

CITY OF CALGARY PROSTITUTION RESPONSE FRAMEWORK

EXECUTIVE SUMMARY

In 2013 December, the Supreme Court of Canada ruled that three prostitution-related offences in the Criminal Code were unconstitutional and violated prostitutes' right to security of the person as protected by Section 7 of the Charter of Rights and Freedoms. The court provided the Parliament of Canada with one year to introduce new legislation, with the alternative being the decriminalization of most prostitution-related activities. In 2014 February, in response to this potential absence of federal legislation, Administration was directed to form a multi-departmental City working group to develop a framework to address the impact of prostitution in Calgary communities. This report illustrates the work undertaken to date, including: an overview of the scope and impact of prostitution within Calgary; findings from the recent public submission process; a review of approaches utilized in other jurisdictions; along with an initial City of Calgary Prostitution Response Framework. The framework outlines responses to community-identified impacts through a collaborative community partnership model, including Calgary Police Service (CPS), Animal & Bylaw Services (A&BS), Community & Neighbourhood Services (CNS), community social service agencies and the business sector. Calgary has a number of community-based organizations and programs which provide services either directly or indirectly to people who are involved, at risk of involvement, or wishing to end their involvement in the sex trade. This system of agencies, including, for example, The United Way of Calgary, Family & Community Support Services (FCSS) agencies, The Servants Anonymous Society of Calgary (SAS) and HIV Community Links' Support Services for People in the Sex Industry (SHIFT), works to address a continuum of needs from early prevention and intervention, to harm reduction and supports, to assistance with transitioning and exiting the sex trade. The prostitution response framework illustrates areas of emphasis in working together and potential actions to enhance the coordination and communication between service providers, and strengthen and further develop a seamless network of services.

ADMINISTRATION RECOMMENDATION (S)

That the SPC on Community and Protective Services recommends that Council direct Administration to report back to Council through the SPC on Community and Protective Services within four months of the enactment of new federal legislation with an analysis of impact and revisions to the prostitution framework as applicable.

PREVIOUS COUNCIL DIRECTION / POLICY

On 2014 February 10, Council approved Councillor Diane Colley-Urquhart's Notice of Motion directing Administration to convene a multi-departmental City working group, chaired by the Director of Animal & Bylaw Services, and including: the Calgary Police Service, Community & Neighbourhood Services, Development & Building Approvals and Law; and report back through the SPC on Community and Protective Services no later than 2014 June, with:

- a) A review of relevant enforcement approaches in other jurisdictions, as well as any planned responses from other levels of government; and
- b) Engagement of external stakeholders through a public submission process; and
- c) A comprehensive framework to address potential legislative, regulatory, social, environmental and economic issues involved, with a targeted implementation date of 2014 December

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BACKGROUND

Introduction

On 2013 December 20, in *Bedford v. Canada*, the Supreme Court of Canada ruled that the following three prostitution-related offences in the *Criminal Code* were unconstitutional:

- Keeping or being in a common bawdy-house (s. 210);
- Living on the avails of prostitution (212(1)(j)); and
- Communicating in public for the purpose of prostitution (s. 213(1)(c)).

The Court determined that the criminalization of these activities violated Section 7 of the Charter of Rights and Freedoms and placed the safety of prostitutes in jeopardy. Specifically the Court stated that criminalizing these activities prevented prostitutes from taking steps to protect themselves against violence (e.g. hiring security staff). The Parliament of Canada was subsequently given one year to introduce new legislation, with the alternative being the decriminalization of most prostitution-related activities; aside from those related to underage prostitution and human trafficking.

In 2014 February, in response to this potential absence of federal legislation, Administration was directed to form a multi-departmental City working group to develop a framework to address the impact of prostitution in Calgary communities, including a review of relevant enforcement approaches in other jurisdictions, planned responses from other levels of government, engagement of external stakeholders through a public submission process and the development of a comprehensive framework to address potential legislative, regulatory, social, environmental and economic issues involved, with a targeted implementation date of 2014 December.

This initiative has included participation from Animal & Bylaw Services (A&BS), Calgary Police Service (CPS), the Law Department, Planning Development & Assessment, and Community & Neighbourhood Services (CNS). A complete listing of Steering and Working group membership is outlined in Attachment 5.

Municipal Jurisdiction

While the federal government has sole jurisdiction to regulate prostitution through the Criminal Code, a municipality can support the safety, health and welfare of citizens through Section 7 of the Municipal Government Act (MGA). As a result of this dynamic, the federal government's future legislative direction may impact municipal options for addressing the harms associated with prostitution.

National Context

Following the Supreme Court of Canada's decision in the *Bedford* case, federal Justice Minister Peter MacKay asserted that the Federal Government would draft and introduce new prostitution legislation prior to the end of the one year grace period, 2014 December 20. This timeline has recently been revised to suggest federal legislation may be introduced in 2014 June. Further, the justice minister issued a directive to provinces to continue charging people under the existing laws during this span of time. Provincial adherence to the Federal Government's directive to maintain existing enforcement practices has varied from province to province. Within Alberta, prosecutions have been directed to continue until new laws are imposed, with an

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emphasis on cases against buyers rather than prostitutes. Conversely, New Brunswick has largely ceased prosecuting prostitution-related crimes, highlighting that it would be unfair to request a person to answer to charges that have been deemed unconstitutional. Alternatively, British Columbia has indicated that it is reviewing its approach and developing a set of guidelines to inform prosecutorial practices.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Approaches in Other Jurisdictions

Nordic Model

Internationally, a variety of approaches are utilized to address the issue of prostitution. Within Sweden, Norway and Iceland, a “Nordic model” has been adopted. This approach criminalizes the buyer while decriminalizing the seller; purporting prostitution as violence against women and an impediment to gender equality in the society. Recognizing that the federal government has suggested that a “Nordic approach” may be considered in future prostitution legislation in Canada, in 2014 March, members of CPS and A&BS visited Sweden and Norway, to evaluate how the model works in practice and utilize best practices in the development of the Calgary prostitution response framework. The trip included the engagement of law enforcement, the legal system and community social service agencies and highlighted the significant variance in how this model is implemented both between countries and at the municipal level.

It was not uncommon to find law enforcement and community agencies utilizing diverse practices from one city to the next based on available resources, political will or philosophical approach. One of the key components of the Nordic model, throughout the various jurisdictions, involved the focus on providing community social service support (employment support, shelter, counselling, etc) to prostitutes along with efforts to maintain a close partnership between social service agencies and law enforcement.

Regulatory Models

Within the Netherlands a regulatory model is employed, based on the concept that each adult individual has the freedom to control how they use their body. This approach primarily focuses on licensing prostitution through brothels in “red light” zones, or street prostitution in “tippelzones”, limiting the geographic areas in which the activity can take place. This approach also includes health and hygiene requirements along with criminal background checks for prospective brothel owners.

New Zealand also utilizes a regulatory approach, primarily focusing on regulating prostitution through licensing brothels which are subject to health and safety guidelines; with prostitution very much treated like other business sectors, including being subject to occupational health and safety regulations and employment rights standards.

Within North America, the state of Nevada allows for legalized prostitution in licensed brothels in certain locations. All prostitutes must register with police and pass mandatory monthly sexually transmitted disease testing. Further, brothels are subject to safety measures to protect prostitutes from customer violence and are prohibited to operate within 400 yards of any school or place of worship.

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Hybrid Regulatory Models

Alternatively, certain jurisdictions around the world, including Germany, decriminalize prostitution and maintain minimal associated regulatory practices. Prostitution is recognized as a legitimate employment choice and subject to state taxation. Aside from restrictions on underage prostitution the country rarely restricts the number or location of brothels.

An expanded review of approaches from other jurisdictions is outlined in Attachment 4.

Calgary Current State

Prevalence of Prostitution in the Community

Prostitution encompasses a broad range of participants and activities, with sex workers correspondingly not necessarily constituting a homogenous group. Community organizations and researchers often refer to prostitution as being “indoor” or “outdoor.” Indoor prostitution generally occurs in brothels, hotels/motels, businesses, homes, and can involve escorts, strip clubs and massage services. Indoor prostitution is more likely to be arranged through online sources and projections suggest it accounts for an estimated 70 - 95 per cent of the prostitution activity in Calgary. This form of prostitution is generally much less visible and subsequently more challenging for enforcement authorities to address. Outdoor prostitution generally occurs in parks, cars and other public spaces. Often prostitutes on the street are the most vulnerable because they are dealing with serious compounding issues of poverty, addictions and mental health; commonly referred to as “survival-based prostitution”. According to Calgary-based community agencies, estimates on the number of prostitutes (indoor and outdoor) in the city range from 1000 to over 3000 at any given time; as the lack of visibility associated with the indoor market results in very broad projections.

Within Calgary, outdoor prostitution is localized around two primary communities, the Beltline and Forest Lawn (Attachment 3), representing 75 per cent of the 1069 prostitution-related calls for service received by CPS between 2011 and 2013. In terms of the indoor market, based on its less visible presence and its associated enforcement challenges, it represents a small proportion of total calls and is spread throughout the city rather than localized in particular communities (Attachment 3). However according to CPS, academic, and community social service agency sources the industry has predominately shifted to being “indoor based” over the course of the last ten years.

Enforcement Practices

In alignment with other law enforcement agencies across the country, CPS has shifted, over the last number of years, enforcement efforts to focus on the “consumer demand” of prostitution, often with a focus on steering prostitutes towards programs that may assist them in exiting the trade rather than pursuing them through the criminal justice system. With a focus on prostitutes as a marginalized population, enforcement efforts have shifted to pursuing buyers and focusing on cases involving minors, exploitation or human trafficking. In pursuing such cases police officers respond to citizen tips, monitor online ads and engage in plain clothes sting operations aimed at mitigating individual and community impacts.

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Regulatory Approaches

Alberta, Manitoba, Yukon, Nova Scotia, Saskatchewan and New Brunswick have adopted a specific approach to dealing with problem properties in their communities, including those involved in prostitution, through the use of Safer Communities and Neighbourhoods Acts (SCAN). This process allows courts to issue a Community Safety Order to close down Calgary properties involved in prostitution related activities where such activities have an adverse effect on a community.

From a municipal perspective, the community harms which, in some instances, can be ancillary effects of prostitution are addressed by a number of approaches. For example, licensing bylaws regulate dating and escort services, exotic entertainers, body rub and massage parlours; and impose conditions on hours of operation, advertising, certification, minimum age, and police screening. Other bylaws can regulate litter, parking, noise, location and loitering.

Community Agencies

Calgary has a number of community-based organizations and programs which provide services either directly or indirectly to people who are involved, at risk of involvement, or wishing to end their involvement in the sex trade. This system of agencies works to address a continuum of needs from prevention and early intervention to harm reduction and supports, to assistance with transitioning and exiting the sex trade. The prostitution response framework illustrates areas of emphasis for working together and potential actions to enhance the coordination and communication between service providers and strengthen and further develop a seamless network of services.

There are two primary Calgary service providers directly supporting adults working in or exiting prostitution – The Servants Anonymous Society of Calgary (SAS) and HIV Community Links' Support Services for People in the Sex Industry Program (SHIFT) While SAS and SHIFT work closely and often have common clients, the programs take different but complementary philosophical approaches. Working primarily with prostitutes involved in both the indoor and outdoor market; SAS views prostitution as sexual exploitation and supports workers in exiting the sex trade. Services include life skills, career training, school support, outreach, follow-up services, emergency and longer term housing and child care. They also provide outreach to at-risk youth, in partnership with other service providers, to prevent entry into prostitution.

Alternatively, SHIFT takes a harm reduction approach to working with adult women and men involved in the sex trade. Services include supporting safer working conditions (e.g. safe sex supplies, bad date sheets, legal assistance and court accompaniment). SHIFT reports that their client contacts have doubled over the past year, largely a result of expanded efforts to engage indoor workers.

Prostitution Response Framework

The City of Calgary Prostitution Response Framework (Attachment 1) reflects citizen feedback received through the public submission process along with key best practice research involving approaches utilized in other jurisdictions. The framework highlights the array of societal influences (legislative, regulatory, social, etc) which impact prostitution and shape the specific impacts experienced at the community level. Key next steps will include further collaboration and engagement with community-based social service agencies such as those identified above;

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community organizations (including community associations and business revitalization zones, etc); and the industry itself (including both workers in the trade and, dependent on future legislation, those who may seek to establish regulated businesses within the industry) in addressing the issue within the Calgary context.

The framework involves the implementation of two primary response streams to address identified community impacts; enforcement and community outreach streams. The enforcement stream highlights enhanced CPS and A&BS officer coordination in key communities, enhanced partnerships with the business sector (e.g. the hotel industry), along with increased information sharing on emerging community trends. Correspondingly, the community outreach stream emphasises the incorporation of a system of agencies, including, for example, The United Way of Calgary, FCSS agencies, The Servants Anonymous Society of Calgary (SAS) and Support Services for People in the Sex Industry (SHIFT), into the existing City of Calgary Prostitution Working Group, as a means of identifying and mitigating community issues on an ongoing basis. This approach serves to address a continuum of needs from early intervention and prevention, to harm reduction and supports, to assistance with transitioning and exiting the sex trade.

Further, this stream includes deeper engagement as part of consultation with various stakeholder organizations and collaboration through CNS and key community organizations (e.g. community associations and BRZs) in developing community responses. Key to ongoing efforts will be harnessing and supporting the leadership provided through the system of agencies in place today. Collectively these organizations provide leadership in advocacy, funding and resource development, connecting with other sectors and at all levels of government as advocates to address community issues. The City will examine funding opportunities to support these efforts, where possible leveraging crime prevention and alternative funding sources, including the Crime Prevention Investment Plan (CPIP) to support activities in Calgary communities.

The prostitution response framework illustrates areas of emphasis in working together and an action plan to enhance the coordination and communication between service providers and strengthen and further develop a seamless network of services. Administration will report back with potential revisions to the framework, as warranted, pending the outcome of the ongoing federal legislation process and ongoing community engagement.

Stakeholder Engagement, Research and Communication

As per Council direction, Administration provided the opportunity for input from the general public and external stakeholders through a public submission process. The City of Calgary's Online Public Consultation on Prostitution was posted on Calgary.ca from May 2 to May 19, 2014. The survey gathered public input on the perceived impacts that prostitution and prostitution-related activities have on Calgary communities, businesses and families. It also provided public stakeholders the opportunity to provide feedback on specific approaches used in other cities to lessen the negative impacts of prostitution on communities. The submission process received 1,861 visits and resulted in 797 completed submissions.

Findings from the public submission process found that key community-identified impacts could be summarized into four categories:

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- Public Safety – need to prevent violence, address exploitation and links to organized crime
- Health Concerns – need to address addictions issues, precautions to prevent spread of disease
- Societal Stigma – concerns about prostitutes being treated as a marginalized population and associated challenges in securing needed resources
- Property-Related concerns – importance of protecting neighbourhoods and businesses

The public submission process also indicated that citizens widely support a multi-pronged approach to address the issue in their communities, with particular emphasis on the following approaches:

- 1) Ongoing building of Knowledge (e.g. partnerships with community organizations to learn how to increase the health and safety of community members)
- 2) Community Development (e.g. working with individuals and groups to make positive changes in communities, enhance safety)
- 3) Prevention/Education (e.g. public education and awareness efforts)
- 4) Intervention (e.g. supporting safety for community members and those working in the industry)
- 5) Exit strategies (e.g. assistance for those leaving the industry)

The results of the public submission are further outlined in Attachment 2.

Public feedback via the public submission process along with initial feedback from social service agencies in the sector (i.e. SHIFT, Servants Anonymous), CPS, A&BS, CNS, the Law Department, Planning and other key stakeholders subsequently informed the development of the City of Calgary Prostitution Response Framework, representing an initial collective response to the impacts associated with prostitution in Calgary communities. Deeper engagement as part of consultation with various communities' stakeholders and agencies will continue to inform and refine the framework.

Advocacy Initiatives

Given the Supreme Court of Canada's grace period of 2014 December for new federal legislation to come into place, The City of Calgary undertook intergovernmental advocacy efforts with both the federal and provincial governments. This included letters on behalf of Calgary City Council from Mayor Nenshi to the federal justice minister and Calgary's Members of Parliament advocating that the Government of Canada take urgent action to provide a timely legislative response, along with a dedicated opportunity for municipal engagement in the process. The City has not yet received a response from the federal government. Further, a letter was also sent to the Solicitor General of Alberta requesting their support in this advocacy process. A subsequent response from the province indicated that advocacy efforts between the province and Federal Government are underway.

The federal Department of Justice conducted an online Public Consultation on Prostitution Related Offences to seek public input on how the criminal law should respond to adult

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prostitution. The online consultation closed on 2014 March 17. The Calgary Police Service and The City of Calgary each submitted a response to the federal consultation. The City's submission emphasized that: "The City of Calgary is keen to see the Government of Canada's plan of action and the results of the public consultation, and looks forward to dedicated opportunities for municipal engagement." At this time, the federal government has not yet initiated a legislative response and the results of the federal Public Consultation on Prostitution Related Offences have not been shared.

Strategic Alignment

The recommendations in this report align with Council's Fiscal Plan for Calgary 2012-2014 by supporting the following:

"Ensuring every Calgarian lives in a safe community and has the opportunity to succeed"

2. Focus on community-based policing and crime prevention, in partnership with related community and city agencies, particularly around crime prevention and harm reduction strategies.

Social, Environmental, Economic (External)

Social

Prostitution impacts Calgarians on a personal, community, and city-wide level. The City of Calgary Prostitution Response Framework is focused on promoting public safety and vibrant communities by addressing prostitution-related issues.

Environmental

The City of Calgary Prostitution Response Framework serves to protect the quality of open space for all Calgarians.

Economic (External)

Addressing prostitution issues contributes to the creation of a vibrant, healthy, safe and caring community, critical to continued economic growth and creating a city where citizens want to live and invest.

Financial Capacity

Current and Future Operating Budget:

The Prostitution Response Framework represents an innovative and collaborative response to address community-identified impacts; particularly through the incorporation of community social service agency expertise (e.g. Servants Anonymous and SHIFT) into the existing City of Calgary Prostitution Working Group, as a means of identifying and mitigating community issues on an ongoing basis. As the framework is implemented Administration will pursue alternative funding sources to support this novel community-based approach.

Current and Future Capital Budget:

Not applicable

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Risk Assessment

The City of Calgary Prostitution Response Framework mitigates potential risks and addresses prostitution-related issues by fostering a coordinated and collaborative response on the part of all stakeholders; including enforcement agencies, community social services agencies, provincial agencies, the sex trade industry and business sector.

REASON(S) FOR RECOMMENDATION(S):

This report illustrates the work undertaken to date, including: an overview of the scope and impact of prostitution within Calgary; findings from the recent public submission process; a review of approaches utilized in other jurisdictions; along with an initial City of Calgary Prostitution Response Framework. The framework outlines responses to community-identified impacts through a collaborative community partnership model, including CPS, A&BS, CNS, community social service agencies and the business sector.

ATTACHMENT (S)

1. City of Calgary Prostitution Response Framework
2. Public Submission Summary
3. Calgary Community Mapping
4. Approaches in other Jurisdictions
5. Steering & Working Group Composition