

POSITION PAPER

Sex Work Law Reform: Implications for Male Sex Workers in Vancouver and Beyond

PREPARED BY

Brenda Belak, Sex Work Campaign Lawyer, Pivot Legal Society
Raven R. Bowen, PhD Student and Administrator – Sex Work Research Hub Department of Sociology, University of York, UK.
Kerry Porth, BA, Sex Work Researcher, Activist, Educator
Dr. Kate Shannon, Director, Gender & Sexual Health Initiative, BC Centre for Excellence in HIV/AIDS, Associate Professor of Medicine, UBC
Matthew Taylor, Program Manager, Outreach Engagement, Health Initiative for Men

CONTRIBUTORS

Nathan Lachowsky, Assistant Professor, School of Public Health and Social Policy, University of Victoria & Research Scientist, BCCfE
Tyler Megarry, Street Worker at RÉZO – Sex Work Program

IN CONSULTATION WITH

Ty Mistry, Social Planning, City of Vancouver

REVIEWED/APPROVED BY

Joshua Edward, MSc, Program Manager, Knowledge Translation, Health Initiative for Men
Greg Oudman, Executive Director, Health Initiative for Men

STATEMENT OF THE ISSUE

Recent changes to Canada's laws governing sex work¹ criminalize individuals who are involved in the sex industry, with broad implications for sex workers in Vancouver and beyond. The current legal landscape and pervasive societal stigma against sex workers continue to present a multitude of challenges and barriers for self-identified (trans*² inclusive) men in sex work (MSW) accessing critical health care and necessary supports within community.

In addition, there is a general lack of awareness and understanding about the realities of MSW involved in the sex industry in Vancouver. Because MSW are often not acknowledged in debates over sex work, their voices have not been included in the discussion of laws and policies that affect them. Societal misconceptions regarding MSW cause many of them to experience increased risks to their overall health and safety.

Health Initiative for Men calls for the removal of all criminal penalties associated with adult sex work.

CONTEXT

VANCOUVER

Historically, male sex workers in Vancouver have faced considerable legal and political challenges, particularly during the mid-1970s and 1980s when those soliciting and working in the city's gay West End neighbourhood were met with Vancouver's abolitionist residents, business owners, urban planners and police who strove to expel sex workers from the area (21). Male sex workers continued to be pushed out from newly gentrified neighbourhoods in Vancouver: over the last decade, the main outdoor sex work stroll for men known as "Boystown", was essentially shut down in the years leading up to the 2010 Winter Olympics, in tandem with substantial gentrification of a downtown area now known as Yaletown. As a result, male sex workers have been largely displaced from the streets as local police enforcement efforts were scaled-up (22, 23). The loss of Boystown due to gentrification and urban planning mirrors earlier efforts to displace visible sex

1 "Sex work" is the exchange of sexual services for money or something of material value. The term "sex work" is used here because it is considered less stigmatizing than "prostitution" and recognizes the provision of sexual services as a form of labour. Not all of those who identify as sex workers do work that is criminalized. For example, BDSM (bondage, domination, sadism and masochism), erotic dancing, lap dancing, many types of massage, and web cam work are legal in most circumstances in Canada. Many sex workers do not know which parts of their working is legal and which is not because of their confusion about the law.

2 <http://itspronouncedmetrosexual.com/2012/05/what-does-the-asterisk-in-trans-stand-for/>

work in the 1970s and 1980s and yet there has been little research to examine how this has changed the structure and organization of the sex industry for men or shift to online sex work.³

THE BC COALITION OF EXPERIENTIAL MEN (BCCEM)

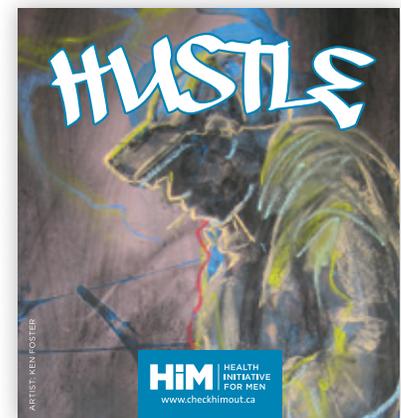
The vision for the mobilization of a BC Coalition of Experiential Men (BCCEM) emerged in early 2006 during the International Conference to Reduce Drug-Related Harm in Vancouver, BC. Traditionally, there exists a popular social misconception that male and trans* individuals involved in the sex industry are less affected by the realities of violence and exploitation because of greater perceived physical strength and other gender myths. As a result, issues of health and safety for MSW, both in BC and worldwide, have been largely ignored and overshadowed by the alarming rates of violence experienced by women and those who identify as women. Many similarities exist in regard to the human rights violations that plague people of all genders who work in the sex industry, and it is essential that certain harms, distinct to each community involved, be addressed with equal importance.

Following the creation of the BC Coalition of Experiential Women (BCCW) and its successes in increasing community knowledge surrounding health and safety, awareness, education and policy development for sex workers as well as their promotion of experiential leadership, the BCCEM adopted a mandate to provide supports by, for and with male workers. The BCCEM aimed to design and implement outreach and support programs to MSW and hustlers⁴ aged 19 years and over and support the inclusion of the male and trans* voice in advocacy.

THE HUSTLE PROGRAM

Two founding members of the BCCEM were involved in “Under the Radar: The Sexual Exploitation of Young Men – British Columbia Edition,”⁵ a study by Dr. Susan McIntyre of the Hindsight Group. The study found that males entered the trade younger and stayed longer than young women. Recommendations included the need for awareness and the creation of services specifically designed for young men in sex work and survival sex who may be at risk of sexual exploitation.

In 2007, these same two men decided to exit from sex work in Vancouver. Based on their experiences accessing resources, they noted a series of significant gaps relating to support services specific



³ E Argento, M Taylor, J Jollimore, J Jennix, C Taylor, A Krusi, K Shannon. *The Loss of Boystown and Transition to Online Sex Work: Strategies and Barriers to Increase Safety among Men Sex Workers and Clients of Men*, *American Journal of Men's Health*, In Review, 2016.

⁴ “Hustler” is the street term that many MSW use to self-identify.

⁵ <http://www.hindsightgroup.com/page-1437029>

to men in the sex industry. They identified that most resources were designed by and for people who identified as women, and as such, these resources were inadequate in addressing the issues and experiences of male workers. Based on recommendations made in “Under the Radar,” and with the backing of the BCCEM/BCCEC, these two men cofounded the HUSTLE: Men on the Move outreach and support program, to provide formalized front-line support services for male and transgender survival and street-based sex workers. Specific attention was also paid to identifying and supporting the needs of street-involved youth who may be at risk of exploitation in Vancouver and surrounding communities. HUSTLE was the first program of its kind in British Columbia and was housed at PEERS Vancouver Resource Society – a non-profit society established by former sex-workers and community supporters. PEERS Vancouver was dedicated to the empowerment, education and support of sex workers through public education, awareness and programming that provided individuals with options to transition into healthier lifestyles. From 2007–2012, HUSTLE offered the male and youth component of PEERS programming and was successful at sharing knowledge and best practices by integrating sex worker supports through a male lens.

Due to restructuring of government funding for employment programs in Canada that began in 2010, PEERS Vancouver was forced to close its doors in May, 2012. As a result, HUSTLE transitioned its programming to another host organization with a compatible mandate to facilitate the continuance of the program. In 2012, HUSTLE became the newest program of HIM – Health Initiative for Men Society, a community-based health organization dedicated to “strengthening the health and well-being of gay, bi, and other men who have sex with men” (MSM). HIM’s approach to achieving its mission includes physical, sexual, social and mental health programming, research and support. Through HIM, HUSTLE (renamed How You Survive This Life Every day), updated its scope and program mandate in order to broaden its reach and effectively respond to the current climate in Vancouver’s sex work community, offering outreach and support to men in the sex industry and men who have sex with men, as well as continuing to identify and support the needs of experiential youth in Vancouver.

MSW IN CANADA

To our knowledge, HUSTLE is currently one of only two MSW-specific support programs in British Columbia and one of only three nationwide. Since the mid-1990s, Vancouver Coastal Health (VCH) has operated its Boys ‘r’ Us Drop-In Centre⁶ for male and trans* sex workers that offers a safe and confidential place for connecting with

⁶ http://redbookonline.bc211.ca/service/9509856_9509856/three_bridges_community_health_centre_boys_r_us#sthash.tvDTDgSd.dpuf

other peers and community resources. HUSTLE has been a strong community partner with Boys 'r' Us since its inception and continues to provide weekly outreach and support to drop-in participants.

On the other side of the country, the community organization RÉZO, based in Montreal Quebec, operates the Sex Workers Outreach Program.⁷ RÉZO aims to prevent HIV and other STIs by improving the quality of life of cisgender and trans men and trans women who engage in sex work and creating a community for sex workers offering access to support services and information. The program offers two distinct but connected services to MSW: street outreach and an evening drop-in program.

As a result of the knowledge gathered by HUSTLE in service to men in the sex industry, the exclusion/absence of male voice in national debates around prostitution law reform has become noticeable and inexcusable. The aim of this document is to bring the perspective of MSW into the conversation about policy and criminal law reform.

LEGAL CONTEXT

THE LAW IN CANADA AND ITS IMPACTS ON SEX WORKERS' HEALTH AND SAFETY

Selling sexual services has never been a criminal offence in Canada. Until recently, many activities associated with sex work – communicating with clients in public, working from fixed indoor locations (“brothels”), encouraging or hiring people to do sex work, and profiting off someone else’s earnings from doing sex work – were prohibited in the *Criminal Code*, primarily as bans on public nuisance.

In the landmark decision of *Bedford, Scott and Lebovitch v. Canada (Attorney General) (Bedford)*,⁷ the Supreme Court of Canada declared the three existing sex work laws unconstitutional. Parliament was given one year to either draft new laws or live with their absence, as happened when Canada’s abortion laws were struck down in 1987.

The Conservative government engaged in a very short period of consultation, from which sex workers were largely excluded, before proposing Bill C-36, the Protection of Communities and Exploited Persons Act (PCEPA). This new law came into force on December 6, 2014 and follows the “Nordic model” of asymmetric criminalization, which sees sex work as a form of violence against women and exempts sex workers from prosecution as “victims.” PCEPA creates the following five categories of offences relating to sex work in the Criminal Code:

1. Communications by sex workers in certain public places frequented by children are penalized, and all client communications are illegal, including on the internet. (ss. 213(1)(c) and 286.1)

⁷ <http://www.rezosante.org>

2. Purchasing sexual services is illegal. (s. 286.1)
3. No one may materially benefit from the sexual services of another person. (s. 286.2) Although this section of the law contains exceptions described by the drafters as designed to exclude personal and safety-enhancing relationships, there is an absolute prohibition on receiving profits from someone else's sexual services in the context of a "commercial enterprise," a term not defined in the legislation. Sex workers have immunity from prosecution for materially benefiting from their own sexual services.
4. Procuring or recruiting a person to provide sexual services is illegal. (s. 286.3)
5. Advertising sexual services is illegal, although sex workers are immune from prosecution for advertising their own sexual services. (s. 286.4)

The term "sexual services" is not defined under the new laws, but based on previous legal decisions, it can be understood to include sexual stimulation through direct physical touch, but to exclude webcam work and lap dancing.

The new Criminal Code provisions reproduce the harms of the unconstitutional laws struck down in Bedford and create new dangers, including specific risks for men working independently. Many of the impacts do not necessarily result directly from police enforcement practices, but rather from fears about possible enforcement and from the stigma arising out of continued criminalization of sex work.

Under the new laws, it is nearly impossible for sex workers to viably and safely engage in sex work indoors, due to the prohibitions against paying for sexual services, communicating, advertising, and supporting others financially or hiring others to help them with their work.

The prohibition on paying for sex makes it more likely that clients will conceal their identities, making it difficult to pre-screen dates online. Criminalizing client communications with sex workers in all circumstances – whether in person, by phone, or online – means it is illegal to exchange the kind of information sex workers need to negotiate terms clearly and make decisions about the sex acts they are willing to perform. This amounts to criminalization of consent to sex.

Many sex workers rely on entertainment papers and online platforms to advertise their services. These businesses are now potentially liable for publishing or hosting any ads that explicitly reference sexual services. The restrictions on communications and advertising in combination make it more likely that negotiations will occur in person, and since most MSW work as escorts or outcall workers, potentially when the sex worker is alone in the client's space, this increases vulnerability to violence if there is a disagreement. This risk is amplified for trans* workers if clients have different expectations of them prior to meeting.

Additionally, many websites and online boards hosting ads previously served as spaces for sex workers to communicate with each other and share work strategies. Health care providers and peer support organizations would connect with sex workers, providing tips on safer sex practices and opportunities to report bad dates through online interactions. With major online portals including squirt.org now refusing to host escort ads and even policing posts by MSW support organizations, MSWs are losing critical opportunities to share knowledge, refer or screen clients, and access information about community services. This loss of online resources is of particular concern to MSW who use the internet as a primary point of contact, as there are few to no male escort agencies.

The criminalization of most activities associated with sex work also reinforces existing stigma against sex work as an illegal and/or immoral activity, discouraging sex workers who experience violence, theft, or extortion at the hands of predators or clients to go to police. This is a significant concern, as gender stereotypes surrounding masculinity and persistent homophobic attitudes among police may make MSW doubly reticent to discuss their own experiences of violence or seek help from police when they are victims of crime.

WHAT THE RESEARCH SAYS

Evidence has shown that criminalizing any aspect of sex work tends to result in alienation of sex workers from law enforcement and enables violations of sex workers' rights. The decriminalization of sex work is endorsed by recommendations from the World Health Organization,⁸ UNDP,⁹ UNFPA, UNAIDS, and the Global Commission on HIV and the Law. Further evidence published as part of the Lancet Sex Work and HIV series in January 2015 demonstrated that across diverse settings – including Canada – the decriminalization of sex work could have largest impact on HIV prevention, averting 33–46% of HIV infections among sex workers through the removal of violence, police harassment and increased access to safer working conditions.¹⁰ On May 26, 2016, after a period of extensive international research and consultation, Amnesty International formally adopted a policy

⁸ http://apps.who.int/iris/bitstream/10665/77744/1/WHO_HIV_2012.19_eng.pdf?ua=1

⁹ See, for example <http://www.snap-undp.org/elibrary/Publications/HIV-2012-SexWorkAndLaw.pdf>

¹⁰ Global epidemiology of HIV among female sex workers: influence of structural determinants. <http://www.ncbi.nlm.nih.gov/pubmed/25059947> Shannon K, Strathdee SA, Goldenberg SM, Duff P, Mwangi P, Rusakova M, Reza-Paul S, Lau J, Deering K, Pickles MR, Boily MC. *Lancet*. 2015 Jan 3;385(9962):55-71.; Human rights violations against sex workers: burden and effect on HIV. <http://www.ncbi.nlm.nih.gov/pubmed/25059943> Decker MR, Crago AL, Chu SK, Sherman SG, Seshu MS, Buthelezi K, Dhaliwal M, Beyrer C. *Lancet*. 2015 Jan 10;385(9963):186-99.; An action agenda for HIV and sex workers. <http://www.ncbi.nlm.nih.gov/pubmed/25059950> Beyrer C, Crago AL, Bekker LG, Butler J, Shannon K, Kerrigan D, Decker MR, Baral SD, Poteat T, Wirtz AL, Weir BW, Barré-Sinoussi F, Kazatchkine M, Sidibé M, Dehne KL, Boily MC, Strathdee SA.

advocating for decriminalization of all aspects of adult sex work as the best way of protecting sex workers' health, safety and human rights.¹¹

OPEN LETTER EXCERPT

A large body of scientific evidence from Canada, Sweden and Norway (where clients and third parties are criminalized), and globally clearly demonstrates that criminal laws targeting the sex industry have overwhelmingly negative social, health, and human rights consequences to sex workers, including increased violence and abuse, stigma, HIV and inability to access critical social, health and legal protections. These harms disproportionately impact marginalized sex workers including ... Indigenous and street-involved sex workers, who face the highest rates of violence and murder in our country. In contrast, in New Zealand, since the passage of a law to decriminalize sex work in 2003, research and the government's own evaluation have documented marked improvements in sex workers' safety, health, and human rights.

HEALTH IMPACTS OF THE LAWS IN CANADA

Following the *Bedford* decision and in anticipation of changes proposed by Bill C-36, HUSTLE and Health Initiative for Men (HIM) signed on to an academic open letter,¹² penned by the Gender and Sexual Health Initiative and others, calling for evidence-based support for decriminalization of sex work as necessary to protecting the safety, health and human rights of sex workers, and summarizing the evidence of the harms of criminalized approaches to sex work on the health, safety and working conditions of sex workers. This letter was submitted to the federal government of the time and all MPs, encouraging the government to demonstrate leadership when addressing these challenging issues by promoting evidence-based laws and policies that protect the safety, health and human rights of sex workers.

Evidence in Canada has consistently shown that the criminalization of any aspect of sex work – whether targeting sex workers, clients or third parties – undermines access to critical safety, health and legal protections. Peer reviewed research and the Missing Women

¹¹ <https://www.amnesty.org/en/latest/news/2016/05/amnesty-international-publishes-policy-and-research-on-protection-of-sex-workers-rights/>

¹² <http://www.gshi.cfenet.ubc.ca/openletter#Vr0LZPkrLrc>

Commission of Inquiry (MWCI) Report¹³ have shown that within criminalization environments, stigma and discrimination of sex workers are major barriers for sex workers to reporting violence and abuse to authorities and accessing other critical health and social supports.

The Supreme Court of Canada in *Bedford* identified client screening as one of the most vital tools available to sex workers to protect their safety and health. Fear of police surveillance forces sex workers to reduce client screening time. Evidence collected by GSHI, SWUAV and Pivot, published in 2014 in the *British Medical Journal (BMJ) Open*¹⁴ with a companion community report and legal analyses,¹⁵ demonstrated how changes in Vancouver Police Department (VPD) enforcement guidelines, targeting clients and third parties but not sex workers (the Nordic model approach), reproduced the violence and health-related risks for sex workers of targeting sex workers directly. So long as clients are the object of enforcement efforts, sex workers are forced to work in isolated and hidden locations and continue to be placed in an adversarial relationship with police. Since 2015, the VPD has amended its policy, saying explicitly that enforcement of the laws in the case of sexual exchanges between consenting adults is not a priority.¹⁶ They detail their approach to sex work and their enforcement priorities in a video released in December 2015 that confirms the historical lack of trust between sex workers and police.¹⁷ See Appendix 1 for more information about VPD and City of Vancouver policies.

MOMENTUM HEALTH STUDY

Health Initiative for Men has been a community partner on the Momentum Health Study in Vancouver since 2011. Momentum is a prospective cohort study of gay, bisexual and other MSM's sexual health in Metro Vancouver that aims to report changes in HIV-related behaviours and clinical outcomes. Antiretroviral therapy for treatment of HIV has significantly expanded and with more people now on treatment for HIV than ever before, Momentum aims to know more about how men are responding to this.¹⁸

¹³ Oppal, W. 2012. "Forsaken: The Report of the Missing Women Commission of Inquiry." Retrieved January 21, 2015 (<http://www.missingwomeninquiry.ca/obtain/report/>).

¹⁴ Criminalisation of clients: reproducing vulnerabilities for violence and poor health among street-based sex workers in Canada—a qualitative study. <http://www.ncbi.nlm.nih.gov/pubmed/24889853>
Krüsi A, Pacey K, Bird L, Taylor C, Chettiar J, Allan S, Bennett D, Montaner JS, Kerr T, Shannon K. *BMJ Open*. 2014 Jun 2;4(6):e005191

¹⁵ "My work should not cost my life. SWUAV, Pivot & GSHI: http://www.pivotlegal.org/my_work

¹⁶ <http://vancouver.ca/police/assets/pdf/reports-policies/sex-enforcement-guidelines.pdf>

¹⁷ VPD Sex Work Enforcement Guidelines Video <https://www.youtube.com/watch?v=-gKafib7TN4>

¹⁸ <http://www.momentumstudy.ca/about-us>

Momentum is the first study to use Respondent Driven Sampling (RDS) to obtain a representative sample of MSM reflective of the ethno-cultural diversity of Metro Vancouver and inclusive of MSM subgroups that may have been overlooked in other convenience and/or venue-based sampling strategies. RDS is a form of peer-recruited network sampling, where participants receive study vouchers to recruit other MSM from within their own social and/or sexual networks. Study results presented below and in Appendix 1 are RDS-adjusted values that account for a participant's network size and similarity to their recruits/recruiter in order to provide our best estimate of population-level parameters.

Questions regarding the prevalence of MSM in sex work and the sex industry are embedded in the study, and the following results identify a significant percentage of MSM, both HIV-positive and HIV-negative, who have had some experiences with either buying, trading, and/or selling sex in Vancouver. These data represent only the baseline visit of the cohort study and, since starting the study, some MSM may have taken up sex or escort work and/or have had transactional sex which is therefore not captured.

The Momentum study population is MSM, but given that 95%+ of participants identify as gay and bisexual, the following study results use those labels. Based on the study results:

1. One quarter (25.4%) of HIV-positive MSM report having been a sex worker in their lifetime; 2 of 5 of these did so in the past 6 months.
2. 1 in 7 (14.8%) MSM report having received money, drugs, goods, or services in exchange for sex.
3. 1 in 20 (4.8%) HIV-negative MSM have provided money, drugs, goods, or services in exchange for sex (in order to get sex).

See the table in Appendix 1 for complete data.

The results of the Momentum study indicate that a significant number (at least one sixth and as many as one quarter) of all MSM have sold sex at some point during their lifetime and, of these, 40% reported selling sex within the previous 6 months. Little research has been done regarding the impact of prostitution laws on MSW, particularly in the context of the criminalization of HIV transmission, which requires disclosure of HIV positive status in all sexual encounters.¹⁹ Given the large number of MSM who report having sold sex, this is an area that warrants further research.

¹⁹ R. v. Cuerrier, [1998] 2 SCR 371; R. v. Mabior, 2012 SCC 47.

EXPERIENCES OF MEN IN THE SEX INDUSTRY

Research into MSW documents their experiences of stigmatization, discrimination,²⁰ and to a lesser extent, criminalization. Most research focuses on HIV and the physical health of male sex workers, thus deprioritizing exploration into other marginalizing influences.²¹ “Whorephobia” and homophobia may work in concert to silence and exclude MSW from society in ways that reduce their quality of life and increase their susceptibility to violence. In a recent UBC study of off-street sex workers, clients and third parties, MSW and those who were “gay for pay” (M\$M) explained that their biggest fear is not violence from clients but is instead being victims of hate crime from within and outside of the gay community.²² Other Canadian research indicates that MSWs experience stigma as a deleterious impact of the law and are at risk of stigmatization from the gay community as well as the general public.²³ In Vancouver, young men who have sex with men may experience physical violence due to sexual orientation, and the highest rates of these assaults are among Indigenous youth.²⁴

Despite a growing body of evidence about the harms of criminalized approaches to the health and safety of sex workers, little is known about how legal and social policies may affect the health, safety and well-being of men who engage in on and off-street sex work, and even less about the Canadian context. In 2013, prior to the introduction of PCEPA, Corriveau and Greco interviewed 19 MSW to determine their understanding of the changing legal environment in Canada and its effects on their sex working. They found that MSW were generally uninformed about what aspects of sex work were legal or not and about how they would be affected by police enforcement. MSW interviewed implemented strategies to avoid criminalization; they also felt that they existed “under the radar” and noted they did not expect a police response if they needed assistance.²⁵ Canada’s adoption of



20 Juline A. Koken , David S. Bimbi , Jeffrey T. Parsons & Perry N. Halkitis (2004) *The Experience of Stigma in the Lives of Male Internet Escorts*, *Journal of Psychology & Human Sexuality*, 16:1, 13-32, DOI: 10.1300/J056v16n01_02; Davies, P., & Feldman, R. (1997). *Prostitute men now*. In Scambler, G. & Scambler, A. (Eds.), *Rethinking prostitution: Purchasing sex in the 1990s* (pp. 29-53). London, NY: Routledge; Browne, J., & Minichiello, V. (1996). *Research directions in male sex work*. *Journal of Homosexuality*, 31, 29-56.

21 Bimbi, D. (2007). *Male prostitution: pathology, paradigms and progress in research*. *Journal of Homosexuality*, 53(1-2), 7–35. doi:10.1300/J082v53n01

22 Bowen, R., Bungay, V, Zangger, C. (2015), 'Making SPACES: Advancing Recommendations from the Off-Street Sex Industry in Vancouver.' http://static1.squarespace.com/static/548f4d1fe4b05924e9bbebf8d/t/55e5fd95e4b0c5c4f6c9d030/1442432661851/Discussion+Document+FINAL_09012015_Protected.pdf

23 Morrison, T. and Whitehead, B. “Nobody’s Ever Going to Make a Fag Pretty Woman: Stigma Awareness and the Putative Effects of Stigma Among a Sample of Canadian Male Sex Workers.” *Journal of Homosexuality*, 53:1-2, 201-217, DOI: 10.1300/J082v53n01_09

24 *Incidence of and risk factors for sexual orientation-Related physical assault among young men who have sex with men.* Thomas M Lampinen, Keith Chan, Aranka Anema, Mary Lou Miller, et al. *American Journal of Public Health*. Washington: Jun 2008. Vol. 98, Iss. 6; pg. 1028, 8 pgs

25 Corriveau & Greco, 2013.

asymmetrical criminalization, where those who purchase sex do so in violation of law, constructs male clients as exploiters and female workers as victims. Chu and Glass (2013) suggest this framework discounts the experiences of male and trans* sex workers, rendering them invisible.²⁶ The effects of this invisibility on the well-being of MSW and M\$M are yet unknown.



LIVED EXPERIENCE OF MEN IN THE SEX INDUSTRY: THE CHAPS PROJECT

In 2012, HUSTLE/ HIM partnered with GSHI in the CHAPS project (Community Health Assessment of Men who Purchase and Sell Sex), a community-based, participatory research project initiated in collaboration with Boys R Us, PACE Society, and a number of other organizations, in an effort to better understand the broad environment, working conditions and factors shaping health, safety and access to care for men in the sex industry. CHAPS was initiated to address the gaps in research regarding the experiences of men in the sex industry. Phase 1 of the CHAPS study included 61 qualitative in-depth interviews with cisgender and trans* men in the sex industry, as sex workers and/or sex buyers between 2013 and 2014. Eligible participants had to be 19 years of age or older, to self-identify as a man, and to have bought or sold sex within the last year.

EXPRESSION OF GENDER AND SEXUAL IDENTITIES WITHIN SEX WORK: STIGMA & HARASSMENT²⁷

The study highlights a wide range of sexual and gender identities among MSW and buyers, similar to work from other settings. The majority of men interviewed (45 of 61) in Vancouver identified as gay, bisexual, queer, or chose not to label their sexual identities, although some identified as “straight with a curve”, while others identified as straight in their personal lives but were M\$M. Among gender identities, one-third identified as trans*, gender diverse, or two spirit (a distinctly Indigenous identity). At times, sex work functioned as a mechanism for individuals with minority sexual and gender identities to explore and express the very aspects of their identities that would normally mark them as targets for harassment and discrimination. Similarly, a narrative emerged of buying sex as a strategy utilized by men to explore stigmatized aspects of their sexuality. Many men had left rural and smaller urban centres in order to escape queer antagonism, and had migrated to large urban centres such as Vancouver, British Columbia, Montréal, Quebec, and Toronto, Ontario in hopes of finding a more open and accepting environment.

26 S Ka Hon Chu, R Glass, ‘Sex Work Law Reform in Canada: Considering problems with the Nordic model’ http://www.aidslaw.ca/site/wp-content/uploads/2014/06/Nordic_model-ALR-Oct2013.pdf (2013) 51 Alberta Law Review 101

27 P Matthen, T Lyons, M Taylor, J Jennex, J Jollimore, K Shannon, “I walked into the industry for survival and came out of a closet”: How gender and sexual identities shape sex work experiences among men, two spirit, and trans individuals in Vancouver”, *Men and Masculinities*, In Review, 2016.

LOSS OF BOYSTOWN COMMUNITY AND MOVE TO ONLINE/SELF-ADVERTISING²⁸

“IT’S WAY SAFER [THAN THE STREET], LIKE I SAY YOU CAN READ THE PROFILES OF YOUR CLIENTS BEFORE YOU EVEN MEET THEM, YOU KNOW? And then everything’s arranged before you even meet them so when you meet them it’s all good, right? You either say nay or yay... Totally different from having to get into a car and then if you don’t wanna do it and the guy gets violent with you in the car you’re fucked, you know? And you can say no online and not worry about bringing retribution of violence right, so.”

“I DO LIVE WEBCAMS... IT’S THE MOST SECURE WAY TO, RUN THE SEX INDUSTRY IS A LIVE WEBCAM, ONLINE, EH? ‘cause you know exactly who you’re doing before you even get there... you know what I mean, ‘cause you meet people online and they can say whoever they are and then when you go to meet them it could be a whole different ball game. So, you know, you don’t have to stress out and deal with it, right?”
—Argento, Taylor et al. 2016

Narratives of MSW and buyers in the CHAPS project described how over the last decade, with the loss of Boystown, the male sex industry in Vancouver has largely transitioned from street to online solicitation, due to changes in neighbourhood demographics owing to gentrification, and unintended consequences of urban planning initiatives that reduced physical spaces for offline sex work. This led to a loss of community and social support networks among men in the sex industry, which are critical tools for sex workers to promote their safety and prevent harm. PCEPA prohibits third parties from advertising, and this directly affects MSM and MSW because of the large numbers who access their clients using online resources that provide greater opportunities to negotiate the terms of sex work transactions (e.g., prices, types of services and condom use). Workers also described enhanced screening of potential clients using webcam and other online strategies leading to reduced risks of violence,

²⁸ E Argento, M Taylor, J Jollimore, J Jennix, C Taylor, A Krusi, K Shannon. *The Loss of Boystown and Transition to Online Sex Work: Strategies and Barriers to Increase Safety among Men Sex Workers and Clients of Men*, *American Journal of Men's Health*, In Review, 2016.

stigma and police harassment for both workers and clients, as compared to operating in on-street environments. It should be noted that while webcam work is not technically illegal, client communications are – so this critical safety-enhancing activity exists in a legal grey area.

These results highlight the critical role of the move to the internet in re-structuring sex work for men. The tools that allow MSW to connect with their clients are criminalized under PCEPA, making sex work more dangerous and raising significant concerns for the human rights and health of men in the sex industry. Our evidence points to the critical need to include voices of male and trans sex workers and clients in policy discussions.

SUMMARY

Emerging evidence clearly identifies that men who have sex with men make up a significant portion of sex workers both nationally and abroad. And yet, there is a disproportionate societal response seen in the glaring lack of specific attention given to men involved in sex work across legal, advocacy, research, and service delivery sectors. In this paper, we present two critical and related issues for MSW, both in Canada and beyond. First, it highlights the lack of evidence-based research on the realities of MSW as a community and therefore the absence of male voices in law and policy making for sex work. Second, the paper advocates for the decriminalization of adult sex work that would make it healthier and safer for men to engage in all forms of consensual commercial sex work in our society.

The evidence presented here also provides an opportunity to contribute to an emerging dialogue on the realities of men who are involved in sex work through a legal, academic (research) and human rights lens. According to the Global Network of Sex Work Projects (NSWP),²⁹ MSWs are viewed as a key population in terms of the global response to HIV and other sexually transmitted infections (STIs). However, the limited discourse regarding MSW all too often centres on epidemiological data that reinforces stigma and promotes societal panic around disease transmission among sex workers. Epidemiology is a critical lens necessary when considering the need for health services and information, in particular for HIV prevention, testing and treatment and we acknowledge that grassroots advocacy for MSW is rooted in treatment, testing and prevention. However, when considered exclusively, this narrow lens can have the effect of perpetuating shame and stigma that cause many MSW to disconnect from society and work under the radar for self preservation. It is our aim to build on this important work and broaden the conversation to include a social determinants of health advocacy approach toward increased health and safety through a social justice lens that embraces the rights and dignity of MSW in our society.

²⁹ <http://www.nswp.org>

What follows is a series of recommendations that we believe are logical extensions arising out of the issues outlined in the content for each section of this paper. MSW are often purposefully rendered invisible in some discussions because they do not fit the 'ideal' narrative of sex work.³⁰ We are hopeful that, as men involved in sex work begin to be acknowledged in society and gain an increase in visibility, we can shift the paradigm of sex work from one that is largely misunderstood and interpreted through a female lens, to one that is gender inclusive and considers the societal impacts that affect men in sex work and the sex industry.

RECOMMENDATIONS

MUNICIPAL (SEE APPENDIX 2 FOR CITY OF VANCOUVER MODEL/STRATEGY)

The Sex Work Enforcement Guidelines adopted by the Vancouver Police Department are a progressive model that puts all sex worker safety first and prioritizes enforcement only in cases involving violence, exploitation, youth, or organized crime. Other police forces throughout Canada are urged to adopt similar guidelines.

Similarly, the City of Vancouver's guidelines for bylaw enforcement and complaints, which require that City departments respond to any concerns about sex work in a consistent and coordinated manner with careful consideration for stakeholder input and the health, human rights and dignity of sex workers, are a good model for municipalities. Other municipalities are urged to adopt similar guidelines.

PROVINCIAL

We urge Police Services to prioritize completion of Provincial Enforcement Guidelines for BC based on the VPD's Sex Work Enforcement Guidelines.

FEDERAL

The *Protection of Communities and Exploited Persons Act (PCEPA)* violates sex workers' rights and puts their health and safety at risk. We feel that these laws are unconstitutional, and call on the federal government to repeal PCEPA as a matter of urgency, respect the Bedford decision and ensure that the Charter rights of sex workers are upheld in the ways that our Supreme Court intended.

RESEARCH

There is an identified need for more inclusive information gathering with and about MSW. This could include programs or research-based strategies that examine health but have a broader lens on rights issues and civil liberties, moving the focus away from HIV and STI's and closer to issues of inclusion, representation and citizenship.

³⁰ <http://www.nswp.org/resource/briefing-paper-the-needs-and-rights-male-sex-workers>

Research indicates that men may not know the prostitution laws/regulations and how they affect their practices. As a result, we recommend more research with men related to their level knowledge about the law, specifically PCEPA, and their subsequent capacity to exercise their rights. There is an identified need for separate but related research that focuses on monitoring the impacts of PCEPA and the criminalization of clients of men in sex work.

We encourage art-based approaches to raising awareness of stigma and the multifaceted ways that it is experienced by MSW. Additionally, more information is urgently needed on how stigma works in concert with criminalization to delimit opportunities and life chances is needed.

We call for the end of heteronormative framing of commercial sex experiences among other limiting discourse. Language and representations must be inclusive of people from across genders and identity categories, otherwise we reproduce these exclusions.

EDUCATION AND AWARENESS

Convene a national conference that brings together other men's sex work organizations, programs and projects across the country to present research, share experiences and work being done in an effort to begin to develop best practices for service provision when working with MSW that can be adopted broadly.

Encourage better collaboration with other men's sex work organizations both nationally and around the world and create opportunities for joint partnerships on projects that are experiential led.

Develop a mechanism for integrating research findings into rights advocacy for MSW more broadly. This is not intended to create divisions but to respect that men in sex work are a distinct group.

Seek opportunities to present the findings of this position paper through legal, academic (research) and human rights communities and forums with the intention of contributing to the emerging dialogue on the realities facing MSW in light of limited research and the negative impacts of Canadian sex work laws (PCEPA).

SERVICE DELIVERY

Given that sex work has moved to online platforms, as well as the risks that PCEPA poses to those who use third parties to advertise online, online outreach (netreach) needs sustainable investment to more consistently support the growing market of online male sex workers by way of information dissemination and by being responsive to the needs of the community.

ACTIONS

Health Initiative for Men (HIM) will continue to collaborate with stakeholders who advocate for the full decriminalization of the sex work. HIM will continue to work closely with the City of Vancouver to support policies that promote sex worker safety first and prioritize enforcement only in cases involving violence, exploitation, youth, or organized crime.

HIM will continue to collaborate with relevant research partners to gather and disseminate information about MSW through a legal, health and human rights lens.

HIM will continue to collaborate with relevant research partners to prioritize the physical/virtual impacts of PCEPA on men involved in sex work and the sex industry. HIM will also seek out research partnerships focusing on information gathering that address the impacts of shame and stigma on men who have sex with men specific to men in involved sex work.

HIM will continue to develop partnerships (locally, nationally, internationally) that promote collaboration between other MSW led/driven initiatives and create opportunities for shared vision, funding, programming and best practices. HIM will also seek out opportunities to participate in a national conference that would bring together relevant stakeholder to share experience and develop best practices broadly.

HIM will continue to offer online (netreach) programming and seek funding opportunities to allow for sustainability, further expansion and development as well as share best practices and model with other relevant stakeholders in community.

HIM will continue to leverage with other health authorities in British Columbia to develop, expand and share the HUSTLE model of MSW outreach/support to regions where there is a significant population of MSW and an identified need for specific MSW support services.

APPENDIX 1 – MOMENTUM STUDY

We asked participants, “Have you worked as an escort or in the sex industry?” We present the RDS-adjusted population parameter estimate (%) with 95% confidence intervals. Based on the results from Momentum’s baseline study visit:

1. Nearly 1 in 5 MSM in Vancouver (20.5%), have ever worked as an escort or in the sex industry.
2. Among HIV-negative MSM, approximately 1 in 12 worked as an escort or in the sex industry in the past 6 months (8.5%).
3. One third (30.6%) of HIV-positive MSM report having been an escort or sex worker in their lifetime; 1 of 4 of these did so in the past 6 months.

	Overall (n=698)		HIV-Negative (n=497)		HIV-Positive (n=201)	
Have you worked as an escort or in the sex industry?						
Never (“No”)	583	83.5%	433	87.1%	150	74.6%
Ever (“Yes”)	115	16.5%	64	12.9%	51	25.4%
Recent: “Yes, in the past 6 months”	47	6.7%	27	5.4%	20	10%
Not Recent: “Yes, but not in the past 6 months”	68	9.7%	37	7.4%	31	15.4%
Have you given or received money, drug, goods or services in exchange for sex?						
Never (No exchange)	576	82.5%	431	86.7%	145	72.1%
Gave for Sex	55	7.9%	24	4.8%	31	15.4%
Only Gave for Sex	19	2.7%	8	1.6%	11	5.5%
Received for Sex	103	14.8%	58	11.7%	45	22.4%
Only Received for Sex	67	9.6%	42	8.5%	25	12.4%
Both Gave & Received for Sex	36	5.2%	16	3.2%	20	10.0%

APPENDIX 2 – CITY OF VANCOUVER

While many of the issues regarding sex work fall under senior government jurisdiction, the City of Vancouver (City) is the first city in North America to take a proactive approach to improve the health and safety of sex workers and communities impacted by sex work.

Historical discrimination and criminalization has resulted in tremendous abuses against sex workers in Vancouver. Past municipal practices aimed at eradicating sex work in neighbourhoods have only served to reinforce societal bias towards sex workers and transfer sex work to other communities.

Due to the devastating loss of the missing and murdered women in the Downtown Eastside of Vancouver and the continued stigmatization of sex workers, the City has taken a leadership role in the development of social reforms that promote the health and human rights of sex workers and the health of communities.

BACKGROUND

In September, 2011, City Council unanimously approved the report, *Preventing Sexual Exploitation and Protecting Vulnerable Adults & Neighbourhoods Affected by Sex Work: A Comprehensive Approach and Action Plan*.³¹ The report emphasized the need for a coordinated approach among all levels of government, law enforcement agencies, health authorities, community organizations and stakeholders, including sex workers, and as a result, the City Task Force on Sex Work and Sexual Exploitation was formed. The multi-stakeholder Task Force worked for 18 months to prioritize and implement the 34 recommendations.

The 2010 Missing Women Commission of Inquiry (MWCI) was established to examine the failures within the justice and policing systems between 1977 and 2002 that led to the tragedy of the missing and murdered women from the Downtown Eastside of Vancouver. The 2012 Inquiry report, *Forsaken*, contained 63 recommendations, three of which were directed to City. The City responded to all three, including the hiring of two social planners – first of their kind in North America – who continue the work of the Task Force to increase the health and safety of sex workers, prevent the sexual exploitation of youth and address the impacts of sex work on communities.

The December 2013 Council report, *Report back on the Missing Women Commission of Inquiry and City Task Force on Sex Work and Sexual Exploitation*, outlined work underway to address gaps in services, prevent the sexual exploitation of youth, increase safety in housing supports, develop awareness training for City staff and amend by-laws and regulatory practices to enhance the safety of sex workers and neighbourhoods.

³¹ <http://former.vancouver.ca/ctyclerk/cclerk/20110922/documents/penv4.pdf>

CITY RESPONSE TO BILL C-36, THE PROTECTION OF COMMUNITIES AND EXPLOITED PERSONS ACT

In response to Bill C-36, the City submitted a joint brief in partnership with Vancouver Coastal Health Authority to both the Standing Committee on Justice and Human Rights and the Senate Committee on Legal and Constitutional Affairs.³² The brief urged the Federal Government to refer Bill C-36 to the Supreme Court of Canada in order to ensure its constitutionality and compliance with the Charter of Rights and Freedoms. Further, it requested that local municipalities and health authorities be consulted on the development of legislation that could adversely impact local residents and communities.

The report cites local and international research that demonstrates criminalization is not an effective deterrent to sex work, as punitive legislation that not only fails to protect people engaged in sex work, but also worsens their health and safety conditions. As well, it states concerns that criminalizing aspects of sex work will prevent safe work practices and environments, decrease access to protective, health and social services, and reinforce societal stigma and discrimination.

BY-LAWS & REGULATORY APPROACHES TO SUPPORT SAFETY & REDUCE NEIGHBOURHOOD IMPACTS IN RELATION TO SEX WORK

In 2013, the City developed a framework for licensing businesses where sex work may occur that supports ensuring a safer environment and reducing the chance of isolating sex trade workers, as past approaches did.

Specific by-law changes were approved by City Council to help improve safety, mitigate community impacts and reduce the stigma associated with sex work. These by-law changes were designed, in partnership with sex workers and the community, to contribute to safety in any business where there may be potential risks.³³

CITY GUIDELINES

In 2010, the Vancouver Police Department (VPD) altered their approach from criminalizing sex workers to building relationships with them and promoting safety in accordance with the recommendations of the MWCI. Developed in consultation with the community, the VPD's *Sex Work Enforcement Guidelines* were formalized in 2013 and are centered on "balancing the needs of the community and the safety of sex workers."³⁴

³² <http://vancouver.ca/files/cov/City-of-vancouver-brief-bill-C-36-protection-communities-exploited-persons-act.pdf>

³³ <http://vancouver.ca/people-programs/Health-and-safety-for-sex-workers.aspx>.

³⁴ <http://vancouver.ca/police/assets/pdf/reports-policies/sex-enforcement-guidelines.pdf>

The City of Vancouver Sex Work Response Guidelines outline a similar approach for all City staff and were developed “to promote a respectful, non-discriminatory and consistent approach among City employees who interact with anyone in the sex industry through the course of their duties.”³⁵

The guidelines further the City’s response to the work of the City Task Force on Sex Work and Sexual Exploitation and the MWCI. This effort, paired with the implementation of staff training, is part of the ongoing commitment to develop inclusive, equitable policies and best practices to increase the health and safety of sex workers, and communities impacted by sex work.

³⁵ <http://vancouver.ca/files/cov/sex-work-response-guidelines.pdf>

APPENDIX 3 – MSW ONLINE (NETREACH)

Demographics of the adult sex work/sex industry in Vancouver have changed dramatically over the last ten years. While traditional methods of sex work have historically been on-street, print advertising, phone chat and escort service/brothel, a notable trend has developed in recent years with marked increases in the number of individuals involved in the sex industry who are members of virtual communities. As more traditional methods of sex work diminish, an increasing number of sex workers are utilizing the 'net' as their working medium, especially with the ambiguity of laws that currently regulate the sex industry. Sex work itself, or transactional sex, covers a wide range of activities and exchanges, and HUSTLE takes into account the fluid nature of sex work and the benefits of early intervention.

As well, self-identified youth are actively involved in online experimentation with identity, peer relations and risk-taking. Through the creation of virtual communities, self-identified youth feel increasingly safer, more secure and supported online by their peers as they discover their capability, creativity and individuality in an online setting. This new virtual community development presents a unique opportunity to reach out to youth, build relationships and join them in their own online communities that are rapidly expanding to include a variety of resources, forums, chat rooms and blogs. Male sex workers (MSW) and men who have sex with men (MSM) and self-identified youth have staked a claim in the World Wide Web and HUSTLE, as a service provider, has a responsibility to meet them where they are at, respect their community and engage with them on their own terms.

Through its netreach program, HUSTLE is online with MSW, MSM and experiential youth-at risk in the virtual networks they frequent, finding new ways of offering health promotion and harm reduction to the rapidly growing numbers of men and youth online. By establishing a presence with profiles on various social networking sites, dating sites and online classified ads, HUSTLE has been successful in creating supportive relationships online with men and youth who are isolated and either work in the sex industry, exchange sexual services (sexual exploitation) and/or are members of virtual communities. Through netreach, HUSTLE continues to build/nurture relationships based on trust and respect as well as to help men/youth reduce isolation, reduce the risks of sexual exploitation and increase their overall health and safety.

