

## PROSTITUTION FACT SHEET

Prostitution is one of the oldest professions. Prostitutes are male and female, black, white and oriental. They may be young school students, drug addicts supporting their own habits or others, or moonlighting secretaries who sell themselves on a selective basis through legitimate dating services. Places of exchange of sex range from run down hotels to luxurious apartments. Yet it is the street-walker who is so flagrantly visible and therefore under public scrutiny. Most of our impressions of streetwalkers come from media stereotypes. The truth goes something like this:

Susie is single, in her late 20's and looks about ten years older than she is. She is a drug addict and has been a prostitute since age 18. She has a pimp who has thrown her out twice taking all her money but she still relies on him. She was introduced into prostitution by her two roommates who were prostitutes. She became curious, needed money to support her drug habit and saw that this was a way to get nice clothes.

The reality of her life is that she lives in a fleabag hotel and is frequently in jail. She has been arrested about 30 times for prostitution and petty theft and leads a sad and lonely life.

In contrast to the dramatic coloration given on stage, movies and novels, most prostitutes are physically unattractive and some have obvious physical defects. Most prostitutes voluntarily enter the profession and usually for economic reasons, i.e. to escape welfare, support children, avoid discrimination women face in employment and to be independent. In actuality, prostitution for most women represents an enterprise with little financial reward.

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### WHAT IS THE CURRENT CANADIAN LEGISLATION SURROUNDING PROSTITUTION?

Soliciting and prostitution-related activity such as pimping, procuring and running a common bawdy-house are offences found in the criminal code.

In the recent decision of *Hutt v The Queen* (1978 S.C.C.) it was ruled that the offence of soliciting must consist of both a demonstration by the prostitute of an intention to make herself available for prostitution and conduct which is pressing or persistent. Soliciting has moved from a status crime to a nuisance offence. A prostitute may ask once but can be charged if she asks a second time. Soliciting then, if carried on in a private place and non persistent manner between two consenting adults, is not a criminal offence.

The Elizabeth Fry Society of Toronto believes soliciting does not cause serious harm to others. It is a victimless crime - one that costs society an enormous amount to try and prosecute - and one which criminal legislation has proven ineffective against. In fact, the agency feels prostitution should be removed from the criminal code altogether.

In *Regina v DiPaola* and *Regina v Palatias* (Ont. C.A. Aug. 8, 1978 43 C.C.C.(2d) 199) it was found that a male customer may be convicted under S 195.1. The section states that "every person who solicits any person in a public place for the purpose of prostitution is guilty of an offence". There the customer is "soliciting another person, what he is seeking is that the person solicited will in return for money, offer her body for sexual intercourse or provide services for his sexual gratification. The purpose of such solicitation is therefore prostitution and his conduct falls within S 195.1 of the Criminal Code" (43 C.C.C. (2d) 200).

SOLICITING IS APPLICABLE TO THREE TYPES OF NUISANCE OFFENCES

- a) Solicitations by prostitutes seeking customers
- b) Solicitations by customers seeking prostitutes
- c) Solicitations by third parties seeking customer on behalf of prostitutes  
(43 C.C.C. (2d) 205)

The offence is committed as soon as the solicitation is made. It does not matter whether the actual sexual act occurs or not.

There remains a double sexual standard used in enforcing prostitution laws. If the soliciting is done by the female prostitute, she is prosecuted. The "respectable" male customer is rarely dragged into court except to testify against her even though participation in prostitution is illegal for both.

STATISTICS FOR THE CITY OF TORONTO RE PROSTITUTION OFFENCES

<u>Sections from Criminal Code</u>		<u>Full Year 1978</u>	<u>Jan/79 - Aug/79</u>
Keeping a bawdy-house	S193	77	44
Transportation to bawdy house	S194	2	nil
Procuring	S195	47	36
Soliciting (Male & Female)	S195.1	766	246

The usual sentence for an offence of prostitution (soliciting) in about 90% of all cases is a fine or probation. While every Judge is different, a first offence usually results in probation. Subsequent offences are usually dealt with by imposing either probation or a suspended sentence, followed by fines (\$50.00, \$100.00 etc.). Only after several offences is anyone actually sent to jail. The sentence may be for as much as three months after a number of offences. Jail is usually viewed as a last resort.

In a newspaper article (Toronto Sun, Wed. Aug. 22, 1979) Metro Toronto Police Chief Harold Adamson stated he wanted Ottawa to tighten Canada's laws on prostitution. A person cannot be guilty of soliciting unless police can show she/he was "pressing or persistent". The Police Chief recommended an amendment to the code making it an offence to solicit even if the person is not pressing or persistent.

WHAT IS THE APPROPRIATE WAY TO DEAL WITH PROSTITUTION LAWS?

There are three major approaches to the prostitution problem. These are:

- (1) Abolitionist (decriminalization)
- (2) Prohibition (criminalization)
- (3) Regulatory (legalization)

- (1) Most countries in Europe are abolitionist. They have decriminalized prostitution and removed it from any government involvement or control. In other words, prostitution is not thought of as an illegal act to be carried on secretly and behind locked doors. It is not the concern of the state to regulate the conduct of consenting adults unless other rights are being infringed on.

In England open soliciting is not allowed but private prostitution is.

In Sweden and Denmark, prostitution is not illegal although the police can arrest anyone for disorderly or indecent conduct. In Amsterdam, Holland the famous 'red light district' has been designated an official prostitution area. France, Italy, Japan, Germany and 100 members of the U.N. have eliminated the crime of prostitution. The U.S. and Canada have not taken this progressive view.

Making prostitution a crime does little to discourage prostitutes from further offences and puts an enormous burden on the legal process. A recent American study estimated the cost of each prostitution related arrest at more than \$200.00 and it costs \$1,000. to take each case through the criminal justice system. Decriminalization would give prostitutes independence from their pimps. The system in Canada provides pimps with economic power. A prostitute currently needs her pimp to pay fines or bail and to hire a lawyer (soliciting offences do not usually qualify for legal aid certificates).

- (2) The advocates of criminalization or prohibition believe it is the responsibility of the government to regulate the public morals, hence to declare prostitution a punishable offence. They feel that more women will become prostitutes if the law does not provide punishment. Experience indicates that laws have done little to discourage prostitutes in the past. In fact, such laws have trapped many women into careers of prostitution because their 'criminal' record and experiences make it harder to find a legitimate job.

Without a demand by men for her services, the prostitute could not exist. The law discriminates against women if it only inflicts penalties on women and not her client.

- (3) Some governments license and regulate prostitution. The government sets up standards and forces prostitutes to work under certain conditions. West Germany and the state of Nevada have legalized prostitution. In Nevada, women are usually fingerprinted and made to carry I.D. cards. Generally prostitutes are required to have weekly medical examinations and are not permitted to leave the brothel or associate with other residents of the community. Legalization and government control becomes a form of punishment and control. As well, legalization fails to eliminate unregulated or illegal prostitution activities.

After careful examination of all the material regarding prostitution, the question remains whether prostitution should or should not be a crime. As the law stands now, prostitution is still an offence in the Criminal Code of Canada. The reasons for becoming a prostitute are not always the reasons for remaining one. Prostitution in fact is far from a glamorous occupation. Most prostitutes work hard, receive few benefits and never become economically self sufficient.

August 31, 1979

Prepared by - Cari Weiss

