviction offence. If it were to be changed to dual procedure, that would give us the ability, under the identifications act, to actually establish an individual's age and name so that we wouldn't be clouding our existing CPIC, the database that controls all of the names of persons charged. We have a network of individuals who change their names as they change the day. They move to another jurisdiction, and they're on the street under another name.

That would help, as far as an enforcement level is concerned, to ensure we're dealing with the individual who is in front of us, and not a fictitious name.

Linking under the Criminal Code and the YCJA should prohibit participation in prostitution and sex trade of youths 18 years and younger. That certainly would go a long way to assisting us. And I can say that a child in need of protection doesn't vary from Halifax to Vancouver. I think that would certainly help in dealing with the issues that we have first-hand on the street. You will always have a complicated issue, as Mr. Hanger has pointed out, with reference to the bawdy houses and the massage parlours, but I think for street level that would be of big assistance to us.

• (1845)

[*Translation*]

**Ms. Lyne Casavant (Committee Researcher):** I would like to ask a very brief question. If section 213 of the Criminal Code was to apply only to clients, to purchasers of sexual services, would Canadian police departments have the strength required to enforce it

in order to effectively reduce the demand, as proposed by the Swedish model?

[*English*]

**S/Sgt Terry Welsh:** Unfortunately, I'm not familiar with the Swedish model.

In reference to section 213 and the communication-related piece of it, a summary conviction is very difficult unless we have an undercover police officer doing the communication and/or gathering the evidence. We do that now, but I think if there were some change where it would be strictly the john, I don't know what the terms would be in reference to the evidence required for conviction.

I'd have to review that before making any comment.

**The Chair:** I think that concludes our discussion this evening. Thank you very much.

We're struggling with the issue too, and it's perhaps comforting that you feel likewise, but you will assist us, hopefully, in coming to a consensus with reasonable suggestions for dealing with our prostitution laws. Thank you very much for coming.

We're going to adjourn, and then go quickly in camera to discuss a few items of future business.

[*Translation*]

**Mr. Réal Ménard:** I want to raise a point of order, Mr. Chairman.

[*English*]

**The Chair:** Yes, Mr. Ménard.

Can we go in camera?

[*Proceedings continue in camera*]





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