



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

44th PARLIAMENT, 1st SESSION

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# Standing Committee on Justice and Human Rights

EVIDENCE

**NUMBER 007**

Tuesday, March 22, 2022

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Chair: Mr. Randeep Sarai





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• (1600)

[English]

**The Chair (Mr. Randeep Sarai (Surrey Centre, Lib.)):** I call this meeting to order.

Welcome to meeting number seven of the House of Commons Standing Committee on Justice and Human Rights.

Pursuant to the motion adopted on Tuesday, February 8, the committee is meeting on the review of the Protection of Communities and Exploited Persons Act.

Today's meeting is taking place in a hybrid format, pursuant to the House order of November 25, 2021. Members are attending in person in the room and remotely using the Zoom application. The proceedings will be made available via the House of Commons website.

I'd now like to welcome our witnesses. First of all, I would like to apologize that we are a little late, because we had votes today, so we might have to be a little shorter.

For the first panel, I'd like to introduce Superintendent Lisa Byrne of the Canadian Association of Chiefs of Police, who will speak for five minutes. The Canadian Bar Association will be next, with Jeneane Grundberg, chair of the municipal law section, and Kevin Westell, secretary, criminal justice section. I believe they'll be splitting their time.

We'll begin with the Canadian Association of Chiefs of Police, for five minutes.

Go ahead, please.

**Superintendent Lisa Byrne (Member, Law Amendments Committee, Canadian Association of Chiefs of Police):** Good afternoon, everybody. Thank you for the opportunity to address the committee on behalf of the Canadian Association of Chiefs of Police.

Human trafficking investigations and prosecutions require significant victim participation. This leads to the revictimization of individuals who have to retell their stories and relive their experiences on multiple occasions.

While police in Canada focus on trauma-informed practices, the nature of the system required to hold offenders accountable is adversarial, difficult for victims to navigate and not victim-centred. The primary goal should be to fully support victims, who are often children and vulnerable individuals. This may include helping the victim leave the exploitative situation, but this often happens in the

absence of criminal charges or offender accountability. A significant strategy employed by police to combat sex-related human trafficking is to hold offenders accountable in court by relying more on corroborative evidence and less on direct victim testimony.

The section "Commodification of Sexual Activity" and related sections of the Criminal Code are useful for police to combat sex trafficking. For example, in 2018, the Vancouver police used subsection 286.1(2), "Obtaining sexual services for consideration from persons under 18 years", to arrest and convict 24 individuals who made efforts to purchase sex from children. In 2020 and 2021, the Ontario Provincial Police charged 26 males and two females with a variety of offences related to sex trafficking, including trafficking in persons, material benefit and procuring and advertising sexual services.

Police agencies use these offences to focus on offenders, who are often the buyers of sex and the profiteers of human trafficking victims. These offences may or may not require evidence in the form of victim testimony. They are often supported by corroborative evidence that the police can obtain via the use of search warrants, production orders and other evidence-gathering techniques.

For example, I am aware of an investigation in southwestern Ontario in which a 17-year-old victim of sex trafficking never provided a statement to police. Despite offers to support the victim, the combination of her fear and personal vulnerabilities prevented her from ever giving a statement. However, the police were able to collect sufficient evidence to arrest the accused. A warrant was obtained to search a phone that the accused had in his possession upon his arrest. The evidence contained within it, along with corroborative evidence from the victim's mother, was sufficient to prove the procuring charge. The offender pleaded guilty and received a jail sentence.

The offences in section 286 of the Criminal Code led to this offender accountability, whereas the same evidence without victim testimony would not have been sufficient to prove a human trafficking charge to the requisite standard in criminal court. In addition, where human trafficking and offences from section 286 are laid in the same case, the legislation being studied provides much-needed flexibility in developing a prosecutorial strategy when victim testimony is or becomes unavailable for a variety of reasons.

The Criminal Code also provides exceptions to those who provide their own sexual services, whether independently or co-operatively, as long as the only benefit received is derived from the sale of their own sexual services. The exceptions codified in law under subsection 286.2(4) and section 286.5 extend to those who assist others in the sale of their own sexual services—for example, by keeping them safe—and derive a financial or material benefit, as long as there is no exploitative relationship. As a result, police are not laying charges in these circumstances.

The Ontario Court of Appeal recently upheld the constitutionality of the relevant offences and further defined the exceptions in a case called *Regina v. N.S.* The citation for that is *R. v. N.S.* 2022 ONCA 160. I encourage the committee to reference this case as part of your decision-making process.

The law as it is does not permit the police to target individuals who provide their own sexual services and those who receive financial or material benefit from non-exploitative situations. The focus of the police has been to target predatory offenders and organized crime groups exploiting vulnerable victims. The legislation being studied is an essential tool for police to ensure the safety and security of children, vulnerable adults and victims of crime and, where appropriate, to prosecute offenders who exploit them.

The CACP recommends that the current statutes be maintained and is not advocating for change.

Thank you.

**The Chair:** Thank you.

I now give five minutes to the Canadian Bar Association. I think they'll split that time between themselves.

It's over to you.

**Mr. Kevin B. Westell (Secretary, Criminal Justice Section, The Canadian Bar Association):** Good afternoon, Chair and honourable members of this committee.

My name is Kevin Westell. I'm the secretary of the CBA criminal justice section and a criminal lawyer currently practising in B.C., the traditional territory of the Musqueam, Squamish and Tsleil-Waututh nations. I'm coming to you from there now.

Thank you for inviting the CBA to discuss this particular act. Ms. Grundberg is here. We'll split the time. She'll come after me and is from the municipal law group. My perspective is from the criminal group.

The CBA is a national association of 36,000 members, including lawyers, law students, notaries and academics. Our mandate includes seeking improvement in the law and the administration of justice.

One of the things this CBA section prides itself on is that our membership comes from both the Crown prosecutors of this country and members of the defence bar, and also from members of the bars of this country who act for vulnerable witnesses as well. As such, we say that we bring a unique and balanced end-user perspective to the system.

The comments I raise on behalf of the criminal lawyers' perspective concern the extent to which this legislation is really built to meet the overarching aim of the act as set out in the DOJ's 2017 technical paper, namely, to strike a balance between the interests of two vulnerable groups: those who are subjected to prostitution and children who may be exposed to it.

I'm going to talk first about section 286.1 of the act, which criminalizes the purchase of adult sexual services, including consensual and non-exploitative transactions. While the act of selling sexual services is not criminalized, the very fact of the criminalization of the purchase of sexual services maintains a risk of harm to vulnerable sex workers within our populations. We feel this section should be removed altogether. Section 286.1 is arbitrary, grossly disproportionate and overbroad. It captures non-exploitative consensual sex work in the net of criminal liability and prevents sex workers from availing themselves of protective measures.

Sections 286.2 and 286.4 also pose safety risks. Restricting sex workers' ability to advertise limits their access to clientele, forcing them to conduct their business in public locations rather than in safe indoor environments. Restricting the ability of sex workers to hire employees such as bodyguards and executive assistants by making them vulnerable to criminal liability severely limits the ability of sex workers to protect and organize themselves and to grow their businesses with a recurring clientele in safe, secure locations.

Charter challenges based on that notion or the notion that such concerns have led to Superior Court rulings that the sections I've mentioned are unconstitutional, and the sheer volume of litigation dealing with the breadth of these provisions and its impact on their constitutionality, militate, we say, for amendments narrowing those provisions.

Finally, from the criminal perspective, there is the issue of mandatory minimum sentences. At its 2021 AGM, the CBA adopted a resolution urging the federal government to eliminate mandatory minimum sentences for offences other than murder and to include a safety valve for offences where mandatory minimum sentences remain. Mandatory minimum sentences implemented by this act are vulnerable to constitutional challenge, and the CBA sections recommend their removal.

The Ontario Court of Appeal, in *Regina v. Joseph*, recently ruled that the mandatory minimum sentence required by section 286.2 is unconstitutional and of no force and effect. Maintaining the mandatory minimum sentences mandated by the act runs contrary to its broader high-minded purpose: to prioritize the protection of vulnerable populations from exploitation. Mandatory minimum sentences have consistently been shown to exacerbate the exploitation of vulnerable populations, in particular Black, indigenous and racialized populations.

Further, as noted by the Public Health Agency of Canada, indigenous women, who are most likely to be affected by mandatory minimum sentences, are also disproportionately overrepresented in sex work. Imposing mandatory minimums on those who communicate for the purpose of securing sexual services negates the self-determination of vulnerable and marginalized people over their own bodies, further marginalizing those individuals. This is the opposite of the effect intended by the legislation.

I thank you for your time, and I welcome any questions the committee may have when it's my turn.

I'll turn it over to Jeneane.

• (1605)

**The Chair:** Jeneane, you have 30 seconds.

**Ms. Jeneane S. Grundberg (Chair, Municipal Law Section, The Canadian Bar Association):** I'll hit the high points.

First, we're recommending that there be revisions to add definitions to subsection 213(1.1), the offence respecting communication to provide sexual services by the seller.

Second, we recommend that the same prohibition be extended logically to other situations where children frequent.... School grounds, playgrounds and day care centres are mentioned, but this should be extended to other locations such as swimming pools, recreation facilities and shopping malls.

Third, we would encourage the committee to pursue more grassroots consultation.

Fourth, we recognize that since Bill C-36 became law, the final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls has been released. For ease of reference, we have attached the relevant calls for justice, and we encourage you to reference those calls for justice when you're deliberating on the future changes.

Thank you very much for the opportunity to present.

**The Chair:** Thank you.

Hopefully, you'll be able to finish off anything else you had to say in one of the questions.

I'll go to the first round of questions for six minutes, beginning with Mr. Cooper.

• (1610)

**Mr. Michael Cooper (St. Albert—Edmonton, CPC):** Thank you very much, Mr. Chair.

Thank you to the witnesses.

It's very good to see my former colleague, Ms. Grundberg. Welcome. I'll allow you to carry on from where you left off.

Before I do that.... In your brief, you mention section 213 and the definition of "public place", which you characterize as "circular". Perhaps you could elaborate on some of the issues you see with the definition and changes that could be made to provide greater clarity.

**Ms. Jeneane S. Grundberg:** Thank you very much, Mr. Cooper.

Just to provide context, there are three different prohibitions relating to communication.

First, the prohibition relating to the seller is under subsection 213(1.1). This is the section that we focused on primarily in our submission. That prohibition prevents the sex worker from "offering or providing" the sale of sexual services "in a public place, or in any place open to public view, that is or is next to a school ground, playground or daycare centre."

The definition of "public place" in subsection 213(2) only applies to that section, but, as I mentioned in our written submission, it's somewhat circular. It simply says that a public place is essentially a place to which the public is invited. The definition doesn't really provide any meat, if you will, or additional context.

Then, there is the prohibition relating to a traffic impediment. Under subsection 213(1), that prohibition applies to both the seller and the purchaser.

Now, section 286.1, the main section relating to communication, applies to the purchaser. It is broader, in that it says it is an offence to communicate "with anyone for the purpose of obtaining for consideration" sexual services. There are two tiers, if you will, of offences: a generic offence for summary conviction and, of course, the more serious, indictable offence of communication "in a public place, or in any place open to public view, that is or is next to a park or the grounds of a school or religious institution or that is or is next to any other place where persons under the age of 18 can reasonably be expected to be present".

For the purchaser, if you will, the communication has a broader location and includes locations where children "under the age of 18 can reasonably be expected to be present". But for the sex worker, it is narrower and tied to, at present, the public place or place open to public view that has those three qualifiers: school ground, playground or day care centre.

Now, the problem with those three terms, as they apply under subsection 213(1.1), is that they're not defined. For example, a term like "playground" might seem self-evident at first blush. Well, what does it mean? Is it a place—as might first come to mind—where there are slides, monkey bars, etc.? Does that mean it's restricted to an outside event, or is it some place that would also be included within a recreation facility? These things simply aren't known. Where there's ambiguity in terms, there's difficulty with respect to both compliance and enforcement.

In our paper, we outlined some case law post-2014, not directly relating to these sections, but cases that have struggled with the issue of what is meant by “public place”. We would leave those for your consideration, because it does show that the courts wrestle with this.

**Mr. Michael Cooper:** Right. Thank you for that.

You briefly touched on, in the very short time you had to present, extending the prohibition on communication under subsection 213(1.1) to include additional lands that children frequent, I guess because there doesn't seem to be a rational basis to, on the one hand, include school ground, playground or day care centre, but, on the other, exclude places like swimming pools and public parks, which children also frequent.

• (1615)

**Ms. Jeneane S. Grundberg:** Yes, precisely. There doesn't seem to be a rational explanation. We don't know why those three specific locations were chosen—school grounds, playgrounds and day care centres. It does seem like it would be logical to extend the location to other places that children would frequent, such as public parks and swimming pools.

**Mr. Michael Cooper:** What is my time, Chair?

Time is up. Okay, thank you.

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

Next we have Mr. Naqvi for six minutes.

**Mr. Yasir Naqvi (Ottawa Centre, Lib.):** Thank you very much, Chair.

Can I go back to Inspector Byrne? Sorry, maybe I'm getting your title wrong.

I want to start with the experience of policing around the enforcement of this legislation. If you have some data from the Canadian chiefs of police, that would be very interesting to know. Since the enactment of this legislation, what has been the experience in terms of enforcement? What have been some of the deficiencies, the challenges, that you may have faced with the enforcement of this particular piece of legislation?

**Supt Lisa Byrne:** I don't have statistics readily available, but I would be happy to supply them at a later date, if that is acceptable.

As I said in my statement, our difficulties in enforcement really involve having the victim come to court and getting that statement from the victim. It is very difficult in the human trafficking charges to get a victim on board and have them attend court. There are multiple vulnerabilities, and when we're dealing with high-level, organized criminal groups in particular, there are additional threats to the victim that make it very difficult to bring that person to court.

Additionally, when we do enforcement, the more offences we have.... If we think of the offences as a tool, we can use these offences. These will not necessarily be the charges that we lay in the long run, but the tools to obtain and gather evidence. We use them to seek judicial authorization, for example search warrants to search phones, and to gather other corroborative evidence that we can use either to corroborate the victim's testimony or instead of the victim's testimony.

Our goal is not to target individuals who are selling their own sexual services. Our goal is really to target offenders who are exploiting vulnerable victims, and to also target the buyers of sex who are being exploitative, particularly around children.

Those are some of the prevailing strategies that you will see with police across the country.

Let me know if that answers your question or if I can clarify.

**Mr. Yasir Naqvi:** I want to further probe the point you just made, which was that your aim is not to go after people who are voluntarily offering themselves as sex workers versus those who may be exploited.

How do you make that distinction from a law enforcement perspective?

**Supt Lisa Byrne:** From a law enforcement perspective, typically when we enter into an investigation, it usually involves a complaint that comes in via a complainant, a victim or a witness, and it will often have something to do with violence or some other overt act.

Typically, those who are involved in the selling of their own sexual services.... If it's peaceful and consensual, that does not come to our attention, so we're not proactively targeting people who are selling their own sexual services.

I would argue that we're more reactively investigating when there are additional offences or concerns such as violence, intimidation, coercion, or children involved. Those would be the differentiations. We're not proactively targeting those who sell their own sexual services in a consensual manner.

**Mr. Yasir Naqvi:** Has it been your experience that one of the side impacts of this legislation has been that those who are involved in sex work have gone underground because they're concerned they may be targeted as a result of this particular law?

**Supt Lisa Byrne:** I cannot in good conscience speak for the entire country in that regard. I can tell you that here in Vancouver that is not my experience. The Vancouver Police Department does have a very good and open relationship with the sex worker community in Vancouver. I do not believe they have gone underground per se. They certainly don't fear enforcement from the Vancouver Police Department specifically, because we simply aren't doing it. We are tasking and enforcing where there are other concerns, as I've already mentioned—violence, organized crime and exploitation of children.

• (1620)

**Mr. Yasir Naqvi:** We've heard from some, at this committee, that the legislation allows better protection for those who are in the sex trade industry.

Has that been your experience as law enforcement, that it does allow for that protection, or not?

**Supt Lisa Byrne:** I would say, yes, it does allow for protection, in the sense that a legitimate, lawful brothel owner, where there is no exploitation whatsoever and they're operating within the law.... That allows for the protection of not only the operator but the women working in that situation. The way it stands, the law also allows for the protection of vulnerable people, because we have the tools necessary to actually engage, initiate, and carry on with those investigations in the hopes of getting criminal charges.

As I said in my statement, that's not always what happens. Often, the success of these investigations is the extraction of the victim, who is usually female, from the situation and getting her to a safe environment. The criminal charges sometimes can be secondary to that primary concern regarding the wellness of the victim.

**Mr. Yasir Naqvi:** Thank you.

Mr. Westell, does the Canadian Bar Association have any position on decriminalizing the sex trade in Canada, something akin to New Zealand?

**Mr. Kevin B. Westell:** At this point, we have not gone that far in any of our positions. I would say that we're just concerned about.... The closest we've come to that position is the position I pointed out with section 286.1. We don't believe that provision should be in there at all. We don't believe that the purchase of sexual services, without any qualifications for exploitative circumstances, should be criminalized. It just poses more problems. It doesn't add anything, and it doesn't do anything to protect Canadians.

I don't mean this in any crass way, but when we say that sex work is the world's oldest profession, there's a reason for that. Sex work is going to continue to go on. There are going to continue to be those who sell it, and there are going to continue to be those who purchase it. For that reason, there's really no public interest in criminalizing its purchase.

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

Next we have Mr. Fortin, for six minutes.

[Translation]

**Mr. Rhéal Fortin (Rivière-du-Nord, BQ):** Thank you, Mr. Chair.

Mr. Westell, the Canadian Bar Association believes that criminalizing prostitution isn't necessarily helpful. That said, how far would you be willing to go? I haven't heard anyone say that sexual exploitation of minors is acceptable and should be legalized. On the other hand, when we talk about prostitution between consenting adults, some people say it should be allowed and decriminalized, while others argue that it should remain a crime. There are also issues related to the people who work in this environment.

How far does the Canadian Bar Association believe the law should go? Should a decriminalization process eventually be undertaken, what behaviours should continue to be considered criminal acts and which should be more tolerated?

[English]

**Mr. Kevin B. Westell:** I hate to be repetitive and go back to my previous answer, but it's my sense that including a provision that makes the purchase of sexual services, in general, a crime doesn't

really do any good, because it's not narrowly focused enough to get at what we're concerned about.

It's inherent in your question that the concern is not the purchase of sexual services by two consenting adults. The concern is the exploitative relationships that can evolve, and have evolved from these contacts over history.

We should be criminalizing any involvement of children—

• (1625)

[Translation]

**Mr. Rhéal Fortin:** Thank you, Mr. Westell.

[English]

**Mr. Kevin B. Westell:** —in the sex trade.

[Translation]

**Mr. Rhéal Fortin:** Ms. Byrne, I'm going to ask you essentially the same question. In your opinion, how far should the law go? What limits should be drawn when reviewing the legislation? Does the Criminal Code not contain enough provisions to regulate prostitution activities? I sometimes get the impression that some duplication exists between the Criminal Code and the legislation. I'd like to know what you think about that.

What limits should be imposed?

[English]

**Supt Lisa Byrne:** Thank you.

I don't envy the position of striking this balance because, really, it is a balance between adult consenting sex workers and those who use the sex work industry to victimize and exploit individuals, including children, so it's a very difficult balance, and I don't envy you your job.

At the moment, the Canadian police do believe that the Criminal Code is sufficient, although I do hear my colleagues Mr. Westell and Ms. Grundberg and their comments. I can also understand their points of view.

What I think could be elaborated on in the Criminal Code is perhaps to put some thought into offences where we do not need to re-victimize or do not need victim engagement.

I won't pretend to actually be able to give you some legitimate answers today, but I think there should be some thought and discussion around whether there are additional offences we could add where we expand on the definitions of the involvement of organized crime, the involvement of violence, the involvement of children, and any offences that could be better defined with respect to those broad victim categories, and perhaps look as well at the exceptions to see if we can—

[Translation]

**Mr. Rhéal Fortin:** Ms. Byrne, I will interrupt you, if I may, as my time is limited.

I feel we agree on the sexual exploitation issue. My question is more about prostitution.

Has the Canadian Association of Chiefs of Police looked at what is being done elsewhere, in other countries, in terms of decriminalization?

If so, what aspects of decriminalization would you be comfortable with?

[English]

**Supt Lisa Byrne:** I'm not in a position to answer that on behalf of the Canadian Association of Chiefs of Police.

Certainly, here in British Columbia we have looked at different models, including the Nordic model, for example. We have created enforcement guidelines with respect to that model.

Again, I can't specifically speak for the Canadian Association of Chiefs of Police. I apologize.

[Translation]

**Mr. Rhéal Fortin:** What do you say to female and male prostitutes—some men are in the trade too—who say that it's hard for them to report a pimp, for example, given the provisions of the act? Is there a solution to that problem?

The idea was to protect these individuals, but in the end we made it harder for them to report abuse.

[English]

**Supt Lisa Byrne:** I would agree with that position. Whether it's a man or a woman, it's very difficult to speak out against a pimp and to testify against them, because doing that creates inherent danger, particularly since, as I mentioned, a lot of the pimps I am aware of and have done investigations on are part of organized crime, so it carries a much more significant threat.

I think that is the crux of the problem. How do we have victims come forward and testify, and how do we protect them and not have to revictimize them in the current system, which is an adversarial system?

[Translation]

**Mr. Rhéal Fortin:** Wouldn't decriminalization have the effect of helping—

[English]

**The Chair:** Thank you, Mr. Fortin. I'm sorry, but we're just out of time there.

Mr. Garrison, you have six minutes.

**Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP):** Thank you very much, Mr. Chair.

I will turn to Superintendent Byrne.

I'll just ask about a certain contradiction I seem to hear in what you're saying to us. You're saying that you don't enforce certain sections of this law, but you need to keep them because you need to use them against trafficking. To me, that seems a bit contradictory. If we have a problem with prosecuting trafficking, shouldn't we improve those sections of the Criminal Code rather than trying to use sections of the Criminal Code that you think are actually not necessary when it comes to sex work?

• (1630)

**Supt Lisa Byrne:** It's not that I don't think they're necessary. I don't think they're necessary for particular demographics, but I would say they are necessary for the enforcement with respect to the vulnerable victims and those in exploitative situations.

**Mr. Randall Garrison:** Essentially, you're saying that you need it for those who are being trafficked and exploited, so don't we actually need better laws to deal with trafficking and exploitation, rather than generalized laws dealing with sex work in general?

**Supt Lisa Byrne:** Perhaps, but I would be reluctant to remove some of the sex work aspects of them because, for police in Canada, it can be very difficult to gather the requisite evidence. As I said, the more tools we have at our disposal—and often those come in the form of a variety of offences, which may not be the ones that would actually lead to prosecution—the more success we will have in our investigations.

**Mr. Randall Garrison:** Of course, you say that from your experience in Vancouver—and I know that's true in Vancouver and Victoria—the sections that are somewhat problematic, especially those about where sex work can be practised in public and about the ancillary services that might make it safer, aren't enforced in Vancouver and Victoria, but they are enforced in other places in Canada.

If we leave this in place, are we then saying it is up to the discretion of police forces as to whether these are useful things to have?

**Supt Lisa Byrne:** I would encourage the group to come up with legislation that can be applied throughout the country.

I understand that it is a very different demographic of enforcement here in British Columbia. I know we've been working very hard on enforcement guidelines with the British Columbia chiefs of police, as well as with the provincial government. Perhaps enforcement guidelines become somewhat subjective across the country and stronger legislation would be helpful for police as well, a more concise and concrete legislation.

**Mr. Randall Garrison:** We've heard quite a bit of testimony in this committee from those who are involved in sex work and from sex work advocacy organizations. In particular, we've heard that those provisions that make it illegal to solicit—I'll use that word, even though it's not the word I like—sex work around certain public institutions, and municipalities, force sex workers into unsafe situations.

Would you agree that if those sections are being enforced, it puts sex workers in more vulnerable situations by making them work in isolated places? Would you agree that this is the case?

**Supt Lisa Byrne:** I'm sorry, but I can't really comment outside of my experience here in the Vancouver area. I would be reluctant to comment on a rural situation, for example, that I'm unfamiliar with. I can only speculate that if that's what they're telling you then perhaps there is legitimacy to it, but I can't give you an example or any legitimate opinion on it.

**Mr. Randall Garrison:** Okay.



We've also heard from those who are advocates for sex workers about the use of the immigration act and the prohibition of migrant workers being involved in the sex trade as creating an extra vulnerability that prevents migrant workers who might be subject to violence or be exploited from approaching the police because they could end up being deported from Canada.

Have you found that to be the case?

**Supt Lisa Byrne:** No, not at all, in my work. In fact, as part of our guidelines, we do not seek immigration enforcement. We want it to be very victim-centric. So the answer is no, not here in British Columbia.

**Mr. Randall Garrison:** Again, is that part of the guidelines of the British Columbia Association of Chiefs of Police, rather than an impact of the law?

**Supt Lisa Byrne:** That's correct.

**Mr. Randall Garrison:** Great.

I have a question for Ms. Grundberg, and I know I'm going to run out of time fairly soon.

Ms. Grundberg, I would like to know, as it wasn't very clear, whom you are speaking for today.

**Ms. Jeneane S. Grundberg:** I speak for the Canadian Bar Association, national municipal section.

As was referenced earlier, the Canadian Bar Association is an umbrella organization covering the entirety of the country. The municipal section itself includes both lawyers who are private practitioners and in-house lawyers for municipalities from across the province.

We were able to draw on the collective experience of our 20 executive members, which spans the country. As I mentioned, this includes both private practitioners doing work for municipalities and in-house lawyers.

• (1635)

**Mr. Randall Garrison:** Are these recommendations that you brought to us from the executive of that branch of the Canadian Bar Association?

**Ms. Jeneane S. Grundberg:** Yes, that's correct.

**Mr. Randall Garrison:** Has there been a broader discussion in the Canadian Bar Association about those recommendations? I ask because they contradict a lot of the evidence that we've heard here about the safety of those involved in the sex trade.

**Ms. Jeneane S. Grundberg:** No, we were not able to do further consultation. In fact, our third point is that we encourage the committee to do broader consultation in that regard.

We did not have an opportunity, because of the time frames involved, to consult with the Federation of Canadian Municipalities or the provincial and municipal associations, for example.

**Mr. Randall Garrison:** Thank you.

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

Mr. Morrison, you have five minutes.

**Mr. Rob Morrison (Kootenay—Columbia, CPC):** Thank you, Chair.

Superintendent Byrne, this has already been touched on by a couple of questions. In your opinion, as part of BCACP and CACP, how could you move forward with standardizing the success you've had with enforcing PCEPA in Vancouver, in British Columbia, and having the same type of success across Canada?

**Supt Lisa Byrne:** I think doing that would require the various police agencies across the country—in preparation for today, I actually spoke to a variety of police agencies—to reach a consensus. We really have to look at the two different types of environments we find in Canada, the rural versus the urban environment. They can be very different. However, we have had success here with our enforcement guidelines. We engaged the sex worker community group to give us input and assistance on developing them. We do seek constant feedback on them and adjust as necessary.

I think it's something that would require the collaboration of all the police agencies, and then also with the Crown and other stakeholders involved in the criminal justice system.

**Mr. Rob Morrison:** On top of that, another success...I can tell by your compassion that you're giving to us, and your experience. It's come across our desks during this investigation we're working on that there are some inconsistencies in how the different police departments are actually handling sex workers. It would seem to me that, on top of perhaps standardizing the enforcement side, also having some standard training so that other law enforcement agencies that are struggling with having people come forward because they are afraid of police....

You know, I have a fairly extensive background in policing. Sometimes it just takes a long time, but it also takes the right people to develop training. I wonder if you can help us with some suggestions on where we could go nationally to ensure that we have police officers and enforcement trained to that degree, to be sensitive and to be using common sense.

**Supt Lisa Byrne:** I would suggest national training. Of course, we do have access to the CPKN, which is a national platform where police can receive training mostly online.

One thing I do want to point out, though, is that, yes, the law is enforced differently throughout the country, but the demographics of the crime groups are also very different across the country. That is a challenge for us. In the east, gangs such as the North Preston's Finest are very entrenched in organized crime and the exploitation of women and children involved in the sex trade. We're only beginning to see that here in British Columbia.

I just want to make the members aware that this is an issue as well. Not only is the enforcement different from region to region, but the crime groups that are actually committing the offences are extremely different as well.

**Mr. Rob Morrison:** Maybe you could touch on that, on the organized crime and gang activity. What have you seen in recent times, maybe in the last two or three years, with regard to especially children being exploited and involved in the sex trade by organized crime and gang activity? Have you seen a change in that at all?

• (1640)

**Supt Lisa Byrne:** Yes. We have seen a significant change here in Vancouver. I think it's something that is much more common in the east, in Nova Scotia and Ontario particularly, but here we have seen the recruitment of young women in malls and in high schools by young men 12 to 15 years old who are acting as pimps. It is obviously very concerning on all fronts. The offenders are young and the victims are young. It starts at a very early age.

**Mr. Rob Morrison:** Thanks very much.

**The Chair:** Thank you.

Ms. Diab, you have five minutes.

**Ms. Lena Metlege Diab (Halifax West, Lib.):** Thank you very much, Mr. Chair.

I'm going to direct my question to Mr. Westell from the criminal justice section. I'm really interested in, and I would like to get a little more in depth on, what my colleague Mr. Fortin was asking you and your responses to that. I appreciated it when you started with the Canadian Bar Association having a unique and balanced perspective. Having been a member of the CBA more than a decade ago, but for many years, I can speak to my involvement when I was there at the time.

In relation to what we are dealing with, I would appreciate it if you could elaborate a bit more on that from the perspective of your section. Can you also comment on whether you or your section has looked at all at the New Zealand model?

For the purposes of the committee, we're trying to figure out what to do with this: whether to strike this bill, leave it as is or make amendments and, if so, what they should be and how they can help the issues here.

I'm going to agree with a number of things that you said. There are other provisions in the law that deal with human trafficking, etc. What are we trying to do here and what is your recommendation to us?

**Mr. Kevin B. Westell:** Right off the bat, I'll enter my plea that I don't have a working knowledge, other than a very broad one, about what they're doing in New Zealand, its efficacy and its implementation, so I'll have to pass on that aspect of the question.

In facing the rest of the question, I'll say that we are an organization of lawyers and our section is made up of Crown defence, those who, as I said, work and specifically do files on behalf of vulnerable people, including victims of sexual offences. All those perspectives are at the table when we formulate our position on things like this.

There's the doctrinal aspect of this, which is the principle. What are the principles that should govern our position? There's also the question of what's practical. Practically speaking, when bills or provisions are designed too broadly, they lead to constitutional challenges that have merit, whether they're successful or not. That takes time and money in our courts and it costs the taxpayers money.

We want not only fair and just laws, but precision in law-making. Precision keeps us away from constitutional challenges because the net of liability is cast too broadly on certain offences or certain

criminalized portions of an act. That's a lot of what we're concerned with here with section 286.1. It nets in people who are not.... Whether in theory or in practice, it's easy to see that those who are not what we would classically define as the exploited sex worker or the underage sex worker are made to suffer and are put at risk by elements that make it hard for them to have transparency around the work they're doing. If they have to hide any of it, we say that pushes it underground.

With respect to section 286.1, we say, strike it. With respect to sections 286.2 and 286.4, we need to make them more specific. That's what we're asking for.

**Ms. Lena Metlege Diab:** Would you say that Canada's prostitution laws are being used as an indirect way to prosecute human traffickers? If so, should they be?

• (1645)

**Mr. Kevin B. Westell:** The human trafficking provision should be used to prosecute human traffickers. If a human trafficker or somebody engaged in the work of human trafficking contravenes these other laws, they should be held accountable to these laws as well. There's no problem with that.

Specificity and precision are going to assist lawmakers, courts and prosecutors.

**Ms. Lena Metlege Diab:** In 30 seconds, what changes would you make? What would you recommend?

**Mr. Kevin B. Westell:** We say that section 286.1 should be struck. Sections 286.2 and 286.4 should be made narrower and it should be delineated to make it very clear that it's not meant to.... It shouldn't be banning the use, for example, by those who become a party to sex work...through providing prosocial measures to make sure that sex workers are able to work safely and appropriately privately.

**Ms. Lena Metlege Diab:** Thank you very much.

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

We'll now go to Mr. Fortin, for two and a half minutes.

[*Translation*]

**Mr. Rhéal Fortin:** Thank you, Mr. Chair.

I will now come back to you, Mr. Westell. I will speak quickly, because I don't have a lot of time. As you just heard, I have two and a half minutes to ask my questions.

I'd like to hear what you have to say about one thing in particular. Ms. Byrne told us that criminal groups and organizations are involved in the sex trade. She also told us that even young people 12 and older and going to school are involved in this industry as pimps.

When those involved are under 18, different Criminal Code provisions apply. That said, let's forget about that and get back to the problem of criminal groups generally.

First, in your opinion, as a representative of the Canadian Bar Association, what is the main difficulty Crown prosecutors face when they have to prosecute pimps who are members of criminal groups?

Second, in your opinion, could the current laws be reinforced to make them more severe or effective against criminal groups involved in the sex trade?

[English]

**Mr. Kevin B. Westell:** Ultimately, it comes back to precision. In terms of combatting the pimping-type behaviour that was mentioned, there needs to be precision, and there needs to be precision around the concepts of coercion and exploitation. The offences and the criminalization brought to bear through this act need to narrow in on those elements, and not be so—

[Translation]

**Mr. Rhéal Fortin:** With respect to criminal groups, do you feel there is anything specific we should address?

[English]

**Mr. Kevin B. Westell:** We should be targeting exploitation and coercion. We should be utilizing the criminal organization provisions of the Criminal Code, in addition to these provisions, when we prosecute those particular individuals. There are offences that can be added on, when offences are committed for the purposes of criminal—

[Translation]

**Mr. Rhéal Fortin:** Thank you.

I apologize for rushing you, Mr. Westell, but we're pressed for time.

In your opinion, are the lawyers currently working on these cases applying the criminal organization provisions in the Criminal Code, or is it too complicated?

[English]

**Mr. Kevin B. Westell:** I've had lots of experience seeing prosecutors utilize the provisions of the Criminal Code. They're there to be used, and they should be used.

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

We'll now go to Mr. Garrison, for two and a half minutes.

**Mr. Randall Garrison:** Thank you very much, Mr. Chair.

I want to continue with Mr. Westell, because what I was getting at earlier with Superintendent Byrne was using certain sections of the Criminal Code as ways of getting at real criminal problems.

I just want to make sure I'm not misinterpreting. When you're talking about precision, you're talking about that difference of the police using some of these general provisions on sex work to get at trafficking and exploitation. Is that correct?

**Mr. Kevin B. Westell:** I'm talking about precision in the way that we word these provisions so that they capture only what they're meant to capture, and not beyond that.

The CBA doesn't have a problem with these provisions being used against the bad actors they're intended to catch. The problem

is that if it's broad enough to capture those other than the.... If the provision is struck in a manner that's broad enough to capture offenders, or potential offenders, beyond those bad actors, beyond those criminal organization members, then mischief can be made. Challenges will be brought to the courts, and taxpayer money will be spent litigating something that could have been solved at the root, at the drafting stage.

• (1650)

**Mr. Randall Garrison:** The other contradiction I'm seeing today is between the two people from the Canadian Bar Association. They seem to be presenting radically different approaches to this law.

When we look at what Ms. Grundberg has suggested, in terms of the public places definition, she's actually suggesting expanding those provisions further than those that currently exist. Are these provisions some of the ones you're talking about, where we need to be more precise? My understanding is that they apply around the clock, whether or not children are present, or are likely to be present. The current provisions are actually the ones that drive those who are forced to work on the street into unsafe conditions.

We have one part of the Canadian Bar Association saying those should be expanded. I guess I'm asking.... It doesn't seem as if you're in favour of that.

**Mr. Kevin B. Westell:** No, we're not at odds on that point. There's no public interest in having sex work occur in these public areas that are designated for children, families and certain types of uses, but if we're going to do that and quite rightly carve away those opportunities for sex work to occur there, we need to allow other provisions to give way so that it's easier for hotels, Airbnb and places like that to be used. Right now, if somebody engages in allowing Airbnb to be used for that purpose, they're a party to the purchase of sexual services and a party to a crime.

We're saying that we can expand it, but we also need to expand the private space as well.

**The Chair:** Thank you.

For the next round, in the interest of time, I'm going to ask that we do three minutes each, rather than five minutes, if that's okay.

Mr. Brock, you have three minutes.

**Mr. Larry Brock (Brantford—Brant, CPC):** Thank you, Mr. Chair.

I want to thank all the witnesses for their testimony and co-operation in answering questions from my colleagues.

With the time that I have, I'm going to focus on Superintendent Byrne.

As a new parliamentarian, I was intrigued by your summary of evidence. I read that very carefully. I left a 30-year law career, the last 18 of which I was a Crown prosecutor. I do appreciate your commentary with respect to the challenges in prosecuting matters. That won't be my focus.

My focus is really on one of the elephants in the room that we've dealt with over the course of several weeks. I'd like your perspective, from law enforcement, as to what type of Canada you would envision should this committee, and ultimately the government, recommend repealing this particular act. Before you answer that.... We've heard from a number of witnesses. One in particular comes to mind, whose commentary was that Canada would turn into the brothel of the north and it would be a free-for-all for the sex industry.

I'd like to hear your perspective as an experienced police officer on that question.

**Supt Lisa Byrne:** Thank you, Mr. Brock.

I'd also like to add my perspective as a female to this. I would like to see a Canada where we have a very balanced approach where women—or men in some cases, although it's mostly women—have the right to engage in lawful activities to support themselves. However, we need to strike a balance somehow because the sale of sex, and sex itself as an industry, can be used in a very negative way. I've already described all these situations.

Where I see Canada going is finding that balance. I think we're a country that can do that. I think we can look at examples from the rest of the world and really achieve that balance, perhaps with new legislation or modification of this legislation.

However, as the police, we have so many challenges in our investigations—I'm sure the Crown prosecutor, and you as a former Crown will understand—with constitutional challenges not even related to sex work, such as *R. v. Jordan*. There are certain disclosure issues and the burden of proof required in criminal court, which has only grown in the 20 years that I've been a police officer. These investigations can be very complicated. You start to talk about using other sections, such as the organized crime section. I've been the team commander on organized crime investigations. These are multi-year investigations with multi-year prosecutions in the hundreds of thousands, if not millions, of dollars. Is that realistic for us to achieve in every instance, to balance the public safety that we're trying to achieve here?

I envision Canada finding that balance without having to do that extent of an investigation every single time, which would not be achievable in our current system.

• (1655)

**Mr. Larry Brock:** Thank you.

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

Now we go to Mr. Anandasangaree for three minutes.

**Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.):** Thank you very much.

My question is directed to the superintendent.

I'm wondering if you can comment. Since PCEPA came in, do you feel that those who work in the sex industry have been protected? Has there been increased protection for them? Are there specific measures, including the repealing of this act, that could ensure the increased safety and security of those who work in the industry?

**Supt Lisa Byrne:** It's a hard question to answer without specific examples. When I meet with community, I can say that the key to protecting sex workers is having open dialogue and encouraging them to come forward to report crimes and to feel comfortable with the police. That is the largest barrier I see, more so than any of the Criminal Code offences or any amendments. It's engagement with the community and building that trust that can be the largest barrier.

I can't make any recommendations just offhand. We at the CACP do recommend that the law remain the same, because we are using it effectively and we are managing with it as is.

**Mr. Gary Anandasangaree:** We have heard from a number of different agencies and those in the industry that the application of the law has not been consistent across the board. I know you've alluded to that as well. So how do we ensure that the application is consistent? Does it require us to revisit some of the provisions that will ensure that police services can enforce it, or are some of these provisions completely unenforceable?

**Supt Lisa Byrne:** No, I believe the provisions are fine as they stand.

It's funny because when you talk about the enforcement of the law, it's not just these laws that are not enforced equally across the country. In my experience, many of the laws are enforced differently and to different extent throughout Canada. I think it is the nature of our system that different court cases and the case law in one province may not necessarily be binding in another. Without that, I just don't know how we're going to get consistent enforcement unless we look at something like a national guideline on enforcement.

**Mr. Gary Anandasangaree:** This is my final question. Do you think this act adversely impacts indigenous, Black and other racialized communities?

**Supt Lisa Byrne:** I do not think that. In fact, the indigenous communities that I have met with here in Vancouver support this act and they believe that it is valuable to protect the women in their communities who are being targeted by organized crime. Again, this is the higher level of violence and the offenders we truly want to target.

**The Chair:** Thank you, Mr. Anandasangaree, and thank you to the witnesses.

**Mr. Gary Anandasangaree:** Thank you.

**The Chair:** We'll now be going into our next panel, and I believe I have the consent to go to 5:45, if that's okay. I see nodding heads. I think that should be good since we started late. We'll run until that time.

Our first witness will be Andrea Heinz, as an individual. Also, from Concertation des luttes contre l'exploitation sexuelle, we have Diane Matte, and from Defend Dignity, we have Glendyne Gerrard. Each will have five minutes, and then rounds of questions will commence.

We'll begin with Andrea Heinz for five minutes.

**Ms. Andrea Heinz (As an Individual):** Thank you, Mr. Chair.

Thank you to all members of the committee for this opportunity to join you today.

My name is Andrea Heinz. I reside in Edmonton, Alberta on Treaty 6 land. I have a diploma in correctional services and am presently a fourth-year student completing a B.P.A. in governance, law and management. The focus of my studies has primarily been violence against women and the impacts thereof. I am a published scholar on commercialized sex and have spent nearly a decade interacting with a variety of individuals, agencies and groups such as those entering and exiting the sex industry, sex buyers attending the Edmonton sex trade offender program, health care providers, university students and politicians, as well as members and recruits within the Edmonton Police Service.

Prior to this work, I spent seven years in Edmonton's licensed and regulated sex industry, from 2006 to 2013. When I entered, I was 22 years old, drowning in debt, and had no viable education or skills. It was then that an ad in my local newspaper targeting women 18 to 30 caught my eye. It said, "Adult entertainment, make \$2,000 a week." It was an ad for a brothel. It was licensed by my city, and it appeared safe. Little did I know that men's entertainment would be something that would gravely impact my life thereafter.

Five minutes is not enough time to share with you all the indignities and trauma I witnessed and personally experienced from being bought for sexual use over 4,300 times. It only took a couple of months before I experienced a severe mental breakdown. After that, something changed in me, and I suddenly began to tell myself that it was my choice, a job like any other, and that the harm was on the account of the owner I operated under or the specific studio I was in. I told myself it was a labour issue. I started identifying as a sex worker, something I can now recognize that I did as an act of self-preservation.

As Canadian survivor Natasha Falle stated in the Bedford challenge, "I couldn't admit that I was not there by choice. We couldn't live in our own skin if we admitted that. We needed to believe that it was our choice." That mindset didn't stop the harm, though.

At age 25, I built a licensed brothel of my own, convinced that better working conditions would make it safe for me and the other women. That regrettable decision revealed to me that the source of the harm is the men who buy sex, just as Trisha Baptie accurately stated. Prior to then, I was under the illusion that I held power, but it was the misogynistic, sexually charged and entitled men who had the power and used it to choke me, slap me, bite me, spit on me, verbally abuse me, remove condoms, secretly film me, stalk me and more.

Commercial sex is a patriarchal system of thinly veiled rape that affords men the opportunity to use money rather than physical force in order to meet their demands for immediate sexual gratification.

Sex work ideology is rampant and, when not examined through a critical lens, appears very palatable. If we hear these labour euphemisms enough, we eventually start to reframe and excuse what is inherently sexual exploitation. The next time you hear the term "sex work", examine the word exactly as it is. It will show you

what it is: It is sex being placed in front of women being objectified, raped and killed. There is a continuum of harm, and even at its best, sex work still entails the objectification of our women.

The PCEPA is a well-written and balanced law. Decriminalizing the demand removes Canada's strongest tool for deterring and addressing exploitation. Repealing the purchasing offence, section 286.1, supports market expansion. With no social deterrent, sex buying is given the green light. This money incentivizes exploiters to cash in and more agencies and brothels to open, and pimping and trafficking increase as a result to meet an unfettered demand for women's bodies.

Human trafficking is a specific offence and requires that a high threshold be met for charges. Repealing PCEPA means that Canada has no tools for the coercion that is happening, the pimping and the profiteering. These are addressed through the advertising, procuring and material benefit offenses, sections 286.4, 286.3 and 286.2 respectively. Full decriminalization is what exploiters and profiteers pray for.

Canada is already failing to address the volume of victimization happening. What is our nation's plan to prepare for a potential mass influx of women into the sex trade and to provide the extensive supports that most of us come to require long-term? Charities and NGOs addressing the subsequent harm are grossly underfunded and overwhelmed with requests for service.

At the end of the day, whatever law exists, laws don't sit in the private rooms as the exchange occurs. More exchanges equate to more harm on a quantitative level, because harm is inherent to the activity. We need to shrink the market and finally endorse and uniformly enforce this law. Only then can we do an honest review of its effectiveness.

Thank you.

• (1700)

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

Next we go to Madame Diane Matte for five minutes, please.

[*Translation*]

**Ms. Diane Matte (Co-coordinator, Concertation des luttes contre l'exploitation sexuelle):** I'd like to thank the committee for having us. I want to begin by thanking all women survivors who have come to testify at your meetings. I want to acknowledge their contributions, and particularly Andrea Heinz, who is here with us today.

The Concertation des luttes contre l'exploitation sexuelle (CLES) is a group that's been working with sexually exploited women and girls in Quebec for over 15 years. We support around 200 women per year, as well as their loved ones who come to us for help in supporting the women or girls in their lives. We meet with women who want to get out of prostitution and others who do not. However, they all want to prevent other women from going into prostitution. That should tell us something.

Since we have just five minutes, I will go straight to the fundamental issue that we feel Canada is facing, particularly you as the members of the Standing Committee on Justice and Human Rights.

Do we in Canada wish to say that men—because the buyers are mostly men—have the right to purchase sexual services from women and girls—because it's mostly them being purchased?

If the answer is yes, we want to see total decriminalization of prostitution and the purchasing of sex. This will have a huge impact on women and girls. Countries such as Germany, the Netherlands, Belgium, Spain and New Zealand have made this choice to varying degrees. They are all now experiencing an exponential increase in men looking to buy sex and, as we heard earlier, even in young men wanting to become pimps. This leads to more human trafficking, and some of these countries are currently changing their response because they are seeing the impact of full decriminalization.

If more men want access to commercialized sex, more women and girls will have to accept it or be coaxed into it. Beneath prostitution lies an industry we don't talk about enough that's greedy for profit and wants to maintain the concept that men have the right to buy sex and women are doing it by choice.

We already know that some of the most marginalized women, indigenous women, migrant women, women from racialized communities, are overrepresented in the sex industry. Totally decriminalizing this industry and the purchasing of sexual services makes that tolerable and keeps it invisible. In addition, we've noticed that, though they would never question the fact that a reality like that exists, women from these groups are often manipulated by those lobbying for total decriminalization in order to defend this patriarchal practice under the guise of keeping women safe. It's outrageous!

If the answer to our question is no and you want to put an end to this patriarchal practice, you will be interested in what's happening in countries like Sweden, Norway, Iceland and France, which have chosen the so-called equality model rather than the "Nordic" model. The 2014 legislation was inspired by this model, by the way. It seeks not only to repress, but also to prevent entry into prostitution, to question this practice, apparently the world's oldest, to support those who are struggling with prostitution and want to get out of it, and a majority of them do.

The equality model also seeks to target those responsible for exploitation, the buyers and the pimps, the ones who have a real choice in this situation. France passed its law criminalizing the purchasing of sex in 2016. It was assessed in 2020. I urge you to look at the reports they produced. The assessment is positive, despite the fact that the law has not been uniformly enforced across every department of France and that too little money has been invested, among other things, to support pathways out of prostitution. The as-

essment is therefore positive, and the law has been upheld and reinforced.

The Quebec government has already answered no to the question I asked you at the outset. It adopted an equality policy in 2007, which states that prostitution is a form of violence against women. We have to start from there. Quebec has since adopted a government strategy to address sexual violence and, most recently, a new action plan against the sexual exploitation of minors.

• (1705)

We're counting on you and the fact that you understand the situation our society is facing. We must reject this practice, which places women in unsafe situations and also goes against equality for all women. We believe—

• (1710)

[English]

**The Chair:** Thank you, Madame Matte.

[Translation]

**Ms. Diane Matte:** Thank you.

[English]

**The Chair:** Hopefully, you'll be able to finish it in some of the questions.

Next, from Defend Dignity, we have Glendyne Gerrard, for five minutes, please.

**Ms. Glendyne Gerrard (Director, Defend Dignity):** Thank you.

I'm Glendyne Gerrard, the co-founder and director of Defend Dignity, a national organization that works to end all forms of sexual exploitation in Canada.

I'm coming to you from the Mississaugas of the Credit First Nation. Thank you for the privilege to speak to you today.

Defend Dignity is strongly supportive of PCEPA and its objectives. We agree that denouncing and prohibiting the demand for prostitution, and denouncing and prohibiting the profiting from another's exploitation by third parties, are needed in order to deter prostitution and stop its harms.

As part of our work, we have educated over 10,000 people across Canada about sexual exploitation. We remind them that prostitution cannot exist without buyers. We champion gender equality and look for ways to dismantle patriarchal attitudes that fuel the demand to buy sex.

We are also researching the attitudes of sex buyers, as found on a Canadian online escort review board, to better understand the men who buy. These boards are online forums where sex buyers review and rate those they purchase for sex.

Our analysis of comments from a Canadian sex buyers review board has found that the most commonly searched-for term is “young”. Buyers prefer young sellers. One reviewer stated, “More money doesn’t mean more services, that’s just the price of admission to enter a young hot girl’s booty.”

The second most searched term is in reference to a woman’s body size. Some reviewers score women’s body parts out of 10.

Third, racism and racist stereotypes are rampant on the review board. Discussing the pictures on one seller’s website, one buyer said, “I wonder when I don’t get a bum shot too, particularly for an ebony lady.”

Lastly, transwomen experience greater violence. In a discussion about prostituted transwomen, one buyer said, “I think we all have the right to choose who we are with sexually. Not disclosing, especially in advertisement, is deception in my opinion and can lead to dangerous situations. I don’t condone violence, but it is just a reality.”

Our organization also has a group of men who respond to online ads for sex and engage with buyers at the point of purchase, giving them information on the potential harms of their decision to purchase, and sexual addiction resources should they want those.

Our research findings and our engagement with sex buyers revealed that their attitudes and actions can be harmful. Male sex buyers believe that men are entitled to paid sexual access to primarily women’s bodies, and this payment entitles them to do what they want. Our laws are a teacher, helping to shape our culture. The purchasing offence must be kept in place to deter these harmful attitudes and behaviours.

Defend Dignity also provides financial aid through our support fund to individuals in the sex industry, or those who are seeking to leave it. To date, the fund has had 291 applicants, and almost \$200,000 has been provided in funding. Common needs are debt repayment, as pimps and traffickers often rack up exorbitant credit card or cellphone debt; trauma counselling; housing; dental and educational needs. Applications come from across Canada through 80 service providers, law enforcement, and support agencies.

The applicants are representative of the large number of individuals in the sex industry who are there not by choice, and who need the protection of this legislation. They are a key reason why we support PCEPA. We owe them much thanks for the information gleaned from their intake forms, and the letters they included with their applications.

You have a brief by Mikhaela Gray, who conducted an analysis of the data from the 2021 spring submissions to our fund. Her brief provides a summary of her findings. There were 53 applications analyzed, with the goal of better understanding the diverse experiences of individuals impacted by the sex industry. This analysis has

been peer-reviewed and is about to be published in an academic journal.

I want to highlight two significant findings from this research. The 53 applicants described their experience in diverse ways, such as prostitution, escorting, survival sex, and trafficking. Fully 96% of the women reported experiencing third party involvement or trafficking at some point during their time in the industry, and 36% experienced third party involvement from gangs or organized crime.

Regardless of how an individual described their involvement in the industry, there was fluidity of choice, exploitation, and coercion expressed in all of their experiences. For example, nine women described their experience as independent, yet six of those also said that a trafficker was involved at some point. Of the 34 who said they were in prostitution, 26 also said they were trafficked.

• (1715)

The research found that individuals may self-identify their experience in different ways. Their involvement cannot be adequately conveyed in single-use terminology. Many described how boundaries were crossed. They were continually put in situations that they did not desire to engage in.

**The Chair:** Thank you—

**Ms. Glendyne Gerrard:** Lastly, of the 19 who disclosed their age when they entered the sex industry, 12 were minors. One was just two years old when she was first sold for sex.

The legislation is well named when it speaks of protecting our communities and our children. Based on the findings of this research, we urge you to uphold all provisions related to third party involvement.

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

**Ms. Glendyne Gerrard:** These laws are essential. Thank you for keeping them in place.

**The Chair:** Thank you.

We will begin our first round with Mr. Morrison.

You have six minutes, please.

**Mr. Rob Morrison:** Thank you, Chair.

Thank you to the witnesses this afternoon.

I’ll start with you, Ms. Heinz. I want to really thank you for coming today. It’s so important for the committee to hear from someone with your background, having lived the life that you did. I feel so sorry for what happened.

I guess what I would like to hear is how you could see PCEPA improved so that maybe we would be able to help more individuals not be brought into the sex trade. I'm wondering if you could elaborate a little bit, especially from your background.

**Ms. Andrea Heinz:** Thank you so much for that question.

I really want to highlight what Glendyne said, that it is just part of the culture. It is part of our patriarchal culture here, especially in Canada. We view ourselves as this very progressive nation, and in many ways we are, but we are falling short tremendously on gender equality and sex-based equality.

I really think the law is sound. I think the only area that really needs some tweaking, perhaps, is section 213. We know that our most vulnerable sex sellers who are on the streets, who are dealing with complex health issues, untreated mental health, intergenerational trauma and addiction, are the ones who are being targeted by that provision of PCEPA.

I really feel...and, please, I'm not a lawyer, so I can't say exactly what the answer is, but I can say that there is harm happening to women. In that regard, we are still targeting them in some facet. We need to completely remove all of the barriers they face. That includes expunging all records of any historical or current convictions that have been placed upon sex sellers, and also just highlighting where the harm is coming from. Again, that is from the culture and from patriarchy within our masculinity.

I really think we have wonderful men in Canada who are doing great things, but we have a social rot here as well that is taking over. We're seeing it heavily. Sex work ideology is infiltrating every single facet of Canadian women's lives. We can't walk down the street without being procured for sex. I'm jogging in my neighbourhood, with my children in a stroller, and men are pulling up and harassing me. At times I'm even with my husband. It's no holds barred.

It just feels like we're going to be thrown to the wolves and it's going to be open season on us. We really have to work on changing the narrative. Women deserve better than to be purchasable commodities for sexual consumption.

**Mr. Rob Morrison:** Thank you.

What would you say to people who are saying that we should strike down PCEPA and not have it all? What would you say to those people?

**Ms. Andrea Heinz:** I think it's a very short-sighted vision. When we look at it from a very, very micro lens, to some people it might make sense: "She says she wants to sell sex, and who are we to infringe upon personal freedoms?" But we need to start looking at the collective good, and especially the collective good of womanhood here in Canada. Again, we know that many of us are being subjugated to male depravity, essentially.

It's very, very hard. It's very defeating. I think we need to take the zoom-out perspective and recognize the activity for what it is, which is coercive sexual access. It is not work. We have to look at where the lines between agency and submission exist. I really don't think many of us are operating with a lot of agency. I know I wasn't. Sure, I didn't have a gun put to my head. I didn't have a

pimp or a trafficker. But poverty was my pimp. That's the case for so many women. Because we are so reliant on that, because materially we are subjugated in Canadian society, we lean with our abusers. We side with our abusers. We smile in the face of our abusers as they abuse us, because we need that money. It's not fair to do to women.

So yes, this is a huge problem. It is a multi-faceted problem. We need to tackle it from all different angles. There is so much work to be done. We can't just abandon women, put a green light on exploitation, and think that the problem will somehow solve itself. It won't.

● (1720)

**Mr. Rob Morrison:** Thank you so much.

Ms. Gerrard, I was really intrigued with your report on trying to get a better understanding of the sex trade and the different reasons and rationale. Your time was cut a little bit short. I know you were rushed a bit.

I wonder if you could expand a little bit on some of the research you're doing. It would be quite valuable.

**Ms. Glendyne Gerrard:** Thank you for the question.

The research we've undertaken is meant to help us understand the full impact of the sex industry. Some of the questions we framed our research around were these: What factors led an individual to engage in the sex industry? How does the involvement in the sex industry impact an individual's emotional, mental and physical well-being, regardless of how they personally identified their experience? What was the involvement of third parties? I highlighted that to you. Was it a friend, gangs or a trafficker? What was the third party involvement? What enables an individual to choose to exit the industry and/or stay out of the industry?

Those are things we looked at. I can certainly tell you that how the sex industry impacted individuals' physical, emotional and mental well-being was all negative. There are all sorts of quotes I could read you from our research from these 53 individuals. Not one of them was untouched physically, emotionally or mentally. Violence was rampant. All sorts of horrific things happened.

I hope that you caught the fact that out of those 53, the youngest person was only two years old. This individual was trafficked by her family, which is, sadly, a common occurrence.

There are just negative impacts that surfaced throughout this research.

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

Now we'll go to Madame Brière for six minutes.

**Mrs. Élisabeth Brière (Sherbrooke, Lib.):** Thank you, Mr. Chair.



[Translation]

My question is for Ms. Matte.

With respect to the situation in New Zealand, the committee members here have heard that in the five years since decriminalization, the number of sex workers has not increased and these individuals' working conditions have improved. What more can you tell us about that?

**Ms. Diane Matte:** The war of statistics is always a bit of a strange war. Our women contacts in New Zealand paint a very different picture.

We were talking about indigenous women earlier. In New Zealand, Maori women have even founded an organization to fight the choice their society made. These women say that prostitution has become more normalized in New Zealand society as a whole, including their community, and more and more young Maori girls are being brought into prostitution.

New Zealand is the only country in the world that has opted for full decriminalization. As I said earlier, the problem is that totally decriminalizing prostitution makes the harms and consequences of prostitution on women in general, and particularly indigenous and racialized women, completely invisible. Based on the data I have, international human trafficking has increased because more men in New Zealand want to buy sex and the country has seen a rise in sex tourism.

Montreal is already recognized as a hub when it comes to human trafficking for sexual exploitation, among other things. We can all imagine what it would become if Canada chose to fully decriminalize prostitution.

We urge you, I urge you, to stop looking at prostitution from the perspective of needing to improve the conditions for engaging in prostitution. You need to look at why prostitution exists, at the impact of prostitution on safety, dignity and equality for all women.

You currently have an enormous responsibility. You hold in your hands the opportunity to decide that the way we look at prostitution in Canada will be tied into equality for all women. What you've heard so far, especially the very powerful lobby that wants to succeed in totally decriminalizing prostitution in Canada, are the stories of those who are willing to talk about it. However, that means the majority of other women and girls who are brought into prostitution, primarily due to poverty, as Ms. Heinz said, are not being heard.

We have just emerged from a pandemic and we're not quite out of it yet. More Canadian women are living in poverty today than in 2020. Do we know to what extent poverty will push women into prostitution?

Clearly, we have a global industry that feeds on that poverty as well as social and economic inequalities, and they are just awaiting a decision like this. Some of you will unfortunately defend the idea that we need to do away with these laws because they stop people from purchasing sexual services. We stick our heads in the sand and believe we have no role to play in dismantling this patriarchal practice.

• (1725)

**Mrs. Élisabeth Brière:** Thank you.

On your website, you state that the Canadian law marked a paradigm shift by both condemning the purchase of sexual services and decriminalizing those working in prostitution.

Considering what you have just told me, how does that play out on the ground in concrete terms? What changes could be made to the law to strengthen it?

**Ms. Diane Matte:** In our view, the most fundamental change that came with the 2014 legislation was that it made the purchasing offence a crime against the person. We therefore recognized that prostitution was not a transaction between consenting adults. That's the most important thing.

The problem right now is that we're only looking at one section of the Criminal Code. However, the purpose and inspiration for the Canadian law are rooted in a model that covers both preventing entry into prostitution and ensuring prevention among little boys. They don't come into the world thinking that they can buy sex from other people, they learn that. They aren't born aspiring to be pimps one day, they learn that. Unfortunately, right now, they are learning it in everything they see around them.

We spoke earlier about culture, the media and normalization in general. That's what we need to fight first and foremost. We can focus on the sections of the Criminal Code, but we believe that no one should be criminalized, no matter where they are, when they are in a sexually exploitative situation. That should be perfectly clear. The world's most successful models have not tolerated women being criminalized in any way. I say women because it's mostly women who are involved.

[English]

**The Chair:** Thank you.

[Translation]

**Ms. Diane Matte:** Other than that, we need...

[English]

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

[Translation]

**Ms. Diane Matte:** ...to ensure that they have access to prevention programs. If they get out of prostitution, they need access to support programs. You can't have one without the other.

[English]

**The Chair:** Sorry, I have to interrupt. I hope you will be able to carry on in one of the future questions.

We have Mr. Fortin for six minutes.

[Translation]

**Mr. Rhéal Fortin:** Thank you, Mr. Chair.

Ms. Matte, you were on a roll, and I'd like to give you the opportunity to complete your answer.

Earlier, you stated that you favoured the equality model over the Nordic model. You also said that Quebec had made a move in that direction in 2007. The National Assembly also favoured the equality model.

I'd like to hear more from you on this. First, what is the equality model? What has Quebec done to move towards this model?

**Ms. Diane Matte:** In 2007, an equality policy was adopted. As far as I know, it doesn't exist in any other parts of Canada. This policy recognizes prostitution as... It frames prostitution as an equality issue. A society in which women, girls or boys can be used, bought, sold, or rented—you can call it whatever you want—is a society that can't achieve equality for all.

In 2007, Quebec took a major step forward. In my opinion, it hasn't done enough since then, but the spirit is still there. Prostitution is mainly viewed as a practice that concerns the social relationships involving sex between women and men. This is the starting point for analyzing prostitution. We mustn't analyze only its harms or focus solely on the fact that it may be disturbing for some neighbourhood residents or on the fact that we don't want men to catch a venereal disease and pass it on to their wives. We must focus more on equality.

As I was saying, the equality model assumes that attitudes must be changed. It assumes that we live in a patriarchal society, in a society where certain groups of women are specifically targeted. It also assumes that the practice must be changed. Based on this, prevention programs are used...

• (1730)

**Mr. Rhéal Fortin:** Ms. Matte, I'm not trying to be rude, but my time is limited. I have only two or three minutes left.

Can you tell me more about the impact of the equality model? What is this model? What does it change? From a legislative perspective, what should we do with it?

**Ms. Diane Matte:** From a legislative perspective, the purchase of sexual services must be addressed. Pimps and any person or group that benefits from the prostitution of others must be dealt with. The key change is to say that men don't have the right to buy sex. The impact of the equality model is that simple. Everything related to this—

**Mr. Rhéal Fortin:** Sorry to interrupt you, Ms. Matte, but I have one more question before my time runs out.

**Ms. Diane Matte:** Yes, I'm listening.

**Mr. Rhéal Fortin:** Witnesses have told us that criminal organizations are involved in the sex industry. In my opinion, this is quite troubling. As we know, firearms trafficking, for example, is causing a number of problems. There are many issues related to criminal organizations.

I want to address the sex industry. What have you found in the course of your work? Are many people from criminal organizations involved in the sex industry? Do you think that many of them benefit from or manage the sex industry, or is this a peripheral issue?

**Ms. Diane Matte:** I imagine that the police could answer the question better than I could.

I can say that we work with women who are in the clutches of organized crime. This happens in Quebec and in other parts of Canada and the world.

In addition, some women are simply brought into the sex industry as a result of normalization. For example, one of their friends may have told them that it was a way to make money. Or, a woman may have met a man who started by telling her that he loved her very much and that he wanted to build something with her. Since he needed money to do so, he sent her out to work as a prostitute.

Again, I was struck by the words of the person who spoke in the last round of questions. She talked about young men between the ages of 12 and 15 trying to convince young girls to sell sex.

**Mr. Rhéal Fortin:** Are you seeing this in your practice?

**Ms. Diane Matte:** I've never seen 12-year-olds, but we do see young men. That's one finding. The normalization of pimping and the purchase of sexual acts means that young men are starting to sell these types of services and bring in young girls from their high school to sell sexual acts. They collect the money and make arrangements with each other. Yes, we're currently seeing this.

**Mr. Rhéal Fortin:** How would you address this issue and prevent or discourage these young men from entering the sex industry?

It would involve education, I imagine. You were talking about a cultural change, among other things.

Could any concrete legislative steps be taken to address this issue?

• (1735)

**Ms. Diane Matte:** We need to start by looking at the 2014 legislation and giving it more teeth. The goal is to change attitudes and the educational programs, and to support the women involved in prostitution, including those who want to get out of it.

[English]

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

[Translation]

**Ms. Diane Matte:** At this point, the best approach is to keep and strengthen the legislation and to ensure that it doesn't criminalize any woman, girl or person in Canada who sells their own sexual services.

[English]

**The Chair:** Thank you.

[Translation]

**Mr. Rhéal Fortin:** Thank you.

[English]

**Ms. Diane Matte:** You can also ask me a question in English.

**The Chair:** Ms. Matte, I'm going to have to interrupt you. I'm sorry.

We have to go for the next six minutes to Mr. Garrison.

**Mr. Randall Garrison:** Thank you very much, Mr. Chair.

I'd like to thank the witnesses for their appearance today. Their testimony has certainly been crystal clear. I'd like to thank Ms. Heinz for drawing the committee's attention to the problem of criminal records for those who have been involved in sex work previously.

Given that we're already over time, I am prepared to forgo my time today.

**The Chair:** Thank you, Mr. Garrison. I appreciate that.

We'll go to two four-minute rounds next.

We'll have Mr. Brock for four minutes, and then Ms. Dhillon for four minutes, and we'll end it after that.

**Mr. Larry Brock:** Thank you, Mr. Chair. I want to thank the witnesses this afternoon for their testimony and co-operation in answering a multitude of questions.

I'll go first to Ms. Heinz. Thank you so much for your testimony today, and your courage to come forward, surviving a dark chapter in your life, but being extremely resilient, and now being a very strong advocate against the industry.

I was remarking to myself about one of the latter comments in your opening statement, that you wanted to ultimately shrink the market. One of the overriding goals of this legislation is to decrease the demand.

I'm going to give you an opportunity, Ms. Heinz, to elaborate within 30 seconds or so, if you could, on what you meant by shrinking the market, and any ideas you have on how to implement that.

**Ms. Andrea Heinz:** Thank you so much.

Shrinking the market should be our priority. That will take out a substantial number of sex sellers, who are not there by any means of actual choice. Any policy that we implement is either going to expand the market or it is going to shrink the market. When we look at New Zealand, which we often do, to me that's comparing apples and oranges. New Zealand is an island in the Pacific of approximately five million people. Canada has a population approximately eight times that size, sharing nearly 9,000 kilometres of border with America.

The American population is over 330 million people, and their adult male population is more than double our entire population here in Canada, meaning that there are more than 100 million adult men in the United States. So when Cathy Peters said that we have the potential of becoming "America's brothel", she was spot-on.

None of us has a crystal glass ball with which we can look into the future to see what will happen with any changes that we make, but we have to look at Canada as its own entity, as its own nation,

and ask what risks we are willing to take to risk women's livelihoods and safety.

I also want to point to the effectiveness of Edmonton's sex trade offender program. We have a wonderful low 1% to 3% recidivism rate of re-arrests of men who come and attend the eight-hour program. It is a great program that I have been very fortunate speak at for the last nine years. I have seen tremendous growth in many of the men who come in.

I want to say that I believe, personally, that the industry in many facets is dually exploitative. Most men do not want to purchase sex. Most men are also victims of the culture that tells them that their masculinity requires them to be sexual consumers, requires them to consume women's bodies without any foregoing thought of who they are as an individual and anything along those lines.

I really think that when men are given the opportunity for education, when they are allowed alternative measures programs, many of them do turn the corner and they do not continue to exploit women. They have always said to me, "I had no idea. I really had no idea. I took it at face value. She told me she wanted to be there. I didn't see a pimp or anyone behind her and I thought that it was no harm, no foul."

I think the problem is that people equate it to healthy natural sex, because that is the type of sex that most people fortunately have participated in. I think that whenever we look at transactional sex, it is not in alignment with what we know to be authentic sexual consent. One of the cornerstones to sexual consent is that it is freely given. The very essence of the fact that we are doing this huge amount of economic coercion in order to suck marginalized and vulnerable people into the industry speaks to what is needed for them to play along and smile, like I said, in the face of their abuse.

I really think that we need to have a strategy that creates an inter-ministerial body that works with Status of Women, with Public Safety, with WAGE and with Justice, because this is such a multi-faceted issue. It involves intimate partner violence, economic inequality, trafficking and all these problems, so this is a multi-decade strategy that we need to do and we need to stay the course.

Trisha Baptie said we need more time, and we do, but we also need more effort. We are not given effort and we can do better by Canadian women and girls. I think education is a cornerstone to it. The feds need to be giving the money to the provinces so that we can have some curriculum being put into all of our educational institutions, particularly starting in grade seven, because we are seeing these young men become exploiters.

Thank you.

● (1740)

**The Chair:** Thank you.

**Mr. Larry Brock:** Thank you, Ms. Heinz.

**The Chair:** Now we go to Ms. Dhillon, for four minutes, please.

[*Translation*]

**Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.):** My first question is for Ms. Gerrard.

[*English*]

In your testimony, you talked about racism and marginalized people in the ads. Can you please tell us if there's a huge difference when it comes to helping those who are marginalized when it comes to law enforcement and when they go to the police to denounce a crime? Are they mistreated when they are presenting themselves there? Do they not go because they are afraid of criminal charges themselves? Could you please talk a little bit about that?

Thank you.

**Ms. Glendyne Gerrard:** I would say that out of our survivor support fund about 17% of our applicants are indigenous people. We don't ask that specific question on what their experience has been like with police. I can only answer that question anecdotally from my own conversations with different survivors who are indigenous or BIPOC. I can respond to the question that way and say that, yes, there certainly have been experiences that they may have had with the police that have not been good. Conversely, there are some who have had good experiences with the police.

I really want to speak to that and about how important it is. If we're talking about changes to the legislation, I would strongly encourage you to include a training component for all aspects, all parts of our justice system.

As I mentioned, we have trained 10,000 people across Canada, most recently at a summit, the Canadian Sexual Exploitation Summit, where we had a whole day for training police, Crown attorneys, judges and whoever wanted to be part of that training. Part of that training was to hear from indigenous voices and to share their experiences with the police on the things to do, the things not to do and some of the challenges they have faced.

Absolutely, I don't deny that there have been challenges at times for indigenous people with their experiences with the police, but I think that better training is what is needed, and I do see that as possible. We were very encouraged to have about 75 police, Crown attorneys and judges take part in the training that day last May. They were all very supportive of PCEPA, the law you are currently reviewing, and just wanted to learn how better to implement it and how to enforce it.

**Ms. Anju Dhillon:** Thank you very much for that.

You also spoke a bit about the research report and then ran out of time. Were there any suggestions in the report or anything that those who responded wanted to see when it came to legislation?

**Ms. Glendyne Gerrard:** Again, we didn't ask questions about the legislation, but I can tell you, on behalf of those whom I believe we are representing as we share the results of this research, that many of them spoke to the harms of purchasing and how buyers were violent. We would certainly speak in support of keeping that provision in place. We need to have the section 286.1 purchasing provision stay as it is, based on what the research tells us: that it's the buyers and the pimps and traffickers, the exploiters, who are causing the violence.

We believe the law protects those who are experiencing that kind of violence.

• (1745)

**The Chair:** Thank you.

Thank you, Ms. Dhillon.

Thank you to our witnesses today. You've enlightened all of us in all aspects of this.

I'll now conclude the meeting. We'll adjourn until next time.







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