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Wednesday, July 9, 2014

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Chair

Mr. Mike Wallace

Standing Committee on Justice and Human Rights

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• (0930)

[English]

The Chair (Mr. Mike Wallace (Burlington, CPC)): I call this meeting to order.

This is the Standing Committee on Justice and Human Rights, meeting number 38, and as per orders of the day, we are televised. Pursuant to the order of reference of Monday, June 16, 2014, we are dealing with C-36, an act to amend the Criminal Code in response to the Supreme Court of Canada decision in Attorney General of Canada v. Bedford and to make consequential amendments to other acts.

We have a number of witnesses joining this panel with us this morning.

From the Adult Entertainment Association of Canada, we have Tim Lambrinos and Rudi Czekalla. We have Mothers Against Trafficking Humans, Ms. Grant. From the Sex Professionals of Canada, Amy Lebovitch and Valerie Scott are here. From the York Regional Police, we have the chief of police, Chief Jolliffe.

From Denmark, all the way on video conference, we have Professor Ekberg, who is with the University of Glasgow school of law.

That is for the first panel.

We will go through the witness list as presented. Each organization will have 10 minutes to present to the committee, and then we will do our rounds of questions.

First, we have the Adult Entertainment Association of Canada. The floor is yours.

[Translation]

Mr. Tim Lambrinos (Executive Director, Ontario Region, Adult Entertainment Association of Canada): Thank you, Mr. Chair.

I am going to speak only in English, given how complex the subject is. I apologize.

[English]

In terms of the study we submitted to the clerk by way of disc today, I'll have to submit an actual hard copy to Monsieur Pagé afterwards, too.

Our adult entertainment association is a stakeholder organization designed to serve the needs of the exotic dance industry, which is the exotic dance entertainers, the strip clubs. It is based in Ontario. It is a

self-regulatory model. Some of the owners from Ottawa are here today. It's a way in which our organization has been put together to help self-regulate. There's a 1-800 number for entertainers to call, should they have issues so they can report confidentially. We work together with municipalities to create various educational materials, etc.

The Bedford decision does not apply to the clubs. This is not an area where we wanted to go. This is not a venue in which we want to do something. The proposal we're submitting to the committee today is a reaction to the Supreme Court decision—nine to nothing.

I heard the Minister of Justice the other day, Mr. Chair, with all due respect, state that the justice department felt this bill would stand up to a legal test. My question to the members of the committee is this. Are these the same individuals who said the last one would stand up to a legal test? They should be fired. In any other business, they would be. It's uncalled for.

This particular study that we're submitting is an opportunity for the courts to look at a model that would work. It involves health. It involves safety. It involves a number of things.

The five main reasons that this study was done independently by Mr. Czekalla point out that this is a ready-made answer. The adult entertainment clubs could take on this aspect as an enhanced licensed area under the same umbrella of an adult entertainment club. There are five major reasons the study points out. It was a five-month study.

Number one is the zoning. There would be no need for a red light district. There would be no need for official plan changes, no need for zoning changes. The licensed adult entertainment clubs, by definition, are services designed to appeal to erotic or sexual appetites or inclinations. It has the word "sexual" in it, and it has the word "services". That wouldn't change. They are known entities. They have a good track record of protecting women. They already work together with police. We have a very valid association that works together with governments, which is going to take some time. It's the reality of things. This is not an issue that a few lawyers can deal with. It's going to take a lot of input from a lot of people, and it's going to be part of my recommendations.

The legal test.... It is a slippery slope that we go on. It is uncalled for, for any minister to take on the fact that.... If you are going to be deliberate and know there's going to be a court challenge, in reality that's almost malicious intent. You should be held liable, either through a civil suit or even criminal charges, should there be ramifications afterwards. That's the reality of things.

The charter itself—and I hold it up as a prop. This is the Canadian Charter of Rights and Freedoms. Section 7 of the charter guarantees the protection and safety of all persons in Canada—all persons—not 31,000 select persons who decide to write online. All persons in Canada are guaranteed that right under the charter.

Mr. Czekalla is going to talk about the study itself, about how it talks about implementing and taking on enhanced services.

I have three recommendations.

The first is that there needs to be an outside legal review of this. Morris, Manning is an excellent choice. Theresa Simone is another person who has a great reputation.

Number two is that there is no way.... There has to be enhanced dialogue. There has to be a working group put together and an extension has to be asked for past December 13. When that's done, our request is that our study be sent in to the court as a model to say, "Is this what you had in mind? Is this what we're talking about?" In reality, it was nine to nothing.

I have two last points before turning it over to Mr. Czekalla.

Am I okay with time?

• (0935)

The Chair: You have about six minutes.

Mr. Tim Lambrinos: I wanted to invite all members of the committee, including Mr. Chair. Mr. Dechert has already said he cannot attend, but I think it's important for members of the committee to understand what the adult entertainment industry is. There are different atmospheres.

The two clubs tonight.... There is no media permitted. It's strictly work. I invite all members of the committee, 8 p.m. for a site facility tour at the Barefax, 27 York Street, and 9 p.m. at the NuDen, 1560 Triole Street.

The last thing I want to point out, which I talked about earlier, Mr. Chairman, is the flaw in advertising. This is a section of a publicly issued magazine that talks about it.

What's flawed in the legal definition of preventing sexual services.... None of these places advertise for sex. The definition of sex is not defined in the legislation. Theresa Simone created one. But they talk about oral massage. They talk about full service. They talk about Greek, as I pointed out. These are all codes. Do you know, Mr. Chair, what full service means, for example?

The Chair: I'll have to ask—

Mr. Tim Lambrinos: I'll enlighten everybody. It means intercourse. It means everything. All these codes also mean things, too.

I now want to turn the rest of the time over to Mr. Czekalla.

Mr. Rudi Czekalla (Consultant, Principal, Municipal Policy Consultants, Adult Entertainment Association of Canada): Good morning, and thank you for having me here today to speak to you on Bill C-36.

My name is Rudi Czekalla Martinez, and I am the principal at Municipal Policy Consultants in Toronto, Ontario. I have been

involved in the development of public policy in the area of adult entertainment both as a regulator and a private consultant for almost 15 years.

I'm also the author of the "Enhanced Adult Services Study" that Mr. Lambrinos referred to.

From my experience I can tell you that although the federal government lays out the regulatory framework for prostitution in this country, it is actually the municipalities that have the greatest impact on how prostitution is managed. This is the case because irrespective of what the federal government does, prostitution finds a way to continue to exist. It may transform its modus operandi to accommodate legislation, but it never goes away. Municipalities understand this very well and they have responded in a number of ways.

In Vancouver, Calgary, and Edmonton, municipal authorities have been licensing escort services for more than a decade. Not unlike the businesses themselves, which carefully set up their operations to make sure they don't technically run afoul of the law, these municipalities have carefully worded their own bylaws to ensure that they do not directly contradict the criminal laws, while at the same time indirectly regulate the business of prostitution.

So you see, we have a situation in which the different levels of government are not working together effectively to come up with a realistic, practical, balanced, and of course, constitutionally valid solution.

The model proposed in Bill C-36 does nothing to alleviate this matter. Aside from not responding to the issues raised by the Supreme Court, it also does nothing to help the provinces, and ultimately municipal governments, to deal with the real issues: the safety of the women involved in prostitution; their social marginalization; and their economic disenfranchisement. These are all things created by current as well as the proposed legislation.

The study I conducted includes 103 key findings and nine major recommendations, with 37 actionable items. In the short time I have before you, I would like to provide you with a synopsis of the study's recommendations and approach to their implementation.

First and foremost, an effective model needs to have outcome-based objectives against which the effectiveness of the approach is measured. Of course this means having valid and reliable metrics, which in turns means that there has to be relevant, consistent, and timely data available.

In Sweden, the government set as one of its objectives to reduce the violence against prostitutes. As several independent studies have pointed out, the government then went on to claim that it was achieving its goal because there were fewer prostitutes working on the streets, which was then interpreted to mean that there was less prostitution overall, and therefore less violence as well.

The government in Sweden never had valid and reliable metrics. It simply made very fallible assumptions. In fact, what has happened in Sweden is that the legislation there has simply driven prostitution deeper underground, not reducing levels in any significant way. By doing so it has also made it more dangerous, as sex worker focus groups have revealed.

Here at home, police services, from the RCMP all the way to the local police forces, don't keep the kind of data that is needed to ensure that we are measuring what needs to be measured. So the centralization of data collection by law enforcement authorities is one of the central recommendations of the study.

Another set key recommendation from the study focuses on the need to employ a harm reduction approach. We know that criminalization, whether explicit as in the United States or implicit as has been the case in Canada, and would continue to be so under the proposed legislation, simply doesn't work. We therefore need to focus on reducing individual, group, and social harm. This can only be done by redressing the laws and institutionalized norms that systematically victimize sex workers. Human trafficking, sexual exploitation, physical and psychological violence, social marginalization, and economic disenfranchisement are all issues that have to be addressed through a balanced combination of regulation and supports.

An excise tax on services would go a long way to pay for such programs.

Finally, the study makes a case for having all levels of government explicitly working together to come up with a strategy that does what I have just described. For each issue and sub-issue, there will almost always be a level of government that will be the lead and have the other orders of government play supporting roles. Without an explicit implementation plan, driven by specific outcomes and validated by specific measures, any attempt at addressing prostitution risks becomes just another ambiguously unsuccessful attempt in a long line of similar attempts at dealing with this issue.

I echo the sentiment shared by Mr. Lambrinos that this committee should consider recommending to Parliament that further work be undertaken, and that an extension for such work be sought from the Supreme Court.

Thank you.

● (0940)

The Chair: Thank you to our witnesses from the Adult Entertainment Association.

Our next speaker is from Mothers Against Trafficking Humans. The floor is yours, Ms. Grant.

Ms. Glendene Grant (Founder, Mothers Against Trafficking Humans): Thank you. Thank you for having me here today. It's an honour to be present.

My name is Glendene Grant. I'm a wife, a mother, a grandmother, and the founder of MATH, Mothers Against Trafficking Humans. I'm not here today with any studies or data. I have a real story.

I started MATH on April 18, 2010, as part of my way to raise awareness of human trafficking and educate anyone I can about the crime of human trafficking, after my daughter Jessie Foster went missing.

She was quickly known to be a victim of the crime. She is an international endangered missing woman and pretty much the most well-known human trafficking victim in Canada. Some of us even refer to her as the poster child for the crime. So my reason for being

here is personal. I want to tell you a little bit about what happened to Jessie.

When she was 17 she met a man in Calgary who became her friend. They stayed friends even after she graduated high school, got a job, and her own apartment. To me this person was grooming her. That's my opinion. He is a recruiter and a pimp. His brother is a known pimp. We didn't know that right away, but when we found out it fell into place. She was taken on two "trips". I always do quotes around "trips" because they weren't what you would want to go on.

They took her to Florida. They took her to Manhattan and Atlantic City, and instead of bringing her home on the second trip, they took her to Las Vegas. This happened after it was suggested to her that she prostitute herself the night before they were to leave, because their funds had run out and he didn't have any money for expenses to get them home .

So she rushed downstairs and called me, and was a little bit upset at the time, but said he's just being a jerk and I'm going back up to my room.

The next morning she called and said they were going to Las Vegas. She said nothing about what had happened the night before. She acted like it didn't happen. I was scared. I didn't know what was going on. I just knew that it wasn't a normal situation.

When she got to Las Vegas she called and said she was going to stay there until her 21st birthday, which was two weeks away. Twenty-one is the legal age in Las Vegas so it also fell into place once she went missing.

It didn't take her long to change her story. After the birthday story there was an accident. Then she had to stay for insurance. Then after that she met a fellow. After that she fell in love, moved in, and got engaged. This all happened very quickly. She was actually living with this fellow by June. She only got there in May.

After she went missing we hired a private investigator. She had been beaten, hospitalized with a broken jaw, forced to work in an escort agency, and arrested for solicitation.

When I talk about Jessie I talk about my honour roll student. She was into sports, music, dance, had tonnes of friends since kindergarten, and had never been in trouble ever in her life, not with school, friends, parents, or anything.

The first time she was arrested was in June. She had only been taken there in May. She was arrested again in September. She went missing in March. It was 10 months after she was taken down there. When we hired a private investigator, everything came out immediately.

Her pimp, or I should say her fiancé, had a bail bonds company he worked with all the time. This bail bonds company bailed Jessie out twice plus all of his other girls who worked for him. I know this because I actually talked to the bounty hunter who worked for him. This guy called me up and wanted to find Jessie. She was due for court and had a bail. I told him, you find her, because she's missing and I'd be glad for her to go to jail. I don't care what...

He was very touched by her story, and once that case ended and he had no contract, he came on pro bono to help us look for Jessie. He couldn't find her either.

Now with Jessie, she's my second oldest of four daughters. She has a stepdad, my husband, Jim, and me. We've been together almost 30 years, but yesterday was our first wedding anniversary. We just got married. I felt horrible doing it without Jessie, but we've done a lot of things without Jessie in the last eight years. Two of her sisters have become moms. Life has gone on. As best as we can, we've coped with it.

Two of her sisters were still teenagers when she went missing. Her older sister was 23 so they were just entering their adulthood. The problem with all that is that they've had to do all this with a missing sister, and to do all that you have to really learn to cope. They kind of took their key from me. I said whatever we're going to do we're going to do for Jessie, and we're going to do it with Jessie in our hearts.

Some of us have coped. Some of us haven't. Her father has not. He is no longer working. His health has deteriorated. He's greatly overweight, and it's sad to say because he's a wonderful man but this has destroyed him from the inside out. It's his daughter and he can't cope with it.

• (0945)

I'm very grateful that I have a supportive husband. He has a very supportive wife, too, but sometimes that's not enough. Jim's there with me all the way.

Now this is why I believe in Bill C-36. The biggest reason is that we can't have the alternative. We can't have prostitution, and everything else connected to it, as a legal occupation in Canada. We need to keep laws in place to stop it. There are no safe ways for there to be legal brothels and street walkers with bodyguards, or pimps, as I call them. We know they're pimps. We need to let them know this is not going to be tolerated in Canada again. We can't risk more and more people being forced into the sex trade, if this was to be a legal job, as there would never be enough people to fill the potential job openings.

We truly cannot have any more victims like Jessie or any more families like ours. I've been living this nightmare for eight years. Even eight days or eight hours is a really hard time. When Jessie first went missing, we all thought it was going to be over the next day, at the end of the week. The first year comes along; it's just ongoing. Some people who are advocates, we can't live without them, but thank goodness they can take a day off or go on a holiday and get a little reprieve from this. I can't. I wake up every day...goes to Jessie, goes to what probably happened to her, and then it goes to my fight to stop this from happening.

Another important fact, in my opinion, is that we need to stop this demand, because that's the only thing that's keeping it going. If we don't hold the pimps and the johns accountable, it'll never happen. There are people who want to pay for sex and there are people who are victimized into servicing them by some very cruel people.

We need lots of funding for people to exit the sex trade. It's something that's needed; otherwise, nothing else will work. There are many people who have told me that they're in the sex trade because they have no way out. They don't want to stay in it, but they can't afford to support their children and get some kind of an education. None of them are receiving any counselling for the trauma that they've endured. They've been told, literally, it's a catch-22. They want to leave. When they try, they fail and they end up back. That to me is absolutely horrible. The men, women, and children need to get a way to get their lives back. They need to learn how to live happy, healthy lives, and those with children need to do it for their kids, too. It takes time and money. It's not easy. They want to live a life that they're proud of.

I just spoke to a woman the other day. She messaged me on Facebook and asked me why I support this bill. She does not, but she believes everyone has an opinion. We conversed for quite some time. She told me, "I will never tell my daughters what I do for a living." To me that just told me right there and then that's not her choice of a job, of a career. If you want your children to make the right choices in their lives, they have to be told the truth. They have to know what's going on in their own lives and families. Otherwise, you know, they're just falling. They need to know what their mother does for a living, and they need to be proud of everything.

As far as MATH is concerned, MATH has really helped me. I speak all over, at different types of events. Some I do just on my own with MATH. If it's in the Kamloops and District Crime Stoppers area, I go with Mark Price. He's the head of that organization there. We just go to schools. We go to anything we can. We've been to a school in Boston Bar, B.C.—it's such a small place, kindergarten through 12 is one school—because of a missing young lady. She was missing for two weeks, and she came back. Everyone thought, "Thank goodness, she's back. She's fine." Then they started realizing she wasn't fine, so they brought us into their school so we could explain to their students what's out there.

With me it's become a personal crusade. It's my coping mechanism. It's also my way to keep Jessie out there. I have no proof that Jessie's not alive or that she's dead, so I go on the assumption that she is alive. Hopefully, we'll find her one day. When we do find her, she's going to see that there have been fights in her name and changes brought about.

I'm not just going to sit there. When Jessie went missing there was a fine line between a missing person and a human trafficking victim. Everyone thought I was grasping at a straw, I needed an excuse, something to explain what happened to my daughter and where she went. Now we are eight-plus years, eight-and-a-half years later, and we have laws that are changing. Every day we're hearing about organizations being arrested and people being charged with this crime. When Jessie went missing, it wasn't even a known crime. People told me it doesn't happen in North America, it doesn't happen in Canada. We now know it does.

So we need to make a change, and I want to thank you for allowing me to speak on Jessie's behalf.

• (0950)

The Chair: Okay, thank you for that presentation.

Our next presenter is from the Sex Professionals of Canada.

The floor is yours.

Ms. Amy Lebovitch (Executive Director, Sex Professionals of Canada): I'm under no false pretence that many of you here will actually be invested in hearing me out. Really hear me.

Sex workers are very well connected in our movement. We know what we need to keep ourselves safer and how to go about establishing more optimal working conditions.

I've been involved with sex work community organizing for 11 years now, and in my 17 years of working as a sex worker I have worked street-based, for agencies, and currently I am an independent worker.

As a plaintiff in the recent Supreme Court case, which has become a broad discussion in the mainstream, the name Lebovitch, my name, certainly has lost its anonymity. I don't want that loss of privacy and the stigma that I have faced to be done in vain. I don't want the rights that my colleagues have gained from this case to be stripped away.

Drawing on my own knowledge and expertise and that of the people who I have known and I have worked with over the years, I can tell you there is a clear disconnect between Bill C-36 and all of the evidence and education we have provided to the government about the policy perspective needed to move forward. Our priorities and concerns have been completely ignored.

I'm not here today to tell you how to amend this bill. It's beyond salvaging. This is not a moral crusade to be won. It is a struggle to assert voices of dignity and human rights. We have consistently proposed an effective model that takes into account sex workers' realities and practical concerns. That is the New Zealand model of decriminalization.

The rest of my time, in my mind, is best served by me explaining to you and imagining a point in time of my colleagues under the tyranny of Bill C-36.

It's late...so stressed out...the cops keep harassing me, telling me to move. I have to make more cash to get the things I need.

Where are the others working tonight? Clients are so paranoid, not stopping for more than a quick minute before driving off. It freaks me out that these guys want me to get into their cars and we've only talked for five seconds. I heard some of the others were working out in the industrial park. More clients are driving out around there. Does the bus go out that far? Could I even catch it at this time?

Oh, look, there's D. He gives me the creeps but I know he's a good friend.

I just checked into my motel and put my ad up on Backpage. Damn, that was expensive; Backpage prices have really gone up. They just shut down two other sites. I could advertise for free on one of them. I heard they're going to shut down Backpage too. How am I going to get clients then?

Guys are not giving me their info for my screening. He called from a blocked number. I couldn't even check with the bad date list. The last guy who came over wouldn't even pay me at the beginning, he was so paranoid. I had to suck him off before he trusted I was not a cop. Then he tried to walk out without paying.

One of my friends just got kicked out of the motel. Are the cops outside watching who is coming in and out? Clients are trying to haggle down my price. Maybe I should lower my rates. How am I going to pay my rent?

As demonstrated by these very realistic examples, our lives as sex workers will be made much more precarious and anxiety-filled as a result of this bill, should it be implemented.

We will continue to work, but under much more dangerous conditions. We will constantly be looking over our shoulders. We will still find ourselves under the structure of criminalization. We will lose our negotiating power for the rates we charge, for our safety, for the right to make demands about our comfort levels in providing certain services. We will still be unable to report abuse and harassment. We still won't have access to labour rights because under this bill we are nothing but voiceless victims in need of rescue.

• (0955)

We can do better than this for sex workers. As I have stated earlier, the government has the evidence and policy examples of a better way forward. I implore you to centralize the voices and concerns of my sex-working colleagues.

We cannot afford to wait another six-plus years for another Supreme Court challenge. Lives are at stake.

Ms. Valerie Scott (Legal Coordinator, Sex Professionals of Canada): Pardon me, I'm very allergic to fluorescent lights. I was told the lighting in here would be halogen, which is not true. So I will do my best here.

With this bill, you are going to drive us so far underground and make us work under such difficult conditions, with many more people working within those more dangerous conditions, that violence is bound to escalate. There is no question. It is not theory; it is not hypothesis. We are going to start getting killed; there is no question about that.

That was from Cathy, a witness at a parliamentary committee on Bill C-49, also known as the communicating law, on October 22, 1985. I was also one of the witnesses that day. We told you then what would happen, and you said, "Thank you very much", and went ahead and passed the bill.

On December 20, 2013, the Supreme Court of Canada struck down one-third of the communicating law and one-tenth of the procuring law and the bawdy house law. It did so on the basis that the old laws compromised not only our health and safety, but were found on evidence to cause catastrophic harm. So why would this government not only reintroduce the old laws, but go even further and write new sections that will make our occupation even more dangerous than the old regime made it?

Bill C-36 is not rationally connected to the Supreme Court's reasoning in *Canada v. Bedford*. The laws regulating the sex trade are important, not only in an obvious way for what they prohibit but also for the conditions they create and their influence on how sex workers are perceived. When it is any other group, other than sex workers, people intuitively understand that there is a direct connection between what the law says about a group of people and how individuals of that group are treated by others.

When Russia passed laws to squelch the gay rights movement in June, 2013, no one was surprised to hear of a rise in gay-bashing cases, or that those protesting the laws—not the bashers—were jailed. When Uganda passed a law that included life imprisonment for homosexual acts and Nigeria banned same-sex unions and began arresting those suspected of being gay, we were not shocked to hear of beatings, torture, and murders.

We know that criminalizing homosexuality leads to increased violence against homosexuals. It should be equally obvious that criminalizing sex work increases violence against sex workers. That is one of the reasons why decriminalization is so important to us. Laws don't only reflect society, they shape both attitudes and how activities are conducted. Social purity laws are particularly problematic. Think about the prohibition of alcohol in the U.S. in the 1920s. People didn't react by saying, "Okay, I guess I'll never have another glass of wine". Instead, they found ways around the law. Prohibition enriched organized crime, kept the police busy, added risks that weren't there before, and criminalized the actions of a significant percentage of the population. The laws shaped the way the activity was carried out. What it didn't do was achieve its stated aims. Of course, this will be the effect of Bill C-36.

Our clients have been called horrible names lately: perverts, pathetic, predators. But think who our clients really are. They are not

the Robert Picktons or the Gary Ridgways of this world. They do not arrive on a shuttle from Mars at sundown. They are men who, for many different reasons, buy our services, and I must stress, "our services". They do not buy us. Our clients are your fathers, your brothers, your uncles, and yes, your colleagues.

• (1000)

The spectre of parading them in front of the media and courts for the entertainment value of shame and humiliation is irresistible to those of the finger-pointing persuasion. But these are revenge laws, and revenge laws have no place in a just society.

When you tell society that we are criminals, that you want to legislate us out of existence, predators will take you up on the offer. We all know about the Robert Picktons and the Gary Ridgways of this world. Gary Ridgway, the Green River murderer, said:

...I hate most prostitutes and I did not want to pay them for sex. I also picked prostitutes as [my] victims because they were easy to pick up without being noticed. I knew they would not be reported missing right away and might never be reported missing.

Ridgway was convicted of murdering 49 of my colleagues, but later confessed to murdering almost double that number. Bad laws serve us up on a silver platter to sexual predators.

Most people, whether pro or con, aren't happy with Bill C-36. SPOC's advice is to scrap the bill in its entirety. After all, as Justice Minister Peter MacKay said in his statement released on December 20, 2013:

A number of other Criminal Code provisions remain in place to protect those engaged in prostitution and other vulnerable persons, and to address the negative effects prostitution has on communities.

On that, and on that alone, we agree with Minister MacKay. There are a plethora of other Criminal Code provisions that specifically address extortion, coercion, procuring, assault, forcible confinement, human trafficking, and about 14 different laws protecting against the exploitation of minors.

SPOC's position is to let the laws that the Supreme Court struck down—

• (1005)

The Chair: Ms. Scott, could you come to a conclusion? You're way over time.

Ms. Valerie Scott: One sentence...?

The Chair: Yes.

Ms. Valerie Scott: SPOC's position is to let the laws that the Supreme Court struck down expire, and that consensual adult sex work should be governed by employment and labour laws.

Thank you.

The Chair: Thank you very much for that presentation from the Sex Professionals of Canada.

Next is the York Regional Police, and the chief is here with us.

Chief, the floor is yours.

Chief Eric Jolliffe (Chief of Police, Office of the Chief Police, York Regional Police): Thank you.

Let me begin by thanking each of you, members of the standing committee, for having us appear today regarding Bill C-36, the protection of communities and exploited persons act.

We appreciate the government's efforts to abolish prostitution and prostitution-related activities while taking a victim-focused approach. I am joined today by a detective from our vice team who is considered one of the foremost experts in the extraction of young women and children who are sexually exploited and trafficked for the purposes of prostitution. For the past six years he has been dedicated to investigating domestic human trafficking. Due to the nature of his duties as an investigator, he will appear in camera today. If asked, his experience and observations will help explain what happens in the field from an investigator's perspective.

As chief of York Regional Police, an organization that polices a diverse community of over 1.1 million people, I am proud to say that we have been recognized as a leader in combatting and preventing domestic human trafficking from occurring, bringing perpetrators to justice, and protecting and extracting sexually exploited women, children, and marginalized individuals from all walks of life. Over the past four years York Regional Police has rescued over 100 victims trafficked and involved in prostitution, who are mostly found to be under 21 years of age. More recently, our vice team has laid 12 counts of human trafficking and over 80 pimping-related charges in the first five months of this year.

In many cases, the women and children are forced into the sex trade through violence, threats of violence, coercion, and trickery. We consider these women and children to be victims of crime and we are committed to investigating all incidents relating to sexual exploitation and human trafficking and providing assistance to these victims.

Our experience leads us to believe that prostitution is exploitive, degrading, and inherently dangerous to those who sell sex. We are thankful for the opportunity to provide our input on such an important bill. We have asked the government to develop a made-in-Canada model, which gives police officers the necessary enforcement tools, is tough on pimps and johns, provides supports for victims of exploitation, and does not legalize an industry that is inherently dangerous.

It is our view that Bill C-36 accomplishes most of these goals. Specifically, we support the government's approach to abolish prostitution, prosecute those involved in the exploitation of others, provide support to those who are victimized, and reduce the negative impact to communities.

We are also in support of the tough sentences proposed for those who would exploit marginalized women and children. In the absence of new prostitution legislation, our ability to protect victims and vulnerable individuals, particularly women and children, would be impacted.

I would like to emphasize the connection between prostitution and human trafficking. Sexual exploitation almost always occurs among victims of human trafficking. While human trafficking legislation exists, human trafficking can be difficult to identify until trust and cooperation is established with victims. For this reason, human trafficking and prostitution investigations often go hand in hand.

A 2014 York Regional Police initiative resulted in the arrest of 10 men for human trafficking in relation to the sexual exploitation of a number of women and girls, 40% of whom were under 18 years of age. Although we did not initially have grounds to lay human trafficking charges, we were able to rely upon prostitution-related offences to separate these men from their victims. This gave us the opportunity to gain the trust of the victims, eliciting comprehensive statements to form the basis of human trafficking charges, as well as connecting those victims to support agencies.

• (1010)

You see, without the Criminal Code tools we would not be able to suss out the would-be victims and create the distance between the victims and the abuser. This is time consuming and often takes several attempts to gain the trust and confidence to help victims escape their abusers, not dissimilar to domestic violence.

Within the confines of a bawdy house or while under the control of pimps, victims are often afraid to ask officers for help. It is important to have the tools to separate victims from their exploiters, including the offences of receiving a material benefit for sexual services and procuring.

Generally during prostitution investigations, police in Canada recognize prostitutes as victims and vulnerable individuals. Certainly, York Regional Police has taken a victim-focused approach. It is important to stress that we do not seek to criminalize women in the sex trade. In the past five years, York Regional Police has not laid one single charge against a woman in the sex trade.

In our experience, many prostitutes enter prostitution unwillingly, and most enter while they are in their mid-teens. Similar to the 2014 initiative that I mentioned, during a two-week initiative in December 2013, York Regional Police investigators identified 31 young sex trade workers who were previously unknown to police. Of those 31, nearly 30% were under the age of 18, and the average age of entry into the sex trade was 14.8 years of age. Investigators were able to assist all of those under 18 in getting home to a safe place for Christmas. Without sustained help and support, however, it is our concern that most of these young women and girls are at risk of returning to the trade in a short time.

Adequate funding for support services will be essential. Once victims are extracted from the sex trade, they need exit strategies including access to programs and funding, which can assist not only with short-term accommodation and transportation needs, but also with underlying problems of substance abuse, mental illness, and the trauma of sexual abuse or exploitation.

Through our investigations, we have noted that many sex trade workers come out of the business penniless and with significant personal challenges including addictions. Our investigators have advised of incidents in which victims handed over thousands of dollars in cash to their pimps only to flee with nothing.

We commend the allocation of \$20 million in funding as an important first step, and hope that the government will undertake an analysis of what additional funding may be needed in light of the input it receives from stakeholders.

Once Bill C-36 is implemented, it is our hope that this legislation and related funding will continue to provide law enforcement with the tools of intervention to extract victims from immediate dangers and connect them to victim services and support agencies.

York Regional Police supports the legislative changes in Bill C-36 to reduce victimization with the objective of the abolition of an inherently harmful and exploitative business.

We look forward to continued participation during the implementation of Bill C-36.

Thank you.

•(1015)

The Chair: Thank you, Chief Jolliffe. Thank you for that presentation.

Our next and final presenter for this panel is coming to us via video conference.

Professor Ekberg—I hope I said that correctly—is a professor of law.

The floor is yours.

Ms. Gunilla Ekberg (Lawyer, University of Glasgow School of Law, As an Individual): Good morning to you, and good afternoon from Copenhagen.

I am, in fact, not a professor of law yet. I am a Canadian lawyer and I've worked on prostitution and human trafficking issues since the late 1980s in a number of countries.

First, I would like to thank the committee for the invitation to present at this hearing, and especially for all the effort you put in to allowing me to participate via video link from Copenhagen.

What I will do today is comment on certain aspects of Bill C-36. That doesn't mean that I fully endorse, or not, other aspects of the bill that I'm not mentioning.

As the committee may be aware, I was a special adviser to the Swedish government for six years and I was charged with the development and implementation of legal and policy matters and intervention in relation to prostitution and human trafficking, on what is often called “the Swedish approach”.

The Swedish approach is firmly steeped in principles of gender equality, human rights, etc., and has also inspired other countries, as you well know, in Scandinavia, in the European Union and beyond, where communities are working to shift the culture of the idea that prostitution is inevitable toward the understanding that prostitution is

something through which individuals in a society should not have to be exploited.

Please ask questions about the Swedish approach during question time. I would be happy to discuss some of the issues that were raised earlier during this meeting.

Let me go directly to Bill C-36. I want to first comment on the preamble.

First of all, I will say I'm happy to see that the government is taking action, for the first time in Canadian legal history, to comprehensively address the root cause of prostitution: those who create the demand, those prostitution buyers, those men who are involved as purchasers. I'm also happy that they have intended to target those who profit financially and materially from the exploitation of mainly women in prostitution.

To ensure effective application of any comprehensive legal framework that aims to prevent and tackle prostitution, it is essential, as we did very clearly in Sweden, to state which values and principles such laws are informed by and rest upon, as the government has attempted to do, at least partly, in the preamble of the bill. What is not visible in this preamble is that prostitution is a gender-specific violation. The majority of the victims are female and the majority of the perpetrators—buyers, pimps and traffickers—are men. We also know that in Canada aboriginal women and girls are highly represented in both indoor and street prostitution. This needs to be reflected.

I recommend that the preamble also include a paragraph that recognizes the international human rights obligations that Canada has under the Convention on the Elimination of All Forms of Discrimination against Women, for example, and also under article 9.5 of the Palermo protocol, which obligates countries to criminalize or discourage the demand for prostitution purposes.

Communication for the purpose to provide a sexual service troubles me deeply, as it does, I think, everyone who is responding to the call to comment on this bill. It is most troubling for me to note that the government decided, despite plenty of evidence provided by survivors of prostitution and human trafficking, academic and community researchers, women's anti-violence organizations, law enforcement, today's witnesses, and some provinces, as to the multiple detrimental effects of criminal or administrative sanctions on those who are exploited in prostitution. Not only are they discriminatory but they are contrary to the human rights obligations that Canada has signed on to.

I believe that instead of facing criminal charges and potential involvement in the criminal justice system, like any other victim of a crime, victims in prostitution should be accorded all the rights and protection available through federal and provincial victim bills of rights, and they should be encompassed and amended in Bill C-36.

•(1020)

I want to underline that in no legal system, no matter what measures are taken, should those who are involved in prostitution be apprehended, fined, prosecuted, and jailed for something that is a crime committed against them, and not by them. So I urge the government to reconsider and remove this offence from Bill C-36.

If the government still wants to ensure that prostitution doesn't exist in public places and close to children, should that be an important aim, the best way to do that is not targeting the victim but targeting those who create the demand for men who buy sexual services. We know that from Sweden. It is an effective way of discouraging men from taking part in purchasing sexual services in the first place. I'm encouraged to see that the government has decided to put into place legislation or an offence that criminalizes the buyers.

I do have some comments on this particular offence. I will give some and the rest will come in writing.

First of all, I want to contradict studies that are going to be presented and have been presented to the committee, which underline that men who purchase women and men for prostitution purposes are benign and have a real interest in the victim's safety and protection. We know very well from the large body of academic and community-based research, and also from direct comments made by men who purchase women on websites that are located in Canada....

In the case of my research I had looked closely at the big websites in the Netherlands, called hookers.nl, where men post the most horrific comments about the women they purchase. I've also been involved in interviewing buyers in Lebanon, where we also can see that—just as in all of the other countries where men have purchased sexual services—they talk about the benefits derived from controlling women in prostitution.

To increase applicability, you need to ensure that attempts are criminalized. Otherwise, you will not be able to intervene until a violation has been committed. You need to increase the scale of the crimes, which is in the very low level, to reflect the seriousness of the crime. A breach of those provisions should mean a criminal record that cannot be rescinded even if they participate in so-called john school. As well, as has been done in Norway, the provision should be extended extraterritorially so that the Canadian resident who attempts to purchase a sexual service outside of Canada can be prosecuted in the country.

Key to an effective policy strategy to prevent prostitution offences is to ensure that individuals, groups, or legal persons are not able to recruit, harbour, or materially benefit from the prostitution of somebody else. It was recognized very early in the international community that there is a close link between the existence of legal brothels and other legal or illegal prostitution-related activities in a country, and the attraction for pimps and traffickers to bring women to those markets, and also for the men who purchase to actually show up in those markets. This has been soundly confirmed, both in the practical applications of 16 years of work that we've done in Sweden, but also through academic research, and importantly, evaluation and court cases that have been taking place recently in Germany and Netherlands, where they conclude that their system is attractive to those who facilitate and sell women for prostitution purposes. So instead of repealing the prostitution...[Inaudible—Editor]...as the Supreme Court proposed, they need to be reformed, strengthened, etc.

I also think that it's interesting to testify at the same time as the Adult Entertainment Association, because one aspect of the Canadian legal framework that is not federal, but is closely related

in practice and effects to the actions that we are discussing today, is the municipal licensing system of strip clubs, body-rub parlours, escort services, etc. The existence of such venues, I argue, has a direct impact on the scale and extent of prostitution-related activities and human trafficking into and within Canada, and of course, the creation of victims both in Canada and in other countries.

● (1025)

We also know that the opposite is true. If you enforce vigorously criminal provisions against the whole chain of perpetrators—buyers, pimps, and traffickers—we also see that traffickers and pimps will not establish themselves in the country or in that particular community. That has also been recognized by those countries in Europe that have a legal or decriminalized system.

I am not going to say anything about the advertisement provision right now, although I generally approve of it. But there are problems of jurisdictional aspects that I will leave. These are discussed in my paper.

When I testified to another committee in the Canadian Parliament in 2007, I suggested that the government should appoint an independent national rapporteur on trafficking in human beings who would have the mandate to investigate, monitor, and analyze the state and scale of prostitution and trafficking, but also all measures—legal and policy—to see whether they are consistent with the charter and with international human rights.

In conclusion, in a democratic society in which we strive for gender equality and equal treatment of everyone, no matter their background, we must include the right to live free from violence and exploitation, including exploitation through prostitution, no matter where that exploitation takes place, whether it is indoors, on streets, or wherever.

I urge the committee and in turn the government to resist the dramatic promotion of and the resulting normalization of arguments about prostitution as individual choice or legitimate and empowering work, in the Canadian public debate put forward by what is called in international human rights theory the “pro-violation constituency”, meaning organizations, individuals, etc., who, when their interests are threatened, lobby for and consent to policies associated with human rights and norms violations.

In the case of prostitution in Canada, such pro-violation constituencies are often or may be composed of individuals, groups, and organizations that directly or indirectly aim either to increase their exploitative access to those victims—and in the case of Canada and other countries, that is usually groups of men who want to have better access to women and young men through prostitution—in order to continue the exploitation. We have those groups in Canada. We have evidence that this is exactly what they're doing.

The other aspect and the other pro-violation constituency is of course those who derive a financial or material benefit from the exploitation of those who are drawn into prostitution, as is indicated, for example, in the Netherlands—the business associations that want to expand their empires and make more profits.

I think it is long overdue in Canada that we identify prostitution and human trafficking as intimately linked and understand them as serious forms of violence and systemic human rights violations.

It's time to act responsibly, ethically, and decisively by criminalizing those who exploit, those who benefit, and ensuring that those who are victims and exploited in the prostitution industry do not suffer any criminal or administrative penalties.

Thank you.

The Chair: Thank you very much for that presentation.

Now we will go to the question-and-answer portion of our meeting.

Our first questioner, from the New Democratic Party, is Madame Boivin.

• (1030)

[Translation]

Ms. Françoise Boivin (Gatineau, NDP): Thank you, Mr. Chair. I am going to try to keep my sentences short and specific.

I want to thank the witnesses for joining us this morning. It's always useful to hear a variety of opinions on a subject as complex as this one.

[English]

I was very interested in your testimony, Ms. Ekberg.

[Translation]

As the expression goes, your ears must have been ringing. If you only knew how many emails I received about your appearance before the committee. Some came from people who agreed with your position and others, not so much. Fortunately, I have a very open mind. A lot of what you said is similar to what other witnesses have told us, but I am still paying close attention.

[English]

I want to also say to you, Ms. Grant, that I felt for your daughter. It must be the worst thing ever to not know what happened exactly, to not have that finality. I was talking about Shannon and Maisy from Maniwaki yesterday. It's the same type of situation, in which you don't know forever for sure. It's hell for a parent, I'm sure. I can't fathom the way you must feel, but we know what you're going through. Thank you for sharing your story.

My first question, though, is for Chief Jolliffe.

If I heard correctly, you're saying to us that it has been years since you have filed any criminal charges against sex workers. Do I understand you correctly?

Chief Eric Jolliffe: That is correct, in the last five years we have not charged one.

Ms. Françoise Boivin: Excellent.

What I'm interested to know from you is, with the Criminal Code as it is right now versus Bill C-36 as the government wants it, what would be different? What exact new clause from Bill C-36 will make it so that you can do your work better maybe or that you couldn't do prior? You couldn't criminalize clients before? You couldn't go after human trafficking before? What are we to understand exactly from your testimony?

Chief Eric Jolliffe: Well, let me say that we always are looking for tools to help suss out those who have been victimized. Any

opportunity the government can provide to law enforcement to be able to do our job, try to do our job easier, under huge financial constraints sometimes for us to do our business....

Some additional things here that this Bill C-36 gives us include the commodification of sexual activity, which goes after johns and—

Ms. Françoise Boivin: So you couldn't go after johns before, is that what you're saying to me?

Chief Eric Jolliffe: Well, one thing for us, when the Supreme Court had come up with their final decision, we began to focus much more of our attention on the pimp. This allows us—

Ms. Françoise Boivin: I'm trying to understand. You haven't gone after the prostitutes in the last five years, and you're talking about the Bedford decision in December 2013 and that now you can focus more on the johns. So who did you focus on?

Chief Eric Jolliffe: The job is complex. We are trying to inculcate ourselves into this business to determine, basically, if people are being exploited. This takes an enormous amount of time and we need tools to be able to make this happen.

Material benefit, for example, is important for us to see. The advertising business is helpful for us also, to give us the grounds or the ability, once we think that we are onto something, to be able to separate parties.

Ms. Françoise Boivin: Can you explain to me how this bill is going to help your job? I'm not setting you up. I just want to know actually what new part of the advertisement.... Is it the link to Bill C-13, that fact that you'll be able to obtain some *mandat de surveiller*? What is it? What tool exactly is helping you out, from your understanding of the bill?

Chief Eric Jolliffe: We have many laws in the Criminal Code. When it deals with investigating prostitution and human trafficking matters many of the offences that are in the code right now I would consider as reactive tools. An assault has occurred, we get called to deal with the matter. Some of these additional items here—

• (1035)

Ms. Françoise Boivin: Like what...? That's what I'm trying to see.

Chief Eric Jolliffe: We have commodification of sexual activity, presumption of financial benefit, procuring, and advertising. We're able to look at each of those things in their individual subset and determine if there are activities going on around that.

Ms. Françoise Boivin: You couldn't do that before?

Chief Eric Jolliffe: We could do that before, but this gives us some more authorities to continue on.

Ms. Françoise Boivin: In what aspect...?

Chief Eric Jolliffe: It just provides us with the further tools to do the job.

Ms. Françoise Boivin: Okay, I'll take this as the answer.

The ladies from the Sex Professionals of Canada—I think it was Ms. Lebovitch who talked about this—we hear a lot about the Nordic model. We heard a bit from other groups that it was the New Zealand model. What the hell is the New Zealand model? I meant, “the heck”, I'm sorry.

Ms. Amy Lebovitch: It's a model that supports sex workers' rights under labour and health regulations. It would allow sex workers to work together. It affords sex workers the same rights as other workers.

Ms. Françoise Boivin: Does the New Zealand model condone sexual assault, people who are not consensual? Are there other laws that surround it?

Ms. Amy Lebovitch: No. In fact, despite what we have been hearing, trafficking and prostitution are not the same thing. New Zealand is a tier one country, the highest, I'm told, as far as combatting trafficking is concerned.

Ms. Françoise Boivin: When you say prostitution is not trafficking, you will agree, though, that sometimes prostitution can be part of trafficking.

Ms. Amy Lebovitch: I don't know if I understand the question.

I guess what I'm saying is that prostitution is not a violent activity. There can be things that—

Ms. Françoise Boivin: I meant it could be included. It's not equating, but there are cases, just to be fair.

Ms. Amy Lebovitch: Yes.

Ms. Françoise Boivin: My last question, really quickly, is for the Adult Entertainment Association. How do you define this? I'm still trying to find out what “sexual services” means in this bill. Nobody is really defining it for me. The minister couldn't. How do you perceive it in the Adult Entertainment Association? Does it cover your business?

Mr. Tim Lambrinos: No.

What we have defined as “sexual services” was created by a lawyer called Theresa Simone—and it's not the Bill Clinton definition of sex. If you want me to say the terms I know, it would be actual or simulated intercourse, oral intercourse, masturbation, urination, defecation, and torture in the context of a sexual activity. There's a long list of very poignant, detailed things, and it defines sexual activity.

My statement to you, Madame Boivin, was that it's ambiguous. It always has been a grey area in terms of the advertising. They don't advertise for any of that. They use codes. Sometimes they use acronyms. The legislation, itself, does not even define what that may be, and there's a grey area. Does it mean the Bill Clinton definition, for example? It could mean that. So it needs to be defined, for one thing.

The Chair: Thank you very much for those questions and answers.

Our next questioner is Mr. Wilks, from the Conservative Party.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you very much, Mr. Chair.

I thank the witnesses for being here today.

Before I start I just want to thank Ms. Grant for being here today. It's a difficult position that you're in, and I hope your daughter comes home.

I also wanted to say that having been involved in police work for some time and having been involved with next of kin, I wouldn't wish that on anyone in this room. It's a terrible thing.

One of the ones I was involved with was Angela Jardine, who was one of the victims of Willie Pickton. Her parents still live in my home town of Sparwood, British Columbia. They still struggle to this day, but they have closure. So it is a challenge.

Chief Jolliffe, I want to ask you a few questions with regard to police procedure and some of the questions my colleague Ms. Boivin was asking.

Part of the sections in the code as they exist today, specific to subsection 213(1), the “Offence in relation to prostitution”, as it's stated, “Definition of 'public place’”, provides the police with opportunity to deal with those on the street in many different ways.

Certainly the police have at their disposal a word called “discretion”, which they use more often than not. I would suggest from your testimony, in which you said that you have not charged anyone in the last five years under section 213, that your officers have used a lot of discretion. I wonder if you could explain to us, from the perspective of police work, the discretion that is used and how it is used.

● (1040)

Chief Eric Jolliffe: Thank you.

Police officers do have the discretion to lay charges. Although that discretion is not absolute, we do have the ability to decide, based on factors, if we wish to move forward with arrest and charge or not. In this particular case, we use the power of sections in the Criminal Code to inculcate ourselves into what's going on and to extricate individuals who are involved in the trade to be able to have this conversation about what is going on, if they are comfortable in what they are doing, whether they are doing it of their free will, and so on. What that does is to lead us to what we see as more important things. It leads us to pimps. It leads us to the human trafficking charges that are far more important for us to get to.

Based on that process, we will choose to use discretion to gain the trust and confidence of workers so they feel comfortable enough speaking to us and sharing what is really going on in their lives, so we have the ability to extract if required or at least point them in a direction for treatment or services.

Mr. David Wilks: I wonder if we could go along that same line with regard to the services that are available, not only to those you deal with but also to the police. From the perspective of discretion, police officers utilize a lot of services that are made available to them, not only for people who fall under section 213 but for others as well.

I wonder if you could speak to some of the services that are available to police.

Chief Eric Jolliffe: I can tell you that in our business we can't do it alone, so we have partnered with many social service agencies to help us, for us to have the ability to point individuals in a different direction. Some of those partners have spoken here before to this committee, and we value their ability to partner with us and their ability to educate us on what goes on in the industry so that we can offer supports to those we see as victimized.

Mr. David Wilks: I wonder if we could now change focus. There are some we have heard witness from who have asked, "Why don't we just let the laws fall on December 20?" and then we'll move forward from there. Could you give us an understanding from a police perspective of the laws falling on December 20 of this year versus Bill C-36? From the perspective of the police, if the laws fall, what can or cannot the police do versus with Bill C-36?

Chief Eric Jolliffe: We would lose the procuring piece. We would lose the communicating piece. For us, we need these tools to be able to find out what's going on in this business. As I said, we're always trying to find out if individuals have been victimized and without those tools we don't have the ability to intercede, ask those questions, nor help those individuals who desperately need the help.

•(1045)

Mr. David Wilks: You mentioned also in your testimony the tools that fall under the Criminal Code of Canada to allow police to assist them in investigations. You also spoke of how long it takes to formulate the grounds and then the evidence to proceed with charges under human trafficking, and that sometimes you use other tools in the Criminal Code, such as sections 213, 212, 210 to move forward in that investigation.

I have a twofold question, through you, Mr. Chair, to Mr. Jolliffe. What would you say is the average time of investigation for a human trafficking charge, from the time you start to the time a charge is laid? What other tools do you use to try to get there?

It is important for people to understand that this doesn't happen overnight.

Chief Eric Jolliffe: No, you're absolutely right. For us to suss out an individual who we think is exploited sometimes takes weeks and sometimes takes months. For us to engage ourselves in what an individual may be up to and in our ability to build trust and confidence—which is so important for us, so that someone feels comfortable coming forward to share what is actually going on in their life—we can work files for days, for weeks, for months. We have a dedicated staff of seven in this particular area, and every day of the week they are out in our community trying to disrupt the whole human trafficking piece.

As I said, in the last four years we have extricated nearly 100 young folks from this industry who we didn't know existed until we put the energy in and put the resources to it to find out what actually is going on here.

Mr. David Wilks: Thank you very much.

The Chair: Thank you for those questions and answers.

Our next questioner, from the Liberal Party, is Mr. Casey.

Mr. Sean Casey (Charlottetown, Lib.): Thank you, Mr. Chair.

Chief Jolliffe, I want to follow up on a couple of things that you were asked already and a couple of things that you've said.

One thing you said is that your department has not availed itself of the power you have under section 213 to charge any sex workers in the last five years. But when you were asked by Mr. Wilks about what would happen if, on December 20, Bill C-36 wasn't passed, you said you would be concerned that you would lose the communicating piece. You said that the communicating piece is one that you don't use, but you're concerned about losing it.

Can you explain that to me?

Chief Eric Jolliffe: That's the tool piece; that's what opens the door for us. We use the section in the code to give us the authorities to interject ourselves into a process and then determine where it will take us. In most cases, it takes us on a much lengthier route whereby we start to find out that the individual is not acting on their own accord. What it does for us is provide the opening of the door for us to get in and begin an investigation of something of a much bigger magnitude.

Mr. Sean Casey: Does that mean that you use section 213 for the purposes of apprehending a sex worker, whom you then attempt to extricate with the possibility of a charge under section 213 hanging over that person's head, but that you never actually deliver on what is hanging over that person's head? Is that what you mean by having it as a tool that you never actually use?

•(1050)

Chief Eric Jolliffe: As I said, we have never charged a prostitute under that particular section of the code. We use it as a tool to help us get to much bigger things.

Mr. Sean Casey: Section 213 of the code carries with it a maximum sanction of a \$5,000 fine and six months in jail. Is that correct?

Chief Eric Jolliffe: It's a summary conviction offence, as written in Bill C-36.

Mr. Sean Casey: As a summary conviction offence, it carries with it a maximum sanction of a fine of \$5,000 and six months in jail. Is that correct?

You're nodding your head; that isn't picked up by recording. Is that a yes?

Chief Eric Jolliffe: Yes.

Mr. Sean Casey: Okay.

So if someone were applying for a job and the job application asked, "Have you ever been convicted of a criminal offence for which you have not received a pardon?" or in the new language "a record suspension", and someone has been charged—and I realize you haven't done it in five years—and convicted under section 213, they can't rightfully answer no to that question on a job application form, can they?

Chief Eric Jolliffe: No.

Mr. Sean Casey: Thank you.

Professor Ekberg, thank you for your testimony.

I'm interested in your comments with respect to the communication provisions. I hope I'm not incorrectly paraphrasing what you said, but if I understand it, you think that the communications provisions, which are being retained after a successful challenge, are bad policy. Would that be fair?

Ms. Gunilla Ekberg: If you're referring to the communication offence that is related to those who are exploited in prostitution, if that is retained that would make bad policy, yes. But it would also have serious direct effects on the victims, obviously.

Mr. Sean Casey: Thank you. I appreciate your comment that it's bad policy, and that was exactly what I was driving at.

Do you have an opinion as to the constitutionality?

Ms. Gunilla Ekberg: I'm sorry, I didn't catch that.

Mr. Sean Casey: Do you have an opinion as to the constitutionality of the retention of the public communication provisions in Bill C-36?

Ms. Gunilla Ekberg: As for the communication provision that relates to selling a sexual service, as it is phrased in the bill, I would argue that it is unconstitutional because it targets those who are victims of, first of all, a human rights violation but also a crime.

I think it would specifically be unconstitutional in terms of section 15 on a gender equality basis—so the equality based on sex—but also under other provisions, which I think the courts outlined to some extent in the decision.

Mr. Sean Casey: Thank you.

You referenced the absence in the preamble of any reference to the uniquely vulnerable position in which first nations find themselves. I'd be interested to hear a little more from you on that.

If there was reference to that in the preamble, how do you expect that might change the effect of Bill C-36 and how it is interpreted and applied by the courts?

Ms. Gunilla Ekberg: If I look at our experience in Sweden, first, it was incredibly important to us, when we created the Swedish approach and then implemented it, that what we did was based firmly on principles. In our case we looked at gender equality, international human rights, and anti-discrimination or non-discrimination policies. Those are inscribed, it being a different legal system in Sweden, in the travaux, and underline the legislation that we passed when it comes to criminalizing the buyers.

In this particular bill the government has outlined certain principles as to why they decided to go the way they decided. What is lacking is a general reference to international human rights and obligations under that, which include looking specifically at the discrimination of aboriginal peoples in Canada and other places.

My approach to this is that there should be references specifically to the CEDAW convention, to the general international instruments that say that prostitution is an affront to the dignity and human worth of the person, and I think Canada could take a step forward and also make a reference to the Declaration on the Rights of Indigenous Peoples. It's not binding, but it does state a commitment to specifically take into consideration the particular repression and discrimination that aboriginal people suffer in Canada, specifically women and girls. So yes, it should be included, definitely.

• (1055)

Mr. Sean Casey: Thank you.

While on the subject of international obligations, I expect you're probably aware that the Parliamentary Assembly of the Council of Europe has passed a resolution calling on countries, including Canada, to include certain things as they deal with prostitution. One of the things the Council of Europe has called on Canada to do is to make specific efforts with respect to research and data collection.

What you may not know is that the research budget within the Department of Justice has been cut because it doesn't align with the government's objectives, and there is nothing in this bill that talks about it. There is no reference to it in the \$20-million allocation.

What is your opinion on that?

Ms. Gunilla Ekberg: Again, just as an aside, I am a Canadian citizen and I have lived in Canada for many years so I'm quite aware of the system.

I think if we want to take a comprehensive approach to the prevention and tackling of prostitution, it needs to include aspects of, for example, training of police, research, impact assessments of all provisions, not just the ones that we're discussing now, other policies, etc., any evaluation potentially of whatever will be in place at the end of this process.

Having worked close to those who make decisions in the government, I don't believe in Sweden as in Canada that it's about lacking money. I think it is about equal distribution of funds. There needs to be a decision made making this work a political priority, as we did in Sweden, where the government took a specific decision to integrate the work based on gender equality into the gender equality strategies that are a cross-party parliamentary strategy accepted by everyone.

In that there are, of course, the measures that also need—

The Chair: Ms. Ekberg, thank you very much. Thank you for those questions and answers.

Our next questioner is Mr. Dechert from the Conservative Party.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair, and thank you to our guests.

Ms. Grant, I just want to join with my colleagues in expressing my wishes that your daughter comes home soon safe and well, and thank you for sharing your story with us.

I want to start with Mr. Lambrinos. First of all, thank you for the kind offer for the site tour later today. I regret that I will not be able to join you this evening.

Earlier you introduced me to some of your members, I believe the owners of some of those clubs that you have invited us to view today, the gentlemen sitting here in the room. Do you want to introduce them to the committee?

Mr. Tim Lambrinos: Correct. Mr. Doug Pettit is from the NuDen. Earl Bentivoglio is from the Barefax, and Remi is a manager at the Barefax in Ottawa downtown.

Mr. Bob Dechert: Very good. Welcome to you all.

As I understand it, Mr. Lambrinos, the concern of the Adult Entertainment Industry Association is the definition of sexual services in Bill C-36. You're concerned that the types of activities that go on in your members' clubs might fall under that definition. Is that correct? Is that your concern?

Mr. Tim Lambrinos: That's not the concern.

Mr. Bob Dechert: Okay. Is that a concern?

Mr. Tim Lambrinos: No. What it is, and I appreciate Madame Boivin asking the question earlier. These types of activities are prohibited in adult entertainment clubs. They do not occur, and in terms of—

Mr. Bob Dechert: So nothing that you or the average Canadian would understand as being a sexual service goes on in any of the clubs that any of your members operate?

Mr. Tim Lambrinos: I'm not saying that it never happened. I'm not saying that, sir, at all, but it is a prohibited activity. It happens no more or no less than anywhere else.

What the definition was created for was defined to ensure there was no ambiguity in place. I'll tell you, Mr. Dechert, that part of the reason is not only the education that we have, not only the rapport that we have, but it's the physical setup within the area that if you were able to attend you could see that the private dance area is an open access area. It's not behind a closed door like it would be in a massage parlour.

Mr. Dechert, just one thing, the problem is that in the massage parlours where they advertise with all these acronyms, they are behind locked doors. They are behind.... There are very limited language capabilities, etc.

• (1100)

Mr. Bob Dechert: And none of those massage parlours belong to your association, correct? None of those massage parlours are members of your association?

Mr. Tim Lambrinos: No, they are not.

Mr. Bob Dechert: You don't represent them?

Mr. Tim Lambrinos: No, we do not, sir.

Mr. Bob Dechert: I understand. So you're not really concerned that Bill C-36 will affect your members. You said earlier that the laws that were struck down under Bedford didn't affect you in any way.

Mr. Tim Lambrinos: No, and I point out, Mr. Dechert, that there had not been a single licensed adult entertainment club charged in the last five years with any of the struck-down laws, so we know we're doing a good job.

Mr. Bob Dechert: So under the old law, under the new law, there really isn't a problem. Your owners should be able to carry on business in the normal course as they do today.

Mr. Tim Lambrinos: However, I wanted to point out.... You're right with the advertising because we need to be proactive about things too.

These places that actively engage in sex acts—even the chief of York will affirm to this—that are advertising for it with their acronyms are creating a negative impact on our performers, on our entertainers as well, because they realize customers can go over there

and get more bang for their buck, but meanwhile a lap dance is not intercourse. Then there's pressure put on, so they have been a nuisance to our industry.

Mr. Bob Dechert: So your concern is that the massage parlours and the advertising they do infringes on the legitimate business that your members are carrying on?

Mr. Tim Lambrinos: Correct. These types of places, Mr. Dechert, cannot live by word of mouth advertising alone, and it's because they have been getting away with this ambiguity.

My point was that there are good intentions perhaps. However, you don't even define what the word sexual activity is, and there are no tools in place for the chief to implement. They have all these things now as many members pointed out. There are pages upon pages of—

Mr. Bob Dechert: Those are all for massage parlours, are they? None of your clients...?

Mr. Tim Lambrinos: No, they do not advertise in here.

Mr. Bob Dechert: Okay. All right.

Mr. Tim Lambrinos: The paper called them “adult entertainment”, but in my view it's not entertainment. How is this entertainment? There's nobody watching a show—

Mr. Bob Dechert: Fair enough.

Is your concern that the advertisement provisions might somehow negatively impact the businesses of your clients?

Mr. Tim Lambrinos: It's already been pointed out, Mr. Dechert, by your colleague that somehow the licensed adult entertainment clubs are connected into the advertising, and they are not.

Mr. Bob Dechert: Well, we have heard some stories from some of the women who have testified before the committee this week that they were trafficked into strip clubs—I don't know whether they were members of your association, but into certain places in Canada—and that there was some linkage between the two. But that was just the testimony of the—

Mr. Tim Lambrinos: I'd like to answer that.

Mr. Bob Dechert: That is just the testimony of these dancers.

Mr. Tim Lambrinos: But was anybody charged in those cases? I hear anecdotal evidence too. Was anybody charged? Those are wild allegations, strong statements.

Mr. Bob Dechert: Sure, they are.

I don't know the answer to that question. I'm simply saying to you that this is what we heard.

Mr. Tim Lambrinos: Right, and I would be leery about it.

Mr. Bob Dechert: Let me ask you one more question. Time is short, and I want to move on to Ms. Scott and Ms. Lebovitch.

You mentioned the words....

Well, let me ask you, are you a lawyer?

Mr. Tim Lambrinos: No, sir.

Mr. Bob Dechert: Okay, so you're not a lawyer. But you mentioned the words “malicious intent” and “liable”.

Mr. Tim Lambrinos: Yes, sir.

Mr. Bob Dechert: Have you done any research into those terms? Do you have any legal training?

Mr. Tim Lambrinos: Sir, I didn't mean it to be a legal opinion.

Mr. Bob Dechert: All right; that's fair enough. Then we'll leave it there.

Mr. Tim Lambrinos: If I can expand on it, though—

Mr. Bob Dechert: No, it's all right. I just wanted to find out whether you had studied it as a person learned in the law, and your answer—

Mr. Tim Lambrinos: No, but I would like to answer. It's called the rule of law.

Mr. Bob Dechert: I'm sorry, we're out of time, and I want to move on to Ms. Scott.

Mr. Tim Lambrinos: Yes, sir.

Mr. Bob Dechert: Ms. Scott, you mentioned in your opening statement that you think that Parliament should just let the laws expire—

Ms. Valerie Scott: Yes.

Mr. Bob Dechert: —that it should let the laws that were struck down by the Supreme Court fall, and that what would apply simply thereafter would be employment and labour law. Is that correct?

Ms. Valerie Scott: Yes. I believe the Supreme Court struck, and for a very good reason—25,000 pages worth of reasons, really—

Mr. Bob Dechert: Okay.

I'm sure you're familiar with the Bedford decision and Chief Justice McLachlin's statements and comments in her decision.

I'll just read one point to you. She said:

This reflects a policy choice on Parliament's part. Parliament is not precluded from imposing limits on where and how prostitution may be conducted, as long as it does so in a way that does not infringe the constitutional rights of prostitutes.

What is she referring to, in terms of—?

Ms. Valerie Scott: What is Chief Justice McLachlin referring to?

Mr. Bob Dechert: Yes, what is she referring to? I specifically want you to focus on the words “imposing limits on where and how prostitution may be conducted”. You say we can just let it fall away, but she's saying that Parliament has the right to impose “limits on where and how prostitution may be conducted”. What do you think she's referring to in that phrase?

• (1105)

Ms. Valerie Scott: What do I think...?

Mr. Bob Dechert: What do you think Chief Justice McLachlin is referring to?

Ms. Valerie Scott: She did mention that, “if it so chooses”—and obviously you do so choose. It's not a necessary thing for you to do. But I think it's extremely important to scrap this bill in its entirety, and if you're going to do this, come at it from a different approach.

Mr. Bob Dechert: Fair enough; I take your point.

Ms. Valerie Scott: Bring sex workers to the table, but for real. The sex workers were not consulted.

Mr. Bob Dechert: But what do you think Parliament's role is in regulating and imposing limits on where and how prostitution may

be conducted? She said Parliament has the right to do that. Do you agree or disagree with her?

Ms. Valerie Scott: Do I agree with the statement?

Mr. Bob Dechert: Yes. Do you agree with the Chief Justice's statement that Parliament has the right to impose limits on prostitution?

Ms. Valerie Scott: Yes, it does have the right to do so.

Mr. Bob Dechert: Do you think she's right?

Ms. Valerie Scott: I agree that it has the right to do so—

Mr. Bob Dechert: All right. So let me ask you the next question.

Ms. Valerie Scott: —but it must do so in a way that doesn't start killing us all over again.

Mr. Bob Dechert: I understand, and that's there, and we read that.

The next question, though is: what is the federal jurisdiction that you would see the government using to comply with her statement that Parliament has the right to impose such limits?

You mentioned labour law; you mentioned employment law; others have mentioned zoning law. None of those are in the jurisdiction of the federal Government of Canada.

Ms. Valerie Scott: That's right.

Mr. Bob Dechert: So why did Chief Justice McLachlin say that Parliament has the right to impose limits?

Ms. Valerie Scott: Well, it does so already. There are many laws on the books that deal with sex work and the exploitation of it.

For example, as I opened with, we only challenged one-tenth of the avails law. There's quite a list, almost like a catalogue, of other offences.

Mr. Bob Dechert: Those weren't struck down, so that's not what she was referring to.

Ms. Valerie Scott: I beg your pardon? That's what I'm referring to.

Mr. Bob Dechert: That's not what she struck down, so that's not what she was referring to.

Okay, thank you, Mr. Chair.

The Chair: Your time is up. Thank you very much. Thank you for those questions and answers.

Our next questioner is from the New Democratic Party, Mr. Jacob. [Translation]

Mr. Pierre Jacob (Brome—Missisquoi, NDP): Thank you, Mr. Chair.

I want to thank our witnesses for being here today.

Like my colleagues, I have a lot of compassion for you, Ms. Grant, and what you've been through.

My first question is for Mr. Jolliffe.

In your opening statement, you talked about substance abuse. Right now, are the mental health and substance abuse services available to prostitutes and vulnerable women adequate in your region, as well as across the province and around the country?

[English]

Chief Eric Jolliffe: I would suggest that they're not totally sufficient and that there needs to be more opportunity for folks to avail themselves of the services that are needed to support those with addictions and mental health problems. We see that in our industry every day of the week.

[Translation]

Mr. Pierre Jacob: Thank you, Mr. Jolliffe.

You also discussed the \$20-million investment the government plans to make over 5 years. Do you think spending \$20 million over a period of 5 years, for the entire country, demonstrates that the government is serious about doing something?

[English]

Chief Eric Jolliffe: I'm looking from a positive perspective here at the fact that it's a start. I'm not sure, quite frankly, if it is enough. That's why I said in my comments that it's a good start. I think that once there's some further evaluation of the possible usage, then one would have a better idea what would be probably the most appropriate dollar value to put to that.

[Translation]

Mr. Pierre Jacob: Thank you, Mr. Jolliffe.

My next question is for Ms. Scott and Ms. Lebovitch.

What I gather from your remarks is that Bill C-36 is very flawed, because it doesn't satisfy the criteria set out by the Supreme Court in Bedford and that it won't make women any safer.

My question is this. How relevant would affordable housing and poverty reduction measures be in terms of helping sex workers get out of prostitution?

•(1110)

[English]

Ms. Amy Lebovitch: She's having trouble hearing. The question was around how poverty and affordable housing will allow for sex workers to leave the business.

I think that addressing poverty and affordable housing should be what we should do for everyone in Canada. It's an issue that a lot of Canadians face.

If I can just say, in regard to New Zealand, there are, in place in the model, occupational health and safety guidelines and provisions against exploitation. It's right in the New Zealand model, against youth and sex work, around business licensing, but not individual licensing for sex workers. So I just wanted to add that in.

But I think poverty and affordable housing is something that we all need to address for all Canadians.

Ms. Valerie Scott: I agree. I don't think that any one particular group should be singled out. I think Canada could really do a better job on that, in my opinion.

[Translation]

Mr. Pierre Jacob: Very well.

You mentioned the New Zealand model. What direct repercussions will Bill C-36 have on your day-to-day life?

[English]

Ms. Amy Lebovitch: He is talking about how Bill C-36 will impact sex workers' lives. I sort of mentioned in my talk that for those working on the street, when you target our clients it puts us in danger. We see that in Vancouver and we see that where it has been done. It's a way of pushing us further away from our communities, away from the services that we need.

As I mentioned, clients are paranoid of the police and will go into areas that are out of the way, and that's where we have to go, right?

For indoor workers...very concerned about the advertising. We see in the U.S. that sites are closing down. We're not able to advertise. Then again, for indoors, our clients are targeted.

In Sweden we see that they get information on the clients by going to areas where sex workers are working out of their homes or hotels, and they watch those hotels to see when clients are coming. So we are afraid of that.

Ms. Valerie Scott: As in any business, we go where our clients are. When you force us into dark, industrial zones, as what happened in Vancouver—and those were also known as Robert Pickton's killing fields—this will happen to us here again with this bill. I can see it.

I am also old enough to know how this works when you have this kind of criminalization. The way brothels used to work prior to the 1978 Hutt decision, the mob pretty much ran things unless you were lucky enough to live in Halifax, where Ada McCallum, a well-known madam, ran several satellite brothels throughout Halifax and Dartmouth. Working with Ada was okay.

But in Toronto and Montreal and Vancouver, brothels were primarily owned by guys with muscle who could pay the police off, and word of mouth is how the advertising had to be.

So we need to go where the clients go and you end up working up in one of those brothels, very underground.

•(1115)

The Chair: Thank you for those questions and for the answers from the witnesses.

Our next questioner is Monsieur Goguen, from the Conservative Party.

Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC): Thank you, Mr. Chair.

Thank you to all the witnesses for your testimony. It's certainly very diverse and it will be helpful in our deliberations.

Of course, Mrs. Grant, as the other members said, certainly the best of luck in rejoining your beloved daughter.

I want to address my questions to Mrs. Ekberg. Your testimony has been long awaited, as the author of the Nordic model, of course. As you know, Bill C-36 has taken a number of the elements from the Nordic model, particularly targeting the pimps and the johns in the criminalization.

I trust that as the author of this model you've followed its results on the prostitution industry afterwards in Sweden?

Ms. Gunilla Ekberg: Sorry, but I didn't hear the last part. You trust that...?

Mr. Robert Goguen: I said that I trust you followed the results of what the Nordic model has done in Sweden after it was implemented.

Ms. Gunilla Ekberg: That's right.

In 2008 a special inquiry was put in place, chaired by the Chancellor of Justice, looking at the effects.

Mr. Robert Goguen: May I ask you a couple of specific questions because we're short of time? I want to focus on a couple of things. I know you've studied it.

What effect did the Nordic model have once it was implemented on prostitution? Was there an increase, a decrease in prostitution? Was there an increase, a decrease in human trafficking? What results did it have and on what do you base those statements?

Ms. Gunilla Ekberg: The inquiry did a comparative study between Sweden, Norway, and Denmark. At the time, Norway did not have the provisions that criminalized the buyers; nor had they the more comprehensive approach that Sweden took. In Denmark, the approach is to not implement the legislation, which is still on the books, so it's a tolerance model.

What they concluded, on all the questions you asked me, was that the number of individuals in prostitution had dramatically gone down, in particular in comparison with countries that did not have our approach. Specifically, the country that had the largest number of victims was Denmark, as a percentage of their population, because of the fact that they have.... If I look out the window here, I see night clubs, and in reality, in Denmark there is a very viable prostitution industry, which we do not have in Sweden.

The national rapporteur on trafficking, which we've had since 1998, concluded a long time ago, and the special inquiry concurred with her conclusions, that having legislation and vigorously enforcing it against both the prostitution buyers, the pimps, and the traffickers, makes a country less attractive.

This was doubted by German and Dutch police, but they have recently, in the last two years, turned to the Swedish police to ask how we managed to keep the involvement of organized crime down, whereas in Germany and the Netherlands there is now, I would say, a catastrophic situation. Just this Monday, the appeal court in the province of Utrecht affirmed a decision to close down the whole prostitution district of Utrecht's 143 brothels because of organized crime involvement. So whereas we have a diminution of numbers in the country, in the other countries it is going up. That is based on facts, not hollow arguments.

Mr. Robert Goguen: In summary, it has greatly diminished the level of prostitution and human trafficking as a result of its

implementation; that is what I take the succinct answer to be. Is that correct?

Ms. Gunilla Ekberg: That's correct. But I also want to say that in the 16 years that we've been doing this, we have not been able, of course, to eliminate prostitution and human trafficking completely. Also, I want to add—

I'm sorry...?

Mr. Robert Goguen: That's fair enough.

What about the issue of violence? There was always a question about the level of violence. Some of the witnesses here have said that targeting the johns will drive the prostitutes further underground and make their profession more dangerous.

Was there an increase in the amount of violence with prostitutes as a result of the implementation of the Nordic model? Did you see any result whatsoever, good, bad, or otherwise, from the point of view of violence?

Ms. Gunilla Ekberg: Let me look at both the underground and violence. First of all, "underground" is not a place. It's impossible for prostitution to go underground. In order for buyers to be in contact with those they want to purchase in prostitution, there needs to be a communication.

That can be through advertisements; it can be online; it can be in the newspapers, as was shown by the Adult Entertainment Association of Canada. There are different methods of making contact. As much as the buyers can get in contact with the women or the men who are in prostitution, so can the police, and the Swedish police have spent the past many years doing investigations online on websites that advertise the sale of women and their purchase by men in Sweden.

Mr. Robert Goguen: And violence...?

Ms. Gunilla Ekberg: Violence was also included in the special inquiry. But also, if you talk with women who have experience in prostitution in Sweden who are not related to the prostitution industry, they will tell you that the prostitution industry as such is a very violent place to be, and there is no correlation between the lesser number of men and increased violence, because men who are violent.... The prostitution act is a violent act in itself—the use of women, sexual violence—but there is also no guarantee that those who have stopped buying are less violent than those who are in the industry.

The special inquiry had consultations with women and men with experience in prostitution, who clearly declined.... I'd be happy to give you a copy of the document, if you would like to read it yourself.

• (1120)

The Chair: Thank you very much. Thank you for those questions and answers.

Our next questioner, from the New Democratic Party, is Madame Péclet.

[*Translation*]

Ms. Ève Péclet (La Pointe-de-l'Île, NDP): Thank you, Mr. Chair.

Thank you to all the witnesses for their remarks. I am going to proceed quickly, because, as you know, we don't have much time.

My first question is for Ms. Ekberg.

I think it's important to point out that the Nordic model should actually be referred to as the Swedish model. Finland, Denmark and a number of other countries in northern Europe haven't adopted the exact same model as Sweden.

Sweden opted for a model that criminalizes the individual procuring the sexual services. It's important to keep in mind, however, that, along with the legislative component, Sweden also adopted an array of very significant social measures. This type of model is doomed to fail if authorities lack the resources needed to help victims get out of their situations, as claimed.

I'd like you to comment on two things. First, we're considering a bill that deviates from the so-called Nordic model because it still criminalizes women. That's what you talked about in your opening statement. Second, the government isn't introducing any social measures to complement the bill, as Sweden did when it passed its legislation in 1999.

Can all the figures being discussed here really be applied to the context of Bill C-36? I have my doubts.

[English]

Ms. Gunilla Ekberg: It is true that Sweden has a more comprehensive approach than other countries, mainly because our focus on this started 10 years before the other two countries in Scandinavia that have done it. But if you look at other countries in Europe that are now considering having a similar system, which is actually not a criminalization system because women are not criminalized, and that's key to us, but the perpetrators are, and so they should be....

If you look at the French bill that is now pending in the senate, and this is a bigger country than Canada with a lot of social problems and financial and economic budgetary difficulties that are, I would argue, bigger than here, they have still decided that they're going to pass legislation very similar to ours with social measures, etc.

I think the model is applicable everywhere, but as I said in the response to one of your colleagues, it is necessary to make the implementation of such a model a political priority. That political priority should, as you rightly pointed out, also include measures that ensure that victims have access to viable exit programs, but also long term.

• (1125)

Ms. Ève Pécelet: Can I just ask you a quick question before I move on? Would you still support the bill in its entirety if it still criminalizes women?

Ms. Gunilla Ekberg: As I told you before, I don't support the bill in its entirety because I disapprove deeply of the criminalization of those who are victims in prostitution. I think that is unconstitutional and contrary to any gender equality or human rights measures. I do, however, support an amended bill that would be accompanied with access to services, funding, etc.

Also, I just want to say that we start somewhere, and then we change things as we go along.

Ms. Ève Pécelet: Okay. Thank you very much.

[Translation]

Before I get to my next question, I'd like to read an excerpt from the minister's presentation. This is directed to Mr. Lambrinos.

[English]

So the Minister clearly said:

Bill C-36 also seeks to continue to denounce and prohibit the exploitation of prostitutes by others, by third parties, commonly known as pimping. This includes the institutionalization of prostitution through commercial enterprise, such as strip clubs, massage parlours, and escort agencies in which prostitution often takes place. All of these capitalize on the demand created by purchasers.

So what do you have to answer to that?

Mr. Tim Lambrinos: That was the concern I was trying to bring up with Mr. Dechert as well. I don't know what data the minister is trying to quote from, but it is erroneous.

The licensed adult entertainment clubs currently, the entertainers who work there, should not be in the same category. The reason is—and it's from a market demand perspective—that 75% of customers who go into a licensed venue, which I invite you to, Madam Pécelet, as well tonight, go into the establishment but do not get a private dance.

They're there for three reasons. One is to socialize. These are party atmospheres as well. Socializing for the entertainers is very important. Two is to simply relax, and three is to watch something. Only 25% would get a private dance.

We know that the number of actual intercourse or sex acts that would happen in private dance is minimal because of the number of charges. Plus, the types of women who work as entertainers currently are students. There's an increasing number of students working there who can make their money lap dancing and don't have to be prostitutes, do intercourse, etc. So we know the demand is not there. We know we do an adequate job, a very good job. We actually work together in educating the workforce where *sexe est interdit*, as well. So we know it's a good opportunity.

It was unfair of the minister to group the licensed adult entertainment clubs in the category. It's unfair for them to group the women who work in the same category. If you look at the newspapers...and it is a bit of ignorance that this was done. The newspapers call it "adult entertainment", and licensed adult entertainment clubs are strip clubs.

This whole business about a massage parlour... It's nothing more than a grey area. We know what a massage is. What organ, what part of their body are they massaging? We know—

The Chair: Thank you for those questions and answers. I think you made your point. Thank you very much, everyone.

Our last questioner, for two minutes, is Mr. Dechert from the Conservative Party.

Mr. Bob Dechert: Thank you, Mr. Chair. I'll be brief.

Ms. Lebovitch, it's nice to see you again. We met earlier in the year. Thanks for being here today.

I'm looking at paragraphs 11 and 12 of Chief Justice McLachlin's decision in Bedford, where she describes your situation, your experience.

• (1130)

Ms. Amy Lebovitch: I don't have it in front of me.

Mr. Bob Dechert: She said that you had worked in the past with an escort agency, as an employee of an escort agency. You had worked on the street and you had worked in your own private indoor location.

In paragraph 12 she says, "Presently, Ms. Lebovitch primarily works independently out of her home". She went on to say that one of your fears is that you might be charged with being found in a common bawdy house under the laws that were struck down and therefore might actually lose your home. Bill C-36 provides an exception for you. You don't have a concern about losing your home.

She then went on to say that you were concerned your partner might be charged with living off the avails of prostitution and obviously suffer criminal consequences. Bill C-36 allows specifically an exemption for partners and legitimate live-in arrangements, so that concern is dealt with.

Finally, she said that you were concerned that if you went out on the street, it would be inherently much more dangerous. But if you could carry on the business indoors from your own private location, where you could properly screen your clients, then you would be safer. Bill C-36, to that extent, I think—

Ms. Amy Lebovitch: No, not that last point actually. No.

Mr. Bob Dechert: It does address, at least, those issues set out in paragraphs 11 and 12 of Chief Justice McLachlin's decision.

Ms. Amy Lebovitch: I can't screen my clients.

Mr. Bob Dechert: But she talks about the things that you were concerned about. Did she leave something out of her description?

The Chair: Ask your question.

Ms. Amy Lebovitch: I don't really understand the—

Mr. Bob Dechert: I'm simply trying to point out that I think those were addressed by Bill C-36. The things that Chief Justice McLachlin said you were concerned about are specifically addressed.

Ms. Amy Lebovitch: Could you let me speak for a second?

Mr. Bob Dechert: Sure.

Ms. Amy Lebovitch: Are you asking a question or making a statement?

Mr. Bob Dechert: I'm trying to make the case so that people understand, people in the larger audience understand, Ms. Lebovitch, that my interpretation, my reading of Chief Justice McLachlin's decision is that she stated what your concerns were. The government read those concerns and addressed them in Bill C-36.

Ms. Amy Lebovitch: No, you did not.

Mr. Bob Dechert: Okay.

Ms. Amy Lebovitch: Okay.

How you didn't was that I cannot screen my clients. You are criminalizing my clients. The cops are going to be.... How do you think the cops find clients? It's going to be from the places that I work, out of the places that I work.

The Chair: Thank you very much.

Thank you to our witnesses today for their first meeting this morning on this discussion of Bill C-36. I want to thank you for taking the time and providing your views.

We'll be going in camera for a half-hour period.

To our friends from the Adult Entertainment Association, thank you for the invitation, but I don't think you'll have much of a crowd tonight, from this table anyway. But you never know.

With that, we will suspend while we go in camera.

Thank you for joining us.

[Pursuant to a motion passed by the committee, the following proceedings are now public]

• (1135)

The Chair: As you see, from the York Regional Police, Thai Truong is here with us. He is a detective of the drug and vice squad.

I'll give you a few minutes to make an opening statement, and then there will be questions for you.

Detective Thai Truong (Drugs and Vice, York Regional Police): Thank you, sir.

I want to say thank you to Mr. Chair and the committee for letting me speak today. I've been a police officer for 13 years. The last nine years I've been attached to organized crime. Within the last six years, I have been tasked with being a supervisor in the vice unit. The primary mandate of our unit is the sexual exploitation of women and girls, and essentially all human trafficking cases in York region.

The sexual exploitation of Canadians is happening each and every day. Their backgrounds vary. Some are more vulnerable than others, but I've seen victims from all walks of life. One common characteristic is the age at which they begin selling their bodies. In two recent operations by York Regional Police, we found that the average age of entry into prostitution was less than 15 years old.

Once under the control of a pimp, it's nearly impossible for a victim to walk away. Pimps are abusive. They are manipulative. They control with violence, sometimes drugs, and the harshest forms of coercion. They spin a web of lies around their victims, to the point where these girls cease to believe they have anyone to rely on or run to. Families, friends, law enforcement, and all those looking to give a helping hand become an enemy who cannot be trusted or understand their oppression. The psychological trap is complete and inescapable.

Participation in the world of prostitution is very rarely a choice. It is a desperate act by individuals who have been victimized by pimps, addiction, or mental illness, and sometimes a potent combination of all three.

I am not talking about women who are independent sex workers and claim that it is their profession. These are not the women I am talking about. I'm not talking about those survivors who have been fortunate enough to exit the sex trade. I'm talking about the women and girls who don't have a voice, the ones who are not public and not speaking out. They are the ones our police services try to find, who are in total isolation and truly need help.

If we are lucky enough to find these women and girls, they typically deny that they need help, even though obvious bruises, injuries, and wounds are seen. I see this on a daily basis. These are the ones I am talking about. I am not talking about any of the other perspectives and views. I'm talking about the victims we find every single day who don't fit into these categories. These are the girls I'm talking about. These are the ones we're mandated to rescue.

I'll give you a typical example of a human trafficking victim. When you see a human trafficking victim, first of all, if you're lucky enough to identify that this is a human trafficking victim, they are not going to say, "please help me". They are not going to say, "come rescue me". In normal criminal offences—I'll use that term loosely—if I'm a victim, say of a robbery, a gun is to my head, I'm working at a gas station, and somebody robs me, I'm going to call the police when they leave. The gun is to my head, "Don't call the police, or you're going to be killed". I'm going to be terrified, generally speaking, but I'm going to call the police. I need help and I need to report this.

Human trafficking victims will not call the police. As a matter of fact, we will respond and they will deny it. These are the girls I'm talking about, the ones who are completely isolated and trapped.

There is no question that this is a complex topic. There are many ideas on what to include in Canada's new laws. Some argue for complete legalization of prostitution. They say it's the world's oldest profession and we shouldn't waste time trying to control it.

I say that a society that allows the purchase or sale of the human body is a broken one. The ripple effect this could have on the future of our girls, boys, and society is unimaginable.

Others say that by raising awareness about prostitution and its harms, providing exit strategies for prostitutes, criminalizing the purchase of sex but decriminalizing its sale, prostitutes will voluntarily walk away from their pimps if they are given options. That is not going to work on the women and the girls we are looking for.

Many of these women who entered or were recruited into prostitution due to addiction, abuse, and violence will not overcome this type of victimization. Pimps won't go away, and therefore choosing to leave is not an option. I am not talking about the victims that you have heard about, the pro-legalization, the independent sex workers. I'm not talking about them. I'm talking about the ones who you haven't heard from, the ones who we deal with, and the ones who need our help but do not tell us. They are trapped.

•(1140)

The women trapped in lives of sexual exploitation need many things from us. They need exit programs. They need counsellors, professional help, and they need ongoing empathy, support and respect, much like what this bill is proposing. But before any of that,

they need rescue. Best intentions won't heal the bruises left by pimps. We need to separate prostitutes from their abusers and end their isolation. The only way we can do that is if police have the power to intervene. Again, I'm talking about the victims who don't have a voice, the ones who are trapped.

In the past year I've spoken to many community groups about this very issue. There's always a concerned or helpless parent who approaches me about their daughter or a family member. At the end of each conversation they always ask me what tools I need to rescue these girls. The simple answer for me is this. I need time. I need the legal tool and the legal right to take a young woman away from her pimp and enable a serious conversation with that vulnerable young woman—not arrest her, not charge her or put her in jail. But under Bill C-36 that's going to be challenging for me to do. Some of the tools are challenging. Pimps will mask themselves as personal bodyguards and continue to exploit women and girls right in front of police officers.

For the sake of the people trapped in this life, I'm asking this committee to consider this when addressing Bill C-36. Again, I am talking about the victims who don't have a voice and have yet to be heard.

There are some very good things with respect to this bill. There are some things I'm asking the committee to consider. I'm here on behalf of the chief and our organization. I'm also here on the front line, telling you exactly what we deal with on a day-to-day basis and subject to any questions.

•(1145)

The Chair: Thank you, Detective.

We'll try to do five minutes per party. Our first questioner is Madam Boivin.

Ms. Françoise Boivin: Thank you so much for your testimony. Thank you for the job that you do every day. On that point, I'm pretty sure it's unanimous that nobody wants to see human trafficking happening or exploitation of women or girls or boys or men, or anybody, any human being.

I'm trying to understand your job as it is right now. I don't know if you heard my questions to your chief, but I'm trying to see what you see in Bill C-36 that gives you tools that will make your job easier. Like you said, people might disguise themselves as bodyguards. I'm not sure that by the passing of Bill C-36 suddenly your job will become easier.

What do you see that I don't necessarily see in Bill C-36—and maybe pinpoint it to me—that is not yet there? In view of the sections in the Criminal Code on human trafficking that are already there, and those on sexual exploitation and dealing with sexual exploitation against minors, and so on, that are already there, what tools do you see in Bill C-36 that you don't have already?

Det Thai Truong: First of all, this topic, as the chair and the committee know, is a hot topic. There are so many different perspectives. Again, when I speak, it's speaking directly from the voices that are trapped. From my view, when I talk about the human trafficking crime, you can't disassociate prostitution from human trafficking. Every single case of our human trafficking cases has been the commercial sexual exploitation of women and girls except one. One was similar, but involved labour. This is York Regional Police. With York Regional Police, amongst all the police services, with respect to human trafficking cases, we are definitely one of the most aggressive police services out there.

With Bill C-36, in the previous laws that were struck down, the living on the avails of prostitution was the tool that we utilized. It's a very important tool because it criminalized everybody around the victim. With our victims, when we come in contact with a human trafficking victim, especially in the hotel rooms, you can see—and I'll give you a real example—a black eye and her eye swollen. I can come in contact with her, I know she is working in the sex trade, and I can say, I'm a police officer. This is who I am. Listen, I want to help you. Let's talk about some strategies, what we can do to help you. I'm not here to criminalize you. I'm concerned about your well-being. I'm concerned about your eye.

Ms. Françoise Boivin: But your chief said that's pretty much how you operated for the last five years. You didn't criminalize the—

Det Thai Truong: We don't—

• (1150)

Ms. Françoise Boivin: You could do it at that point in time. You said it was difficult to get them to go after, so now what additional tools—

Det Thai Truong: I'll explain. Let's say under the old regime she says, "Get away from me, police officer. You're harassing me. I'm doing this on my own volition. Nobody is exploiting me. That bruise you see? I fell." But prior to my coming to talk to her, I may already know that she's a sex worker, that this is how she's operating, and that the individuals around her are exploiting her. She can tell me to get lost, but under the old regime, when that pimp shows up and I form the grounds that he is living on the avails of her prostitution, I can separate her. He can't come up to me and say, "Get lost, police officer. I'm her bodyguard. We're doing everything legal. She's working on her own volition. She doesn't have to talk to you. Get lost."

Under the new regime, there will some issues with that—i.e., that they'll mask themselves as security bodyguards and that she will go. Under the old regime, I could say, "You know what? I'm not leaving. You're coming with me. He's under arrest for living on the avails of prostitution." I could separate them. I could tell her, "Listen, I don't want to criminalize you in any way, but I need time to talk to you."

The discretion that we used was time, because you cannot try to help a girl in 10 minutes. You need a good solid one or two hours to sit down, explain the situation, and offer resources. If she accepts it, great. We've been very successful in that extraction and accepting.

Ms. Françoise Boivin: I'm trying to understand you here. Sorry, maybe I'm not quick or it's lost in translation, but are you telling me that the old regime worked better than the new regime because now they'll be able to disguise themselves in different ways?

Det Thai Truong: I'm telling you that, honestly, from the operational perspective, the old regime for that specific charge was good for us. It allowed us to extract these girls. When they chose to walk away, they couldn't because they had to listen to us. As the chief spoke about, we have not ever charged a girl for communicating for the purpose of prostitution. We used that—because the grounds were there—to keep her. If we didn't have that, she'd walk away and we couldn't help her.

I can tell you that we've been very successful with the victims we've come across. We speak to them, we deal with them, and we're still dealing with them today in their healing process. They thank us for that, because all the exit strategies are there for them.

In an ideal world, they can walk and they can exit, but they can't. The pimp is exploiting them.

The Chair: Thank you for that, Detective.

Our next questioner is Mr. Wilks from the Conservative Party.

Mr. David Wilks: Thank you.

Thanks, Detective. We share a little bit of a common bond. I did three years of UC, so I clearly understand where you're coming from. I clearly understand the frustrations. I never did human trafficking UC; mine was in drugs. Having said that, there are similarities, and I believe you would agree.

From the perspective of tools for the police, we utilize the Criminal Code from time to time as a tool, not as a hammer but as a tool. It's used more often than not by police officers because it allows them to leverage what they need to leverage from time to time. One thing you mentioned is that you will come across a victim of human trafficking vis-à-vis prostitution in a hotel room; you'll be speaking to him or her, mostly her; and the tool you're able to utilize is subsection 213(1), which allows you to remove them from that, or at least speak to them. Is that correct?

Det Thai Truong: That was one of the tools, yes. The other tools were under the bawdy house provisions.

Mr. David Wilks: Correct.

As you're aware through *Bedford v. Canada*, with the ones that were struck down, now we're moving forward with regard to proposed subsection 213(1.1), which says that everyone is guilty of an offence punishable on summary conviction who communicates with any person—for the purpose of offering or providing sexual services for consideration—in a public place, or in any place open to public view, or is next to a place where persons under the age of 18 can reasonably be expected.

So under the new law, if you come across a person who you believe is a victim through human trafficking and through prostitution...because as you said, except for one, you have never met any. I want you to walk me through a normal conversation that you would have with a victim attempting to help them move to...and then provide us with information with regard to whom you use in the circle to assist them. There are agencies you use that would assist these women, that would give them information, that would provide them with an opportunity to have the ability to exit if they so choose. In most cases, as you said, they don't have a choice, but this would give them the information.

Can you walk me through an investigation?

Det Thai Truong: That's a very tough challenge, and I'll try to do it in generic terms.

Proactive extraction of human trafficking victims is something we teach at the Canadian Police College. There are no set rules because every single victim needs different resources, individual to them. Rapport is one of the things that the investigators I work with and I use. We have to have rapport with that girl or she is not going to say anything.

If we have rapport—

• (1155)

Mr. David Wilks: How do you gain that rapport?

Det Thai Truong: We speak to her. We let her know exactly what we do. There are a lot of misconceptions about police out there, so we explain to her exactly what we do. If she is listening, then we've made very good progress already. We try to extract information from her so we can make an assessment on what to say.

For some girls, it may be something as simple as telling them that we will help them get a job. Sometimes they are having trouble getting their high school transcripts, and we tell them that we can help. We walk with them and use our agencies, the people we rely upon. We're not going to just dump it on them. This is a whole approach. We are going to work with them, get that transcript, and go from there, on a step-by-step basis. We tell them that this is how they're going to exit.

If they give us their offender, trafficker—the pimp—that is a bonus for us. That is something we strive for, but the ultimate goal is to help this individual, this girl.

Mr. David Wilks: Under section 213 as it exists now vis-à-vis what it may look like after this legislation goes through the process, tell me the difference—213—from the perspective of speaking to the individual, as you do right now.... You have never charged anyone over the past five years. The conviction is the same. It's a summary conviction.

I would suspect that you will use the same tool that you do today. There is no difference.

Det Thai Truong: The difference is the exception, where the pimps themselves can mask as bodyguards. Now they can show up and say, "I'm her bodyguard. I'm security". They can have huge influence. While we're there and trying to have a one-on-one conversation away from the offender, the mere presence of him alone can cause some major fear in her. We need to get him out of there.

Mr. David Wilks: I'm trying to wrap my head around this, one UC to another. I know what I'd do. I'd put the guy up against the wall. I'd tell him to get the hell out of here right now or it ain't going to be pretty for him.

Det Thai Truong: I understand that, yes.

Mr. David Wilks: They normally understand that language very clearly, because it wouldn't be in that language.

The Chair: All right. Thank you very much.

Thank you for those questions and answers, Mr. Wilks and Detective Truong.

Finally, Mr. Casey, the floor is yours.

Mr. Sean Casey: Thank you.

Detective, a couple of the things you've said are that you're not here to ask for the right to arrest a sex worker, to charge a sex worker. You want the right to intervene, which I would equate to the right to detain.

You would know very well that the Charter of Rights and Freedoms imposes certain obligations on you, or alternatively certain rights on the person you seek to detain.

Another thing you said was that the old regime with respect to living on the avails was helpful to you in your work. You are undoubtedly aware that the old regime has been found to be contrary to the Charter of Rights and Freedoms.

It seems that what you want us to do, and what you would find quite helpful, runs afoul of the supreme law of the land. What you're asking us to do, in my view, is one of two things. You are either asking us to make a case for invoking the notwithstanding clause or to amend the charter. That's the only way I can see that we can give you what you are asking for.

Det Thai Truong: It is a hot topic on every perspective. No matter what perspective you come from, there is going to be consideration or feedback from other perspectives.

My perspective is coming from the victims we deal with. My perspective in the victim's perspective is: how are we protecting these victims who are not going to be walking away who are able to? How are we going to do that, because those victims we deal with don't have that right? That argument...and I understand that it was struck down by the Supreme Court, absolutely. I respect what the Supreme Court said with respect to the independent sex workers, but that doesn't apply to these girls who are being enslaved every single day. That doesn't apply to them.

It's something that I'm asking this committee to consider. I don't know what the answer is. I have no idea what the answer is, to be honest with you. I've talked to other investigators across the nation who I respect and we just don't know what the right answer is because there are so many different perspectives.

But our view, as police, as law enforcement, when we respond, if the girl is lucky enough to have a father or mother who cares to call us, is that we need the tools for this girl who is brainwashed and manipulated, so that she can't say, "You're harassing me, get lost. I'm doing everything legally and I'm leaving". All we need is time with her; that's all I need.

I just want to clear up.... I know it's a hot topic. I got some of the evidence of what happened earlier today and I missed the last half, but I know there is some confusion about criminal record and summary conviction offences. Can I just bring some clarity to that?

If I have a criminal record—a lengthy criminal record—and I am charged under section 213, and that's the only charge I am charged with and I am convicted, that will not appear on my criminal record.

The second scenario is that if I am charged with a straight summary conviction offence and in addition to that there is a drug offence or a breach, those are hybrid offences and now I'm going to be fingerprinted for all those offences. Now if I am convicted of a section 213 offence, it will show because there are fingerprints to match that conviction.

Does that provide clarification?

• (1200)

Mr. Sean Casey: If you have a conviction under section 213 and you apply for a job and on the job application, as many of them do, it asks “Have you ever been convicted of a criminal offence for which you have not been pardoned?”, how do you answer that question?

Det Thai Truong: To truthfully answer that question, it's yes, I have. But if the wording is “Do you have a criminal record?”, then no.

The Chair: Thank you.

Thank you, Detective.

That's the time. It's actually a little after noon.

We want to thank you for coming today.

Mr. Bob Dechert: May I ask a question about the process with respect to Detective Truong's testimony here? I know he's here in camera because I think the concern was that since he works as an undercover officer, he didn't want to see his face exposed.

But can we have his testimony on the public record—because I think it's very important—and all the questions and answers?

The Chair: The committee can decide whether they would like to have that published publicly, with his permission, of course.

So your face won't be on the publication. Your name is already public.

Det Thai Truong: I have no concern, Mr. Chair.

Mr. David Wilks: Mr. Chair, if I may, my concern was with regard to the public testimony from the perspective of Detective Truong and not so much myself. One of the comments I said was from “one UC to another”. I don't know if it's imperative to identify the detective as an undercover operator, but more so as a police officer.

Mr. Bob Dechert: So maybe that one phrase can be—

Mr. David Wilks: That's my only thing because I think—

Ms. Françoise Boivin: That's the reason that he is testifying in camera—

The Chair: Otherwise he could identify—

Ms. Françoise Boivin: So then we'll just keep it for us.

Mr. Bob Dechert: Let's ask the detective if he has a concern.

Det Thai Truong: If I can answer, Mr. Chair. It's well known. If you Google my name it's undercover everything. The only concern that I have is my face. You can post anything you want and I appreciate that. Thank you very much.

The Chair: We'll make your testimony public. I need a motion that the detective's—

Mr. Bob Dechert: I so move.

(Motion agreed to)

The Chair: Thank you very much.

We'll adjourn until one o'clock.

The meeting is adjourned.

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