

Brief submitted to
The Senate Committee on Legal and Constitutional Affairs
Bill C-36 The Protection of Communities and Exploited Persons Act
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By way of introduction, over the last twenty years I have completed numerous empirical research projects on a range of sectors of the sex industry including incall, outcall, street-based and erotic dance. I have also undertaken qualitative research on sex work clients, trafficking and third parties. I have published over 25 peer-reviewed articles and seven reports on the sex industry, authored *Taking it Off, Putting it On: Women in the Strip Trade*, and co-edited two sex work related books: *Stigma Revisited* and *Sex Work: Rethinking the job, Respecting the Workers* (available in French as *Mais oui c'est un travail*).

In this brief I draw on the findings of my own empirical research and the rich body of Canadian and International peer-reviewed scholarship on the sex industry to speak to three points:

- A.** Provision 286.2: *Receiving a Financial or Material Benefit from Sexual Services* will have negative consequences for sex workers including increasing their vulnerability to violence, abuse and labour exploitation.
- B.** Provision 286.4: *Advertising Sexual Services* will undermine independent indoor sex workers' ability to screen clients and reduce the ability of law enforcement to intervene in situations of exploitation.
- C.** The aggregate effect of Bill C-36 will be to restrict street-based sex workers' access to critical security and harm reduction strategies.

A. Provision 286.2: *Receiving a Financial or Material Benefit from Sexual Services*

Between 2009-2012 I was the principle investigator on a large multi-site Social Sciences and Humanities Council (SSHRC) funded research on *Management in the Sex Industry* (hereafter the *Management Project*)¹ which sought to address significant gaps in our knowledge about the sex industry by investigating the roles of individuals in commercial sexual transactions who are neither the service provider nor the client – in other words third parties. In the process we were able to shed light on this hidden aspect of the sex industry. In addition to legal and media analyses the research team conducted 75 in-depth face-to-face interviews with individuals who work (or worked) as third parties in various sectors of the sex industry in the Maritimes, Québec and Ontario. We also interviewed 47 indoor and street-based sex workers who work (or worked) for, or with, third parties.² I will draw heavily on the findings of this research in my comments and have

¹ The research team was comprised of Dr. Leslie Jeffrey (University of New Brunswick), Dr. Maria Nengeh Mensah (Université du Québec à Montréal) and Drs. Colette Parent and Patrice Corriveau (University of Ottawa).

² For more information on the research methodology please see Bruckert, C and T. Law (2013) *Beyond Pimps, Procurers and Parasites: Mapping Third Parties in the Sex Industry*. Document has been submitted and is also available at [http://www.nswp.org/sites/nswp.org/files/ManagementResearch%20\(4\).pdf](http://www.nswp.org/sites/nswp.org/files/ManagementResearch%20(4).pdf).

submitted a copy of the first report from this project "*Beyond Pimps, Procurers and Parasites: Mapping Third Parties In The Incall/Outcall Sectors Of The Sex Industry*".³

In the business world third parties are individuals or entities, other than the principals (the buyer and the seller), involved in an arrangement, contract, agreement or transaction.⁴ In general, these third parties are providing services that allow us, as consumers or workers, to access skills and competencies we do not possess, to avoid tasks we do not enjoy, to free up time for other activities or to connect with individuals/businesses with whom we do not, in the normal course of our lives, have contact.

The *Management Project* research found that third parties in the sex industry fulfill much the same roles as third parties do in mainstream enterprises. Among other services these men and women may provide access to customers, deal with clients, offer training and mentorship, arrange events, take care of administration, organize transportation, screen clients and provide security. When we analysed the data three categories emerged: contractors, associates or agencies:

- Contractors: are individuals *hired* by a sex worker (or sometimes agencies) to provide specific services related to their work. For indoor workers this may entail the provision of transportation, security, or web services. For street-based workers these individuals may, for example, take license plate numbers of clients or 'hang out' in the parking lot where services are offered in the case of trouble. Contractors are paid on a fee-for-service basis.
- Associates: are individuals who *work with* a sex worker to organize or facilitate transactions. For example agents who secure and book appointments, or experienced sex workers who share knowledge, skills, and information in an apprentice-like relationship with novices.
- Agencies: which range from small to large and can also be collectives are businesses that coordinate or facilitate the provision of an erotic, sexual or interpersonal service in either an incall or outcall setting. Agencies *hire* sex workers in an employer-employee like relationship and may also employ other staff including receptionists, drivers and security persons.

Associates and agencies, as well as anyone hired by the agency such as receptionists and drivers, would be criminalized under the proposed *receiving a financial or material benefit from sexual services*. Although some contractors may fall under the 286.1(4)(d) exception if they are providing the service to an *independent* sex worker individuals including drivers, security and receptionists would certainly be criminalized if they provide the same service within the *context of a commercial*

³ Bruckert, C and T. Law (2013) *Beyond Pimps, Procurers and Parasites: Mapping Third Parties in the Sex Industry*. Document has been submitted and is also available at [http://www.nswp.org/sites/nswp.org/files/ManagementResearch%20\(4\).pdf](http://www.nswp.org/sites/nswp.org/files/ManagementResearch%20(4).pdf).

⁴ Third parties would include such things as agencies that arrange house cleaning; organize temporary (or more permanent) office, domestic, security or agricultural staff; special event organizers who will plan weddings; investment consultants hired to manage personal financial wellbeing; realtors who sell houses and dating websites.

enterprise such as an incall or escort agency (clause 286.1(5)(e)); if they are *advertising sexual services* (provision 286.4) as a personal assistant or web provider would; or if they are judged by the courts to have *counsel[led] or encourage[d] that person to provide sexual services* (clause 286.1(4)(d)).

The *Management Project* researchers were interested in understanding the reasons sex workers would work in an associate or employee-like relationship with a third party. This is a particularly salient question in the face of the prevailing narrative of sex workers, and in particular those working with or for a third party, as exploited victims in need of state intervention/rescue. Sex workers told us that working as an independent - essentially running their own small business - was neither viable nor desirable for all sex workers: it necessitates skills (e.g., business, organization, public relations), assets (e.g., cell phone, reliable internet, an appropriate home or at least a credit card to book hotel rooms for incall work), knowledge (e.g., security strategies, how to organize a photo shoot) and time and labour (e.g., to place ads, answer emails). Some sex workers do not want to work this way, some do not have the skills, some do not enjoy administrative tasks and for some, working for a third party is an alternative to street-based work – an option they welcomed. Some sex workers, both indoor and street-based, appreciated the sense of community colleagues afford. Many felt safer because others were present or had knowledge of their whereabouts. Sex workers also welcomed the policies and practices of third parties that increase their safety, security and physical well-being. I develop this latter point in greater detail in point #1 below.⁵

That third parties offer useful services, and that sex workers appreciate these does not of course erase the existence of problematic practices. In the *Management Project* interviews sex workers spoke about third parties who worked hard to create a pleasant and safe working environment, who were considerate, helpful, forthright and meticulously respected sex workers' boundaries. We also heard about (and spoke with) some third parties who were negligent in their duties; who were verbally abusive and sexual harassers; who took an unfair cut of the fees; who expected unpaid labour (e.g., receptionist duties, laundry); whose organizational and business skills were far from ideal; and who had discriminatory hiring practices. Some of these individuals may be bad and/or unethical businesspersons and others may indeed be predators and/or 'pimps'. The issue that requires reflection then is not whether or not there are bad and exploitative practices in the sex industry, rather it should be: what is the most effective manner to address problematic practices in the sex industry without introducing laws that will have a negative impact on the safety, security and well being of sex workers? It is to this question I now turn.

There are ample provisions in the *Criminal Code* that address the egregious behaviour generally associated with 'pimping' (e.g., assault, forcible confinement, sexual assault). These general application laws should be used to protect the well being of all Canadians, including sex workers.

⁵ Our findings regarding the motivation of sex workers are consistent with those researchers who have examined this issue. See for example Gillies, K., 2013, 'A wolf in sheep's clothing: Canadian anti-pimping law and how it harms sex workers'. In E. van der Meulen, E. Durisin & V. Love (Eds.), *Selling sex: Experience, advocacy, and research on sex work in Canada* (pp. 412-426 Vancouver: UBC Press

There are also laws that address specific harms including *procuring* and *living on the avails* of underage prostitution (*Criminal Code* s. 212(2)) and *human trafficking* (*Criminal Code* s. 179.01). More to the point is the potential that defining all third parties as pimps/predators/exploiters and criminalizing these individuals will have a very significant detrimental impact on sex workers. Based on existing social science evidence including the *Management Project* we can anticipate the prohibition against *receiving a financial or material benefit from sexual services* will:

- 1. Decrease the ability of sex workers to access the services of third parties that improve their safety and security:** The simple fact that sexual service encounters are not occurring in a vacuum and that others know the sex worker's whereabouts is a significant security mechanism for both indoor and street-based workers. The *Management Project* identified a number of other security strategies implemented by indoor third parties including screening, maintaining zero-tolerance policies and bad date lists, the collection and verification of personal information (e.g., name, phone number, employer), requiring references, matching clients to workers, providing a deterring presence, hiring on-site or on-call security persons, training workers in exit and conflict avoidance strategies, and establishing emergency protocols. In addition there are sector specific services; for example, outcall third parties might hire drivers who remain in the vicinity and collect information on the call location, use mandatory safe calls (at the beginning and sometimes at the end of the appointment), and pre-arrange a code word in case of emergency. Incall locations offer the presence of others, a monitored entrance, security cameras, no-locked door policies and a two-call system. Street-based sex workers spoke of the role of third parties in deterring violence by taking license plate numbers and/or being known to be in the vicinity and/or ensuring the client is aware of the third party; offering security in case of crises by being close by or reachable; training in emergency protocols; and safeguarding money to reduce vulnerability to theft.
- 2. Deny indoor sex workers access to protective labour legislation:** The broad criminalization of third parties pushes the sex industry into the shadows where unfair labour practices have the potential to flourish. Labour site abuse is further enabled when workers are denied access to strategies to resolve workplace conflicts, unfair labour practices, bad working conditions, or inappropriate behaviour on the part of managers or supervisors. Moreover, because sex workers are positioned outside of Occupational Health, Employment and Human Rights legislation they have no recourse when they are wrongfully dismissed or discriminated against at work. Sex workers only recourse is the heavy hand of the criminal law – a strategy that may be neither appropriate nor desirable. This exclusion from human and labour protections contrasts sharply to the safeguards and avenues of redress available to sex workers in New Zealand where prostitution was decriminalized in 2003. In New Zealand sex workers are included in that country's *Health and Safety in Employment Act*.⁶ Sex workers also have legal redress "if they have been unfairly treated,

⁶ OSH, 2004, A Guide to Occupational Health and Safety in the New Zealand Sex Industry. Available at <http://www.business.govt.nz/worksafe/information-guidance/all-guidance-items/sex-industry-a-guide-to->

coerced or exploited by those running the brothel”⁷. As a case in point in February of this year the New Zealand Human Rights Tribunal awarded a sex worker the equivalent of \$23,389 (25,000 NZ dollars) to compensate her for the pain and suffering she endured as a result of her employer’s (the brothel owner) sexually harassment.⁸

3. **Diminish sex workers’ access to the justice system:** The *Management Project* found that third parties are often, in spite of the potential consequences, prepared to call law enforcement to intervene in an emergency or crisis situation (e.g., a sex worker being attacked). They are, however, less willing to report acts of aggression, theft, or wrongdoing retroactively. Similarly sex workers are hesitant to report victimization to the police because they fear that they and/or their employer will be charged with prostitution-related offences which would, of course, have significant detrimental effects including the loss of their livelihood. If the acts of aggression are not reported, the aggressors are not held to account. This means not only that sex workers are denied access to criminal justice redress but also that predators may continue to prey on sex workers with virtual impunity.⁹
4. **Undermine sex workers’ access to general application laws when they are victimized:** Closely related to the previous point, sex work specific laws may deny sex workers access to general application laws that criminalize egregious behaviour precisely because they impose a master status through which all other experiences are interpreted by law enforcement. For example Kara Gillies’ research demonstrated how the police practice of laying charges against an abusive partner of a sex worker under prostitution statutes is a powerful disincentive for an abused woman, who is also a sex worker, to turn to law enforcement. To do so means she will be ‘outed’ as a sex worker¹⁰ and possibly flagged in law enforcement data banks.
5. **Increase sex workers’ risk by restricting the ability of third parties to communicate openly with clients:** In order to avoid coming to the attention of the police or providing evidence in case of criminal charges being laid, third parties may be discreet and use ‘code’ language in promotion and interactions with clients. This can have a number of consequences. Not only may clients not understand, the code but expectations and

occupational-health-and-safety-in-the-new-zealand/sexindustry.pdf

⁷ Mossman, E., 2010,. Brothel operators’ and support agencies’ experiences of decriminalization. In G. Abel, L, Fitzgerald, C. Healy and A. Taylor (Eds.), *Taking the Crime Out of Sex Work* (pp.119-140). Bristol, U.K: Policy Press. (at page 129)

⁸ McCracken, H. Escort Wins Landmark Case. *New Zealand Herald* (March 1, 2014) available at http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11212075

⁹ Others have noted this in relation to sex workers lack of access to criminal justice redress. See for example Jeffrey, L. & MacDonald, G., 2006, *Sex workers in the Maritimes talk back*. Vancouver: UBC Press; Lewis, J. and F Shaver , 2006, *Safety, Security and the Well-being of Sex Workers. STAR Report*. Available at http://web2.uwindsor.ca/courses/sociology/maticka/star/pdfs/safety_and_security_report_final_version.pdf:

Lowman, J, 2000, Violence and the Outlaw Status of (Street) Prostitution in Canada. *Violence against Women*, 6,9.

¹⁰ Gillies, K. 2013. A wolf in sheep’s clothing: Canadian anti-pimping law and how it harms sex workers. In E. van der Meulen, E. Durisin & V. Love (Eds.), *Selling sex: Experience, advocacy, and research on sex work in Canada* (pp. 412-426 Vancouver: UBC Press.

restrictions may not be communicated, and third parties cannot meticulously match sex workers and clients. This leaves sex workers to navigate fees, explain services and costs, and impose boundaries the client may not have been anticipating.

- 6. Increase sex workers' vulnerability by undermining the integrity of screening processes:** The various screening protocols implemented by third parties are important for sex workers' security. That said, effective screening relies on careful attention to 'cues' as well as the collection of verifiable information on clients. The ability to screen effectively is weakened in a criminalized context. For example, balancing the simultaneous screening for both police and aggressors raises the potential that the former may 'trump' the latter, and the third party may miss important information in his or her preoccupation with avoiding criminalization. Moreover, when, as in Bill C-36, there is a simultaneous prohibition against *obtaining sexual services for consideration* clients will be hesitant to provide personal information and predators are more likely to slip through the screening process. As a side note independent sex workers will also find screening impeded for the same reason.
- 7. Decrease sex workers' access to safer service provision venues:** Incall locations are precisely the space that empirical evidence has shown to be the safest sex work venue: familiar environments where access is restricted and security/deterrence measures can be most readily implemented.¹¹ On the one hand Bill C-36 reflects the Supreme Court decision¹² by removing prostitution from the definition of "bawdy house" in section 197(1) of the *Criminal Code*. On the other hand it recriminalizes these establishments through the *receiving financial or material benefit from sexual services* – ensuring that individuals previously defined as "keepers" (owners, managers and staff) of incall locations, would still be liable to criminal sanction.¹³ This also has implications for street-based sex workers, the provision of indoor spaces for sex workers who solicit on the street has been shown to reduce violence.¹⁴ As the Supreme Court Justices noted, "for some prostitutes, particularly those who are destitute, safe houses such as Grandma's House may be critical".¹⁵
- 8. Increase the potential for sex workers to being criminally charged as third parties:** The line between sex workers and third parties is considerably more porous than the dominant discourse suggests – sex workers move in and out of third party work and may inhabit both roles simultaneously. Moreover the proposed *receiving financial or material*

¹¹ See for example Lewis, J. and F Shaver. 2006. *Safety, Security and the Well-being of Sex Workers STAR Report*. Available at http://web2.uwindsor.ca/courses/sociology/maticka/star/pdfs/safety_and_security_report_final_version.pdf; see also Canada (Attorney General) v. Bedford, 2013 SCC 72 for a discussion on the ways incall locations increase security for sex workers.

¹² Canada (Attorney General) v. Bedford, 2013 SCC 72

¹³ A review of case law undertaken for the *Management Project* revealed police frequently laid charges under *Criminal Code* sections 210 and 212(1)(j) the living on the avails provision which the current law replaces.

¹⁴ Krüsi, A., Chettiar, J., Ridway, A., Abbott, J., Strathdee, S. A. & Shannon, K. 2012. Negotiating safety and sexual risk reduction with clients in unsanctioned safer indoor sex work environments: A qualitative study. *American Journal of Public Health*, 102(6), 1154-1159.

¹⁵ Canada (Attorney General) v. Bedford, 2013 SCC 72 [at 64].

benefit from the sale of sexual services is so broad that it will, like the *living on the avails provision* it replaces, certainly ‘capture’ any sex worker who provides assistance to a third party (e.g., answering the phone and booking calls for an escort agency, locking up at the end of a night in a massage parlour) or who helps out another sex worker (e.g., renting their incall location, providing information to a novice).

9. Potential to decrease in sex workers’ access to safer sex supplies by encouraging ‘wilful blindness’ on the part of third parties: The *Management Project* found some agency third parties endeavour to circumvent the law by being wilfully blind to the provision of sexual services. For sex workers labouring for these agencies this means, for example, not only that training and safer sex supplies are not provided but that they are required to be extremely discreet about storage and disposal of these supplies. This also means that they cannot talk to other workers, or the manager, about the challenges they confront in their work including inappropriate behaviour by customers. In wilfully blind agencies workers must also negotiate services and compensation with clients who may sincerely believe the door fees are inclusive of sexual services. Such miscommunication of services and pricing can result in aggravated and frustrated clients.

10. Reinforce the stigma and social judgment against sex worker: The *receiving financial or material benefit from sexual service* provision endeavours to protect individuals (presumed to be women) from becoming, or remaining, sex workers. This legal paternalism¹⁶ hinges on the assumption that working in the sex industry is an intrinsically and inevitably detrimental activity that no ‘reasonable person’ would wish to engage in. Indeed this framing is embedded in the objectives. As such it reifies a profoundly judgemental image of sex workers working with or for third parties as deluded, incompetent social actors and/or hyper-vulnerable victims in need of salvation. Not only is this stereotypical construct a rather striking contradiction of what sex workers,¹⁷ including the plaintiffs in the *Bedford*¹⁸ and *SWUAV*¹⁹ Charter challenges asserted it further legitimates extremely detrimental stereotypes that marginalize and stigmatize the women in the sex industry while rendering invisible male sex workers and those who are trans.

B. Provision 286.4: Advertising Sexual Services

An on-line presence or some other form of promotion is, rather self-evidently, essential for independent sex workers who do not solicit on the street – after all in any business clients must be made aware of the service being offered. Unlike sex workers who work with, or for, a third party independent sex workers assume responsibility for this administrative task. The proposed provision 286.4 perversely does not criminalize sex workers who advertise their services (provided they work alone and are only advertising their own services) but endeavours to make it impossible

¹⁶ Dworkin, G., 1972, “Paternalism”. *The Monist*, 56(1): 64-84

¹⁷ See for example the testimony of sex workers at the Parliamentary Subcommittee on Solicitation Laws

¹⁸ *Canada (Attorney General) v. Bedford*, 2013 SCC 72.

¹⁹ *SWUAV & Kiselbach v. AG Canada (British Columbia)*.

for them to do so by prohibiting the advertising of sexual services and criminalizing third parties who provide this service – in effect imposing a significant barrier to working independently indoors (at the same time as street-based workers are restricted under the prohibition against *communicating in a public place* under provision 213). Based on the existing social science evidence, including the *Management Project* we can certainly hypothesize about some of the negative impact this provision is likely to have on sex workers:

- 1. Increased miscommunication with clients:** In order to avoid having their posts or advertisements blocked sex workers will eschew forthright language and instead employ euphemistic ‘code’ words – terms like ‘erotic massage’, ‘girlfriend experience’ and ‘happy endings’ – which potential clients may not understand. When sex workers are unable to indicate services they are, and are not, providing, specify fees and outline safer sex expectations the potential for miscommunication increases, as does their risk.
- 2. Removal of safety-enhancing mechanism used by indoor sex workers for information sharing and screening:** In practice, many Canadian sex workers will, as did their Irish counterparts when that country attempted to ban erotic advertisements,²⁰ turn to websites hosted outside of our national borders beyond the jurisdiction of Canadian law. In real terms this means that sex workers will no longer have access to regional specific (e.g., Ottawa, Toronto) Canadian websites. These web sites, in addition to providing advertising space, also host virtual sex worker-only spaces where workers post information about bad clients, discuss security measures and share industry information. These web sites also provide a venue through which sex workers are able to do reference checks with another independent sex worker whom the prospective client has previously seen. In the *Management Project* sex workers also spoke of the importance of these virtual spaces for fostering community among independent sex workers who might otherwise be isolated.
- 3. Decreased ability of police to combat exploitation and trafficking:** Research has shown that when sex industry advertisement originates from sites outside of Canada (see #2 above) the ability of Canadian law enforcement to combat exploitation and trafficking is undermined. It also renders impossible collaborative relationships between website providers and Canadian law enforcement that facilitate identification of coerced victims.²¹

C. The aggregate impact of Bill C-36 on street-based sex workers

The evidence presented above suggests that the proposed provisions criminalizing third parties (for *advertising* or *materially benefiting*) would significantly restrict the ability of sex workers, regardless if they work independently or prefer to work for or with a third party, to work safely.

²⁰ Section 23 of the Irish Criminal Justice (Public Order) Act 1994

²¹ M. Latonero et al., USC Annenberg Ctr. on Comm’n Leadership & Policy, Human Trafficking Online: The Role of Social Networking Sites and Online Classifieds 21–22. 2011. Available at http://technologyandtrafficking.usc.edu/files/2011/09/HumanTrafficking_FINAL.pdf

These laws would also, as already noted, limit the options of street-based sex workers. I now turn to considering the probable aggregate impact of Bill C-36 this population of sex workers specifically. These sex workers, representing just 5-20% of the industry,²² who are disproportionately the targets of predators, experience violence from multiple sources²³, and who will, if the past is any indication of the future, continue to be the focus of law enforcement initiatives.²⁴

1. In order avoid being charged for *communicating in a public place* (provision 213) street-based sex workers will abandon established tactics such as working in pairs, soliciting in familiar, well-lit, populated areas, and taking the time to carefully assess a client prior to entering a vehicle.²⁵ The Justice Committee amendment to section 213 – from criminalizing communicating any place those under 18 might reasonably be to the less restrictive “in a public place, or in any place open to public view, that is or is next to a school ground, playground or day care centre” mitigates but does not eliminate this concern. The parameters remain extremely broad.
2. The prohibition against *the purchase of sexual services* (provision 286.1(1)) will solidify and exacerbate the impact of provision 213. Independent research evidence from Sweden²⁶ and Norway²⁷ has confirmed that prohibiting the purchase of sexual services displaces street-based sex workers into ever more isolated areas resulting in extremely dangerous working conditions. A recently completed peer-reviewed report in Vancouver²⁸ came to the same

²² Canada. 2006. *The Challenge of change: A study of Canada's criminal laws prostitution laws, Report of the Subcommittee on Solicitation Laws; Report of the Standing Committee on Justice and Human Rights*. Ottawa: House of Commons of Canada

²³ Bruckert, C, and F. Chabot. 2010. *Challenges: Ottawa Area Sex Workers Speak Out* available at http://www.powerottawa.ca/POWER_Report_Challenges.pdf

²⁴ According to Statistics Canada, in 2007, 94.5 % of all prostitution related charges were classified as “prostitution other”, in 2006 the rate was 93.6% and in 2006, 94.7%. Statistics Canada classification of “other prostitution” is presumably limited to s. 213 as it excludes charges under the bawdy house provisions s. 210 and s.211 and procuring s. 212, 170, 171. (source, Statistics Canada. *Uniform Crime Reporting Survey*. Ottawa: Statistics Canada, 2006 and 2007)

²⁵ Bedford v. Canada, 2010 ONSC 4264 (CanLII). See also Bruckert, C, and F. Chabot. 2010. *Challenges: Ottawa Area Sex Workers Speak Out* available at http://www.powerottawa.ca/POWER_Report_Challenges.pdf; Lewis, J. and F Shaver. 2006, “Safety, Security and the Well-being of Sex Workers” STAR Report. Available at http://web2.uwindsor.ca/courses/sociology/maticka/star/pdfs/safety_and_security_report_final_version.pdf; Lowman, J. 2000. Violence and the Outlaw Status of (Street) Prostitution in Canada. *Violence against Women*, 6,9, available at

http://www.hawaii.edu/hivandaids/Violence_and_the_Outlaw_Status_of_Street_Prostitution_in_Canada.pdf

²⁶ Levy J and P. Jakobsson. 2014. Sweden's abolitionist discourse and law: Effects on the dynamics of Swedish sex work and on the lives of Sweden's sex workers. *Criminology and Criminal Justice* (1-15) Available at: <http://lastradainternational.org/lisidocs/3049-Levy%20Sweden.pdf>, Dodillet, S., and Östergren, P. (2011). *The Swedish Sex Purchase Act: Claimed Success and Documented Effects*. Available online:

<http://myweb.dal.ca/mgoodyea/Documents/CSWRP/CSWRPEUR/The%20Swedish%20Sex%20Purchase%20Act.%20Claimed%20Success%20and%20Documented%20Effects%20Dodillet%20&%20Ostergren%20May%202011.pdf>

²⁷ In Norway, researchers also found that violence against sex workers increased following the enactment of a similar law. See Bjørndahl U, Dangerous Liaisons, A report on the violence women in prostitution in Oslo are exposed to. (Oslo: Municipality of Oslo, 2012) at 5. Available at: <http://prosentret.no/wp-content/uploads/2012/06/FARLIGE-FORBINDELSER.pdf> (Norwegian) <http://humboldt1982.files.wordpress.com/2012/12/dangerous-liaisons.pdf> (English translation)

²⁸ Krusi A, Pacey K, Bird L, et al. 2014. *Criminalisation of clients: reproducing vulnerabilities for violence and*

conclusion. Vancouver researchers also noted that, when police are actively pursuing clients, sex workers spent a greater number of hours soliciting on the street and are more likely to take chances with questionable clients.²⁹ Moreover frank discussions between clients and sex workers about services and safer sex practices – a necessary precondition to consent – would be criminal. In this context sex workers will resort to the previously noted ambiguous ‘code’ language in an attempt to circumvent the law with miscommunication being the foreseeable result.

3. Street-based sex workers’ vulnerability to violence would be further aggravated by the provision criminalizing *receiving financial or material benefit from sexual services* (Provision 286.2). As explained above this law has the potential to criminalize third parties who provide useful services to street-based sex workers.
4. Finally, and perhaps somewhat counter-intuitively, the *20 million dollars to fund agencies providing exit programs* may have a negative impact on sex workers’ safety and security. Harm reduction strategies including bad date lists and the provision of safer sex supplies reduce the risks confronted by sex workers.³⁰ Evidence from Sweden has shown that when social service provision is contingent on sex workers exiting the sex industry harm reduction activities are curtailed, the safety and security of sex workers is undermined, and sex workers’ access to information and safer sex supplies is reduced. Moreover, social service agencies in Sweden have reported less contact with sex workers making it much harder to identify individuals in situations of exploitation.³¹ In short when exiting is prioritized crucial services and resources are unavailable precisely to those individuals that need them the most.

Concluding commentary: Bill C-36 creates a perfect storm of danger for sex workers

Bill C-36 will not eradicate the sex industry – indeed it does not endeavour to do so - however the large body of Canadian and International research evidence provides compelling evidence that the unintended consequence of this legislation will be to push the sex industry even further into the shadows and *create a perfect storm of danger in which all sex workers, regardless of sector or method of working, will confront increased risk of violence, have reduced access to harm reduction mechanisms, experience heightened stigma and be subject to even greater social/civic isolation. Each and every provision in this law increases sex workers’ vulnerability – collectively they create conditions that will almost certainly result in tragedy.*

poor health among street-based sex workers in Canada—a qualitative study. BMJ Open 2014;4:e005191. doi:10.1136/bmjopen-2014-005191 available at <http://www.gshi.cfenet.ubc.ca/crimclients>

²⁹ Krusi A et al, (ibid) My Work Should Not Cost me My Life. Pivot Legal Society, Vancouver. Available at http://www.pivotlegal.org/my_work

³⁰ There is a real possibility that funding for exit programs would be at the expense of organizations such as Stella (Montreal), Maggies (Toronto), PEERS (Victoria) and Stepping Stone (Halifax) provide vital resources.

³¹ Levy, J. 2011. *Impacts of the Swedish Criminalisation of the Purchase of Sex on Sex Workers.* available at <http://cybersolidaires.typepad.com/files/jaylevy-impacts-of-swedish-criminalisation-on-sexworkers.pdf>