

# **The Conditions of Area Restrictions in Canadian Cities: Street Sex Work and Access to Public Space**

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## **ABSTRACT**

“Area restriction” is the umbrella term used for this thesis to consider geography-based, individually- assigned orders issued by criminal justice agents to remove and restrict targets from particular city spaces. This research focuses on 13 Canadian cities that use arrest-and-release area restriction strategies to managing street sex work(ers). Despite heavy criticism for their punitive nature, area restrictions have received little academic attention. This project takes an exploratory and descriptive approach to the issue in order to develop a platform for future research. Using qualitative, non-experimental methods it also critically analyzes the implementation, logic and reported impacts of the strategies while drawing implications for how area restrictions relate to citizenship statuses of sex workers by mapping exclusions onto the city.

Multiple data sources were included but the most significant and compelling information comes from interviews with police officers and community agency workers. Findings suggest that area restriction strategies contribute to substantial social divides between sex workers and other community members, but also between sex workers and important services, resources and *their* community. At the same time, the strategy is reported as a “temporary relief” measure that is ineffective at lessening sex trade activity and often leads to displacement and dispersal of sex work(ers). However, collaborative efforts in some cities show promise for achieving goals of ‘helping sex workers off the street.’ Realistic recommendations for area restriction strategies are made that lead to more inclusive approaches that are considerate of needs and concerns of all interest groups linked to the “prostitution problem.”

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### **List of Acronyms**

**CIRC-** it was not confirmed exactly what this acronym stood for, but it was clear that it referred to a computer system used by police

**BRC-** Boundary Release Conditions

**CPS-** Calgary Police Service

**GSPS-** Greater Sudbury Police Service

**HOPE Outreach-** Helping Out People Exploited

**HRM-** Halifax Regional Municipality

**HRP-** Halifax Regional Police

**KART-** Kamloops Active Response Team

**MAN-** Morality, Alcohol and Narcotics section of the Service de Police de la Ville de Montréal

**OPS-** Ottawa Police Service

**RCMP-** Royal Canadian Mounted Police

**SJ-** Saint John

**SJPF-** Saint John Police Force

**SPVM-** Service de Police de la Ville de Montréal

**STAC-** Sex Trade Action Committee

## **CHAPTER 1- INTRODUCTION**

*“‘social relations must take place somewhere’ and that somewhere is always in a social space that is not neutral, not just [...] a void waiting to be filled by human actions”*  
(Zieleniec 2007, xiii).

As this quote identifies, spaces are forums in which social relations develop and are acted out under influence of larger social forces. In recent decades physical space has become an increasingly popular tool for law enforcement efforts around illicit street-level activity. Canada’s street sex trade is one of myriad targets for localized spatial regulation strategies, particularly through area restrictions issued at point of release from police custody. Area restriction strategies have been given a variety of nicknames by legal jurisdictions around the world and are diverse in the ways that they have been implemented.

“Area restrictions” is the umbrella term used throughout this thesis to consider geography-based, individually- assigned orders issued by criminal justice agents that function to restrict individuals from particular city spaces. These orders legally restrict or limit an individual’s access to a prescribed boundary within the city. As a topic of study they have not received sufficient critical attention in Canada or other nations, despite debates between proponents and opponents over their effectiveness and the impacts they have on the lives of their targets. Although they are not necessarily used specifically on street sex work(ers), this group is the focus of this study, which explores the ways area restriction strategies are used to regulate or manage the sex trade in Canadian cities.

I started examining this social phenomenon after learning about sex worker area restrictions from an organization in Halifax, NS. Further understanding of the type of area restrictions used in that municipality was gained through an informal telephone discussion with a Spokesperson for the Halifax Regional Police (HRP). A number of pre-inquiry

questions emerged and further investigation showed that area restrictions as a release condition for the range of illicit street-level activity was a topic that received little academic attention in Canada. Even with the widespread criticism from sex workers, their advocates, and service providers there is very little mention of the release condition strategy in academic scholarship.<sup>1</sup> I began researching similar policing strategies for the street sex trade in other Canadian cities and nations, which led to the formation of this thesis' research questions about the use of area restrictions.

With so little information available and so many questions being asked about area restrictions, this project adopted an exploratory and descriptive approach in order to create a foundation for future research initiatives. The researcher focused on area restrictions as release conditions from police custody because it is the earliest point at which these orders can be issued and was identified by critics as being particularly problematic compared to area restrictions issued at show cause court, sentencing or as probation conditions. I was motivated to generate a solid understanding of this regulation strategy and worked to include as many cities as possible in this project. The research questions guiding this thesis aimed to define the strategy and describe how it functioned as a control mechanism. The use of space as a tool was also an intriguing notion to the researcher. The second goal of this thesis was to apply theoretical considerations to this common practice so that the exclusionary geographies produced within urban spaces could be explored and implications could be drawn that reflect on social boundaries within the city as well as these legal ones.

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<sup>1</sup> Originally I had planned to evaluate the impacts of boundary release conditions on the lives and work of sex workers in the Halifax Regional Municipality. This project was developed over the first 10 months of my MA program, until the organization that I had been in contact with decided that they did not have the resources available during the time of study to facilitate such a project. After taking a month to review scholarship and discuss ideas with university and sex worker organization contacts, the current thesis project was developed.

With all of these objectives and the inclusion of multiple research sites, a qualitative multiple case study research design was used. This approach would allow the research to consider *what is happening* in the research sites while producing insight on *how* and *why* area restrictions developed in Canada and perspective on whether or not they have produced desirable results. Although this thesis cannot make causal claims about area restrictions and their impacts, a range of relevant issues and concerns are identified with a strong indication for the logic behind the strategy, their effectiveness, and critique of their approach.

### **Thesis Outline**

In Chapter 2- Literature Review, I provide context for this thesis by examining literature in three relevant bodies of scholarship. The first is focused on legislation and law enforcement around “prostitution” throughout Canada’s history so that trends in legal response are outlined. The second body of research considers theoretical work borrowed from human geography to develop a spatial understanding of issues studied in the social sciences and humanities. One such issue is the spatial regulation of the street sex trade. The most relevant concepts are briefly identified before discussing *inclusive* and *exclusionary* strategies that have been used on the street sex trade. Area restrictions are defined in these terms. The third body of literature reviews research on various types of area restrictions used on the street sex trade in other nations. The United States and United Kingdom both offer examples that seem very comparable to Canada’s current area restriction strategies; these are outlined. Canada’s recent history also offers a variety of spatial regulation attempts for the sex trade that seem to be the precursor to the current strategy. The literature reviewed in this chapter informs the theoretical framework developed for this project.

In Chapter 3- Theoretical Framework, I identify and thoroughly describe important concepts used to contextualize and/or analyze various aspects of area restriction strategies and the social and legal atmosphere from which they have developed. Relevant concepts are grouped into four areas: 1) The sex work as work perspective taken by this thesis. 2) Positioning the city as a hegemonically-ordered environment despite its heterogeneous population. Lefebvre's notions of the *oeuvre* and *production of space* help to develop this concept and recognize a stratification of citizenship according to hegemonic standards and access to space. 3) Social control mechanisms are identified as socially and legally regulating the street sex trade. Goffman, Hannem and Bruckert, and Pheterson's notions of stigma and a variety of sources on legal regulation are discussed as facilitating and communicating the stratified citizenship, and the particular categories of citizenship, offered to street sex workers. 4) Social and legal boundary erection have produced area restrictions, a tool that maps geographies of exclusion onto the city and makes the citizenship categories very real for individual sex workers according to access to city spaces. Simmel's theorizing on boundaries and Sibley's (1995) work on the boundary as a tool for exclusion are applied to this thesis. Together, these four pieces work to draw important implications for citizenship from the findings of this thesis.

In Chapter 4- Research Methodology, I outline the methodological procedures and considerations involved in this study. These include the *epistemological orientation* (Critical Realism), the *methods* (qualitative, non-experimental), *research design* (collective case study, data triangulation) and *data sources* used (primary and secondary documents, interviews from police services, community agencies, media articles, and scholarship), the *case study protocol* and the many levels of *research questions* that guided the research

process, and the *limitations* and difficulties experienced throughout this thesis. Data collection and the qualitative content analysis processes are also outlined.

In Chapter 5- Descriptive Findings: Area restrictions in the *Criminal Code* and the Research Sites, I provide legal context surrounding the enactment of area restrictions as a condition of release from police custody. This chapter also provides a summary of details around the implementation and use of area restrictions on the street sex trade in each of the 13 research sites. In Chapter 6- Comparative Findings and Analysis of Area Restriction Strategies used in Canadian Cities, I use data collected on each research site to compare and analyze the area restriction strategies identified by this thesis. These two findings chapters respond to the bulk of the research questions that guided this thesis.

In Chapter 7- Discussion and Conclusion, the literature review and theoretical framework are revisited to draw important implications of the research findings. Since this thesis was exploratory and descriptive, this chapter identifies future avenues of research that will contribute to knowledge on area restrictions, their use on the street sex trade and other criminalized populations, and spatial regulatory strategies in general. Considering the suggested impacts that area restrictions have on the street sex trade and its workers, I also make realistic recommendations for area restriction strategies, should they remain common practice.

## **CHAPTER 2- LITERATURE REVIEW**

This thesis contributes to the body of literature on the regulation of street sex work through law enforcement and the use of geographic space as a policing tool. Academic attention to spatial regulation of street sex work within a Canadian context is limited. It is particularly lacking in consideration given that area restrictions as arrest-and-release conditions target individual behaviour by controlling access to public space. This chapter reviews scholarship that informs and frames this thesis and its findings.

The first section provides a brief history of legislation and law enforcement of prostitution in Canada from pre-Confederation to present. I rely mostly on literature from the disciplines of sociology, women's studies, and criminology that focuses on the evolution and impacts of Canada's prostitution laws. The second section of this chapter considers the spatial regulation of street sex work. It outlines relevant theoretical contributions from human geography literature that are commonly applied to research on street sex work regulation. These ideas have influenced academic understanding of spatial regulation in nations where area restrictions are used. This section also reviews literature on various spatial regulation methods used on sex work. Both inclusive and exclusionary policing strategies are outlined and examples are used to illustrate how space is used as a tool to manage the trade. The third section reviews research that focuses on the use of different forms of area restrictions in Canada and other nations.

### **1. Historical Context**

Prostitution itself has never actually been a crime in Canada, but most activities associated with the trade have historically been and continue to be attacked by criminal law-

especially the outdoor trade. These laws make it very difficult for people to engage in sex work legally. This section provides the context for current legal response to *street sex work* in Canada by reviewing legislation and law enforcement; details related to indoor sex work are peripheral to this thesis.

### Legislation and Enforcement Pre-Confederation – Present

Prohibitions surrounding the act of taking money for sex are “developed in an *ad hoc* manner and reflect concerns that have arisen at different points in our history” (Dept. of Justice Canada 1989, 2). “General vagrancy statutes” were used pre-Confederation to remove “indigents” and “undesirables” from the streets (CACSW 1984, 7).<sup>2</sup> In 1839 “Lower Canada was the first [region] to enact a comprehensive statute dealing with prostitution” and in 1858 much of it was extended to the Province of Canada (CACSW 1984, 7).<sup>3</sup> “Common prostitutes or night walkers” found in fields, public streets or highways were vulnerable to police apprehension if they could not give a “satisfactory account” of themselves (7). In 1865 the Province of Canada passed the *Contagious Diseases Act* “to protect military men from venereal disease” (CACSW 1984, 8). “Diseased prostitutes” could be detained for up to three months in certified hospitals based on a sworn account that a prostitute with a venereal disease was soliciting in an area included in the Act (8).<sup>4</sup> Just prior to Confederation many municipalities responded to prohibitionist pressures and passed by-laws to further suppress activities of “prostitutes, houses of prostitution, their inmates and frequenters” (10).

Prohibitions of this era made the status of *being* a “prostitute or streetwalker” in a public place an offence. “Disruptive” or “annoying” behaviour was not necessary for

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<sup>2</sup> Canadian criminal law was largely modelled upon English law. However, Canadian legislation is documented as being “significantly harsher in its treatment of prostitutes” (CACSW 1984, 7-8).

<sup>3</sup> Lower and Upper Canada unified to become the Province of Canada in 1841.

<sup>4</sup> Apparently the legislation was never actually enforced because “no hospitals were ever certified to detain diseased prostitutes” and it expired in 1870 without being reintroduced (CACSW 1984, 9).

detention and conviction was nearly automatic once the “prostitute” status was established (Shaver 1994, 127). These laws were gender-specific by only targeting women as prostitutes (Shaver 1994, 127; CACSW 1984). Men *and* women involved in the trade were liable to provisions related to vagrancy and lewdness, but men were largely ignored by law enforcement (Shaver 1994, 127- 128; Boyd and Lowman 1991, 112). Enforcement during this period was “sporadic and capricious” and sex work seems to have been more tolerated in areas with large surplus male populations “as long as it was confined to certain ‘restricted’ or ‘segregated’ districts” of lower-class areas” (Boyd and Lowman 1991, 112; McLaren 1986). It was only repressed once it became a perceived threat to “respectable” citizens (Shaver 1994, 127; McLaren 1986).

Post-Confederation law began targeting male exploiters with *An Act Respecting Offences against the Person* (1867, see Shaver 1994, 128 and CACSW 1984, 10). In 1869 *An Act Respecting Vagrants* was passed to condemn “all vagrants and disorderly persons to a maximum of two months imprisonment, [a fine of] fifty dollars, or both” (CACSW 1984, 10). The Act’s definitions of “vagrant”<sup>5</sup> upheld prostitution as a status offence so that an overt activity or behaviour was not necessary for conviction (CACSW 1984, 10; McLaren 1986, 127). “Prostitutes” could be arrested for simply attending public meetings or gatherings and being on the streets.<sup>6</sup> These laws were intended “to get prostitutes off the streets when necessary” and alleviate issues of land use and public disorder associated with brothels (McLaren 1986, 127).

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<sup>5</sup> Included in the definition of vagrants were “common prostitutes or night walkers wandering in the fields, public streets or highways, lanes or places of public meeting or gathering of people, not giving a satisfactory account of themselves” (CACSW 1984, 10). This closely reflected the pre-Confederation laws.

<sup>6</sup> Also with this Act, and for the first time in Canada, persons living off the avails of prostitution were subject to penalty (CACSW 1984, 10).

Aboriginal women involved in prostitution were criminalized in separate legislation. In 1880 *An Act to Amend and Consolidate the Laws Respecting Indians* disallowed “keepers of houses” from having Aboriginal female prostitutes on their premises (CACSW 1984, 16).<sup>7</sup> In 1886 new legislation made clear that Aboriginal keepers, frequenters and those found within houses, tents or wigwams for prostitution purposes could be punished (17). In 1887 law was amended to apply only to “Indian women” who prostituted themselves (18).

Scholarship puts enforcement habits at fault for the failure of prohibition during the post-Confederation period (see CACSW 1984). Police generally practiced toleration with enough intervention to demonstrate that they *were* in control of the situation (McLaren 1986, 127). Legislation was non-discriminatory *in policy* but records show that “when the laws were enforced, the focus of police attention tended to be the prostitutes themselves” and not male customers, brothel owners or procurers (McLaren 1986, 127; Shaver 1994).

In 1882 the *Criminal Code* was enacted with “even more measures to attack prostitution” so that prostitutes and customers inside and outside of brothels and landlords and madams were liable for prosecution (CACSW 1984, 11). Provisions pertaining to Aboriginal prostitution were removed from the Indian Act and inserted into the *Code*. “Provisions against Indians keeping, frequenting or being found in disorderly houses” were re-introduced but restricted to only “unenfranchised Indian women” (CACSW 1984, 17). This legislation would not be changed or eliminated until 1954.

In the late 1800s rehabilitative efforts were implemented (unsuccessfully) in various areas of Canada (CACSW 1984, 15). The sex trade became a social evil, a sin, a source of disease, and a symbol of male domination over (white) women (Shaver 1994, 129; Boyd and

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<sup>7</sup> The Indian Act was amended in 1884 to specify that “tents and wigwams” as well as houses were included (CACSW 1984, 16).

Lowman 1991, 112; McLaren 1986, 130-131). To female middle and upper class reformers, “prostitutes” were seen as fallen women who were victims of evil, deceitful, and predatory men (CACSW 1984, 15). Efforts to rescue and reform sex workers included statutes that allowed for the removal of young girls from the custody of “unfit parents” and prisons for women with special correctional programs (CACSW 1984, 15). Although they were implemented to punish exploiters and rescue women and children from sexual exploitation, the end-of-century legal reforms miscarried on a few levels. Foremost, legislation penalising prostitutes was not removed and the widespread criminalization of women selling sexual services persisted (Shaver 1994, 129). Further, the laws against exploiters were the least often enforced (Shaver 1994, 129; McLaren 1986). This era’s “rehabilitative approach” was very much based on sex and class discrimination and failed because it proposed activities to prostitutes that had driven them to getting involved with the sex trade as a living: domestic chores or becoming a nun (CACSW 1984, 16).

There were no significant developments until the women’s liberation movement sparked a federally mandated report by the Royal Commission on the Status of Women in Canada (RCSW, 1970). Its critique of street prostitution legislation identified that prostitution was treated as a form of vagrancy and was discriminatory because it only applied to women. RCSW found that women were prosecuted “not for what they do but for what they are considered to be,” a judgement that “should not be within the mandate of criminal law” (Brock 2009, 29). RCSW recommended the repeal of the vagrancy section (164 (1) (c)) and that bylaws be used instead to deal with nuisance-related complaints often linked to street sex work (Brock 2009, 29). During this time, enforcement of section 164 (1)(c) was having “difficulties in the courts” and there is evidence that police were abusing powers of

arrest and detention by detaining women overnight and subjecting them to mandatory medical exams (Brock 2009, 32).<sup>8</sup> This was related to the notion that “prostitutes” were carriers of disease and vectors of contagion.

In 1972 Bill C-2 annulled and replaced all vagrancy legislation with new gender-neutral laws that responded to the “nuisance of street prostitution to law-abiding citizens” (Shaver 1994, 130-131). Prostitution ceased to be a status offence but instead of managing the trade through other legislation, as suggested by RCSW, a statute referring specifically to street solicitation was passed (Brock 2009, 32). The new *Criminal Code* section 195.1 made “every person who solicits any person in a public place for the purpose of prostitution” guilty of a summary offence (32). The sex trade’s construction as an “insidious source of neighbourhood decay” and a “public nuisance in residential areas” became the rationale for its repression (Shaver 1994, 130). Another section made men liable for engaging in prostitution as both sex workers and clients (Shaver 1994, 130-131).<sup>9</sup> In practice these gender-neutral statutes did no better than earlier legislation because they were not universally interpreted as gender-neutral by enforcement and judicial legal actors (Shaver 1994).

The room for interpretation of these federal prostitution laws left much up to individual judges in respective judicial realms. Between 1972 and 1981 Canadian courts struggled with what “solicit” legally meant for prostitution. Provincial courts of appeal had to rule on “whether a wink, a nod or a casual conversation constituted soliciting” (Dept. of Justice Canada 1989, 3). A few court cases had major impacts on this period’s enforcement of prostitution law. *Regina v. Hutt* (1978) ruled that street solicitation must be “pressing and

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<sup>8</sup> The courts eventually ruled that “legal and medical systems did not have the authority to require such examinations” (Brock 2009, 32).

<sup>9</sup> Two other changes to prostitution legislation were enacted at this time. One extended protection or liability linked to procuring or living off the avails of prostitution to both men and women. The other made customers or pimps who dealt with juvenile prostitutes increasingly targeted by the law and subject to more severe sentences.

persistent” to constitute an offence (Brock 2009, 48). In spite of this attempt to refine the legal definition of soliciting, the prohibited behaviour still was not precisely specified (Dept. of Justice Canada 1989, 3).<sup>10</sup> The *Hutt* case also decided that the act of solicitation must occur in a private place and that the interior of a motor vehicle *was not* legally considered public. This significantly reduced police powers of arrest under the soliciting legislation and in the early 1980s the soliciting law “virtually ceased to be used in many cities” (Dept. of Justice Canada 1989, 3; Brock 2009, 48).

Prohibitive municipal bylaws used across the country to manage the “prostitution problem” were found to be unconstitutional in the *Westendrop* appeal (see Brock 2009, 48). Municipalities tested other *Criminal Code* sections to limit “the most obvious aspects” of the trade but their applications to prostitution were strained and thus limited in effectiveness (CACSW 1984, 19). Law enforcement authorities throughout the 1980s complained that the cause for the apparent increase in visible street prostitution was rooted in the series of Supreme Court decisions that “progressively rendered the *Criminal Code* section dealing with street prostitution useless” (Dept. of Justice Canada 1989, 1).

A mandated review of the regulation of street solicitation by the House of Commons Standing Committee on Justice and Legal Affairs (CJLA, 1982) recommended four changes to the *Criminal Code*, a follow-up review of their operation, and a “complete review of prostitution at large in the near future” (Brock 2009, 49). In January of 1983 Bill C-127 specified that either sex could be legally considered a prostitute.<sup>11</sup> Later that year the Justice

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<sup>10</sup> Appeal Court rulings that followed (*R. V Whitter* and *R. V Galjot*) found that soliciting had to target one person in order to be pressing and persistent, not several individuals serially (Dept. of Justice Canada 1989, 3).

<sup>11</sup> Brock (2009, 49) outlines that prior to 1982 there were three major areas of contradiction within prostitution-related legislation, two of which are relevant to street sex work, 1) whether male customers could solicit and 2) whether men could be legally defined as prostitutes. Bill C-127 also made it so *any person* who was “not a common prostitute or person of known immoral character was to be protected under procuring legislation” and clarified that *any person* could be charged with living on the avails of prostitution (Brock 2009, 54).

Minister proposed to amend the *Criminal Code* by bringing only two of the CJLA's recommendations into effect, that those who obtained the services of a prostitute be liable for prosecution, and that a motor vehicle be considered a public place.<sup>12</sup> At the same time as tabling this Bill, the appointment of the Special Committee on Pornography and Prostitution (nick-named the Fraser Committee) was announced. The Fraser Committee was mandated to study problems associated with pornography and prostitution in Canada (Dept. of Justice Canada 1989, 4).

The Fraser Report (February 1985) made 16 recommendations for necessary legal and social reforms related to issues of adult prostitution (see Dept. of Justice 1989 for fuller discussion). The Committee found that prostitutes and customers were "willing, responsible actors who should not interact in public, but who should be afforded the same protection from force, threat or coercion that is available to all citizens" (Dept. of Justice 1989, 5). Based on findings of economic and social causes of prostitution, the Committee encouraged government efforts to remove social inequalities between women and men.

For street sex work, the Fraser Committee identified the nuisance to citizens as the main problem needing to be addressed because current laws seemed unsatisfactory to accomplish this. The laws (in policy and enforcement) were found to have little significant, long-term impact on the amount of street prostitution, other than displacement or dispersal to other locations (Dept. of Justice 1989, 5). The Committee advised that prostitution-related activities of street sex workers and their customers be removed from the *Criminal Code* so that existing laws pertaining to disorderly conduct or "definable nuisance" could be used to deal with street prostitution (Dept. of Justice Canada 1989, 5-6).

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<sup>12</sup> Brock (2009, 49) notes that these changes would have had limited impact because the requirement for proof of "pressing and persistent solicitation," the identified hindrance to enforcement, would have remained.

Bill C-49 (1985) was the legislative response to Canada's "prostitution problem," and largely disregarded the Fraser Report's recommendations. The Bill amended section 195.1 so that soliciting in a public place for the purpose of prostitution did not need to be "pressing and persistent" to constitute an offence. Further, it redefined "public place" to include the interior of a motor vehicle. This set of laws currently regulates the street sex trade in Canada. Bill C-49 made legislation easier for police to enforce because a single attempt to solicit a client in a public space was sufficient for a sex worker's arrest (Brock 2009, 81).<sup>13</sup> The number of communications charges exploded in 1986 and police began using "mass arrest tactics" when conducting undercover operations (known as "sweeps") (84).

Law enforcement services interpreted Bill C-49 in diverging ways, leading to two different mandates of the criminal justice system. One viewed street prostitution as a behaviour to be eliminated and used the law to "deter and incapacitate" street sex workers and customers from engaging in street solicitation (Dept. of Justice Canada 1989, 7). The second mandate acknowledged that the street trade could never be completely eliminated and used law to reduce the nuisance affects by containment or regulation strategies (7). Persons charged under section 195.1 were typically released from custody with a notice-to-appear but in some cities detention until bail court was used as a control measure (Dept. of Justice 1989, 45). For example, Vancouver police routinely detained arrested prostitutes and customers until the B.C. Court of Appeal (*R. V Pithart* 1987) put an end to that blanket policy.

The mandatory national review of the 1985 communication law by the Department of Justice (1989) found that section 195.1 (now section 213) did not decrease the number of sex

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<sup>13</sup> Section 195.1 was a "found committing" offence, which meant that an officer could not arrest an individual caught "communicating" in public unless there was reason to "establish the identity of the person" or to "prevent the continuation or repetition of the offence" (Dept. of Justice Canada 1989, 47). Since many prostitutes did not carry identification, officers could arrest without a warrant and sex workers were subjected to pre-trial detention unless the station sergeant or Justice of the Peace released them (47).

workers on the street, despite being more punitive than the previous version. Since its implementation, Bill C-49 has been controversial and the subject of many court challenges based on rights laid out in the *Charter of Rights and Freedoms* (Dept. of Justice Canada 1989, 7). Within a year the new laws were already being challenged in lower courts (see Robertson 2003 for overview of challenges),<sup>14</sup> but in 1990 the Supreme Court of Canada upheld Bill C-49's constitutionality (see the *Prostitution Reference*). Aside from a series of reviews and reports on the Canadian sex trade, various provincial efforts to manage the trade, and many endeavours focused on juvenile prostitution, the 1990s and 2000s did not see substantial legislative changes (see Robertson 2003 for further discussion).

In 2007 a constitutional challenge was brought forward in Ontario (*Bedford v. Canada*) against three provisions of the *Criminal Code* that govern adult prostitution, sections 210, 212(1)(j), and 213(1)(c). In September, 2010 Superior Court Justice Himel's decision struck down the challenged sections of legislation. Although her decision rendered the laws powerless in Ontario, the respondents were granted a temporary stay so that the legislation would stand until April of 2011. At the time of writing a recent ruling struck down many of the challenged laws, less the communicating law, and the Federal government was launching an appeal of the ruling to the Supreme Court.

This review shows that the history of prostitution-related law in Canada has used regulatory, prohibitionist and rehabilitative approaches in attempts to eliminate the street sex trade. The different methods reflect the range of views on the matter, from moral reformers wanting prostitution eradicated to those who construct prostitutes as blameless victims needing legal protection (Dept. of Justice Canada 1989, 2). All endeavours were

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<sup>14</sup> These challenges had mixed results for their provinces. See *R. v. McLean* (1986), *R. v. Bear* (1986), *R. v. Skinner* (1987), *R. v. Jahelka* (1987) for examples.

unsuccessful at achieving goals of diminishing the street sex trade and have represented various forms of (sexist, racial and class) discrimination in their formulation and/or law enforcement.

The reviewed research reveals that enforcement of “prostitution laws” pre-Confederation, post-Confederation, and post-1972 continue to reflect the gender-specific-sexist legislation of the pre-Confederation era by disproportionately targeting women as the supply side of the trade. Despite this backdrop, the current legal opportunity to develop new laws that better reflect the issues confronted and created by the street trade faces great resistance rooted in conservative traditionalism. That topic, however, is outside the scope of this thesis.

Three themes are particularly important to take from this review: first, *sexual moralism* is tightly woven into the rhetoric and law surrounding sex work (Shaver 1994; Boyd and Lowman 1991; CACSW 1984, 2). This severely restricts Canada’s ability to develop appropriate social and legal policies for dealing with sex work. Second, it is the *visibility* of street sex work, or “prostitutes,” that rallies “municipalities, concerned residents, and police” (Shaver 1994, 131; Larsen 1999) against the sex trade. And third, consistently only certain sections of the population are listened to when creating, reforming or enacting laws to deal with the sex trade. This “law-abiding” or “respectable” portion of the population is thus treated as more *deserving* of legal protection (Boyd and Lowman 1991; Larsen 1992; Shaver 1994; Jeffrey and MacDonald 2006).

### Enforcement in the 1990s, 2000s & 2010s

Canada's current prostitution-related laws are mostly found in sections 210 to 213 of the *Criminal Code*<sup>15</sup> and pertain to keeping, using, or transporting a person to a common bawdy house, procuring, and communicating for the purposes of prostitution.

Much scholarship focuses on formal regulation of sex work through policing and the enforcement of prostitution laws. Bill C-49's implementation is well documented as unsuccessful at responding to public clamour over the street sex trade (for examples see Larsen 1999; 1996a; 1996b; 1992); Dept. of Justice Canada Reports on street prostitution and Bill C-49 published in 1989). Some research shows that changes were treated as a "crisis management tool" and were implemented based on short-term political considerations (and clout) instead of comprehensive strategies that could actually address the identified problems (Larsen 1999, 70). The result is limited, temporary relief for complaining residents and businesses. Many researchers agree that this legal response only moves the sex trade to other areas of cities or communities without solving the identified problems (Larsen 1999, 70; 1992; 1996a; 1996b; Lowman 1992; Jeffrey and MacDonald 2006; Brock 2009, 157; CACSW 1984, 1). Larsen (1996b) recommends an approach that is comparatively effective in Europe: empower local governments to establish legal prostitution areas through the same zoning laws used to regulate other forms of land use, a notion supported by a growing number of Canadians (see Larsen 1996a and 1996b).

"[C]rackdowns on prostitution" in many cities only really occur when numerous complaints drive police to actively deal with the trade in a particular area (Jeffrey and MacDonald 2006, 113). Some research considers how political processes and interest groups

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<sup>15</sup> The *Code* was reformulated in 1985 and the section numbers of the laws pertaining to prostitution have changed, though their content remains the same. For example, the current section 213 was previously sections 193 and 195.

shape the enforcement of prostitution laws and the resulting problematic nature of the laws *in practice* (for example Larsen 1992; 1996a; 1996b; 1999). In reaction to pressures from residential and business community complainants, formal municipal and provincial efforts attempt to control prostitution, particularly street level. Without direct jurisdiction of criminal law, provincial/ territorial powers provide other avenues for dealing with the sex trade, like property and civil rights laws and highway and traffic legislation (Barnett 2008, 12-13). Alberta, Manitoba and Saskatchewan have amended highway and traffic legislation to allow police to seize, impound and sell vehicles used to pick up street sex workers (15). “Although a province cannot enact traffic legislation with the sole purpose of controlling prostitution, this does not appear to be the case with the vehicle impound legislation” (16).

Many provinces/ territories have adopted *Safer Communities and Neighbourhoods Acts* to deal with criminal “nuisances,” prostitution among them. These Acts make property owners accountable for “threatening or disturbing activities that regularly take place on their property related to” unlawful drug, alcohol and “intoxicating substances” activities, prostitution-related activities, sexually abusive or exploitative-related activities, and possession or storage of unlawful weapons (Manitoba Justice website). Police services can initiate an investigation upon receiving a complaint. If enough evidence is collected to support the claim, legal response can range from a warning letter to the property owner to an order for property closure. Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, Newfoundland and Labrador, and Yukon have implemented this legislation, enabling the closure of buildings and properties linked to the sex trade (NWT Dept. of Justice 2011; Barnett 2008, 16-17; Naqvi 2010).

Without being able to develop prohibitions of prostitution, municipalities use by-laws and local legal strategies to regulate activities related to the trade (Barnett 2008; CACSW 1984; Shaver 1986). Barnett (2008, 23) contends that police are “more likely to use municipal by-laws to regulate prostitution than to lay charges under the *Criminal Code*.” Examples<sup>16</sup> include Winnipeg’s by-law that banned “obstructive solicitation” in 2000, prohibiting “anyone from impeding pedestrian traffic [or harassing a pedestrian] in the course of solicitation...or from soliciting in groups of three or more” (Barnett 2008, 24).

Surrey, BC enacted a by-law in 2002 that allowed police officers to issue tickets to clients or sex workers engaging in prostitution “within 300 metres of a school or 20 metres of a residence” and made it “illegal for clients in motor vehicles or prostitutes to solicit on public roads” (Barnett 2008, 24). Further, police in many municipalities use “harassment techniques” to deter the street trade, like checking identification cards and using jaywalking, loitering or littering offences to ticket those suspected of soliciting (Barnett 2008, 24). Targeting customers has become increasingly popular in recent decades. Nailing “kerb crawlers” for applicable traffic violations and “john shaming” are used to discourage purchasers of sex acts (for more information see Barnett 2008; Lowman 1992). Some municipalities also use licensing by-laws to target services believed to be fronts for (or segues into) prostitution (see Barnett 2008, 26).

In some cities prostitution *task forces* have been formed to facilitate a specialized law enforcement response, with police mandated to use their expertise of the street trade to devise strategies to combat it (Lowman 1992; 1984; Dept. of Justice Canada 1989).

Vancouver, BC, Toronto, ON and Halifax, NS have used task forces in attempts to move the

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<sup>16</sup> Prior to Bill C-49, Montreal had implemented a municipal law that “forbid selling services on city streets without a permit” and essentially prohibited street sex work because of its federally criminalized status (Barnett 2008, 24).

sex trade out of certain areas and/or encourage sex workers to leave the trade all-together. Outcomes have been mixed.

Studies on the enactment of law have uncovered two closely related issues of particular importance to this thesis. The first is that police must be seen to respond to concerns of “the public,” a group which does not necessarily include all members of a city’s population. The second is that sex workers are placed outside of the definition of “public” so that the police, as *protectors of the public*, are expected to protect and respond to the concerns of the non-sex worker public and not those who are in the trade (see Shaver 1986; Larsen 1992; 1996a; 1996b; 1999; Bruckert and Chabot 2010; Jeffrey and MacDonald 2006). Although some Canadian politicians have expressed a desire to appease the public while creating a safer situation for sex workers (Jeffrey and MacDonald 2006), the ways in which policy has unfolded contradicts this claim in that it seems only the public who are against sex work is listened (or responded) to. Some researchers claim that these issues emerge from the legal context of prostitution in Canada: it is technically legal while most details of indoor *and* outdoor sex work are criminalized, giving sex workers no legal place to work (Jeffrey and MacDonald 2006, 114).

To conclude this section, the sex trade has consistently seen little agreement on the issue of its legal regulation. Canadian laws at all three levels of government attempt to define and regulate prostitution, while courts struggle with their interpretations (CACSW 1984, 1). Disgruntled citizens make formal complaints when faced with the spread of prostitution-related activity in their residential and business areas and police are expected to effectively use the laws to deal with those complaints (CACSW 1984, 1). As such, a diverse range of

contemporary enforcement practices were developed and space has become a vital policing tool.

## **2. Human Geography: Space, Place and Access to the City**

Human geography is a broad subject considering human interaction, understanding, and relationships with the natural environment and the processes that have affected it. Scholars have emphasized the importance of “taking space seriously in the attempt to understanding social and cultural phenomena” and there is an ever-increasing theoretical exchange between geography and the social sciences and humanities (Hubbard *et al* 2004: 2). Perhaps this is why academic work on regulation of sex work has been able to draw so much from spatial and geographical considerations. This section highlights some important concepts borrowed from human geography and space and place theory for research on sex work regulation.

Many human geographers consider virtual and real spaces to be “inherently caught up in social relations, both socially produced and consumed” because all social happenings are spatially contextualized (Hubbard *et al* 2004, 5). Thus, space is both a determining aspect of interactions and is simultaneously socially constructed by those interactions (Simmel 1903 discussed in Zieleniec 2007; Hubbard *et al* 2004). Scholarship in this tradition holds that space is political and is constantly being made and remade under influence of external forces (discussed in Zieleniec 2007; Hubbard *et al* 2004). Space has thus been characterized as a contested arena for social struggle over normalising.

Some researchers have found that the democracy of public space has been reduced alongside efforts to establish urban order (for example, Mitchell 2003, 1995). Social struggle over space has been a focal point, evidenced to produce judgements on “appropriate” activity

within certain (socially and culturally) produced spaces (for example, Lefebvre 1991). Social boundaries are drawn between these supposedly dissimilar people and their rightful places, and breaching these boundaries result in uprising from “normal citizens.”

A larger body of scholarship has observed the erection and maintenance of *boundaries* as methods commonly used to deal with social differences and/or inequalities like gender, class, racial, among others. Such work has documented that differences and identities become mapped and spatialized within the city and *social* boundaries become *geographic* ones (see Kirby 1996; Mitchell 2003; Johnston and Longhurst 2010; Sibley 1995; Cresswell 1996; 1997).

Based on awareness of boundaries and the spatialization of difference, many scholars grow increasingly concerned with social *exclusion* through use of geographic space. Exclusion has been identified as the leading process for creating social and spatial boundaries and as being fundamental to dominant society’s management of those who do not conform (Sibley 1995; Kirby 1996). Through legal tools such as zoning codes, policing practices, and the use of civility laws, especially pertaining to property (Herbert 2008; Hubbard 2004; Carr *et al* 2009; Blomley 2007), the city is managed as a space from which to exclude those defined “undesirable” or “disorderly” by political elites, the media, and dominant public perceptions (Hubbard 2002; Merry 2001; Mitchell 2003; Beckett and Herbert 2008). In other words, municipal governments are working to enhance order and security by “cleaning up urban spaces.”

Some researchers have shown that legal regulation is used in the city to facilitate, create and redevelop urban spaces of exclusion (for example, Caldiera 2000). Or, that the law works as a tool to *include* and *protect* those considered socially, politically, and

economically *valuable* (for example, Carr *et al* 2009). Both of these bodies indicate that “citizenship” is not a status common to all those who dwell within the city and that spatial regulatory tools are used to grant or remove individual rights of citizenship (Mitchell 2003; 1996).

In this tradition, “urban governmentality” (Carr *et al* 2009) or “spatial governmentality” (Sanchez 2003) are ideas that spatial order is manipulated within a targeted boundary through “exclusionary zones, trespass zones, and the growth of privatized and quasi-privatized space.” This scholarship labels public space and the city itself as spaces of exclusion (Carr *et al* 2009; Mitchell 1996; 2003; Johnston and Longhurst 2010). Notions of “good-city practices” are understood to allow urban lawmakers and law enforcers to simultaneously recognize, govern, manage and sort urban difference (Carr *et al* 2009; Hubbard 1998a; Johnston and Longhurst 2010). These researchers have found that zones of inclusion and exclusion result.<sup>17</sup>

Thus far the reviewed literature on space, boundaries and exclusion from the city has identified that social borders of difference come to be maintained through geographic boundaries, which function to regulate urban populations and groups (see Blomley 1998; 2005; 2006; Brown 2007; Herbert and Brown 2006; Carr *et al* 2009). Human Geography literature identifies the homeless, beggars, teenagers, gang members and former criminals, and drug users (for examples, Hemingway 2006; Mitchell 2003; 1996; Ellickson 2001; Cresswell 1996) as being among the city’s unwanted. Sex workers, particularly those who work the street, are consistently included on this list (Carr *et al* 2009; Hubbard 1998; Jeffrey and MacDonald 2006). In addition to being labelled “disorderly” or as “undesirables,” sex

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<sup>17</sup> Some research identifies values of such social strategies for separation. For examples see Ellickson (2001) and Beckett and Herbert (2008).

workers are frequently represented as defiling the purity of the city (Hubbard 1998b; Sibley 1995).

Some researchers have explained this as the emergence of a “culture of fear” in the form of desire to control space (Jeffrey and MacDonald 2006 using Sibley 1995). It is fuelled by “a heightened consciousness of difference” and concern over boundary maintenance and control of space is realized as control of sex work as a spatial activity. State measures pertaining to sex work “are far from internally homogeneous and may include elements of more than one regulatory framework,” being criminalization, legalization or decriminalization (West 2000). A number of publications have identified that the enforcement of “prostitution laws” is also heterogeneous across police jurisdiction (work by Larsen; Symanski 1981; West 2000). An array of spatial regulatory methods has been characterized in literature, where strategies have been shown to reflect the competing discourses and interests of a jurisdiction (work by Larsen; Symanski 1981; West 2000). Geographies of sex work have been mapped by selective enforcement of prostitution legislation (Hubbard *et al* 1999; Matthews 2005).

Repression and containment are noted by some as the most usual “geopolitical strategies” used to police prostitution in the United States (Symanski 1981) and it is likely that this holds true for most nations. Put differently, regardless of a nation’s legal stance on sex work, there are a number of methods that cities and their police services use to manage the sex trade. Most methods can be implemented to either plan sex work *into* a city space- loosely considered here as “inclusive tactics”- or plan the trade *out* of city space, referred to as an “exclusionary tactic.” The way in which a method is implemented depends on the objectives of the city and its police service.

Inclusive tactics are approaches that use geographic space to plan sex work *into* urban areas, such as red light districts or tolerance zones where sex work is more or less permissible whether or not it is actually legal (Matthew 2005; Hubbard and Sanders 2003; McKeganey 2006). Important to point out, they are not inclusive in a way that means sex workers are treated as part of a community, but rather the primary objective is to keep the trade within a defined space. Exclusionary tactics plan sex work *out* of particular spaces by designating restricted areas or zones of intolerance that police actively keep sex work out of (Sagar 2007; 2009; Kerkin 2003). These two strategies are often used simultaneously, although police and city objectives typically place more emphasis on one over the other. Regardless of whether the method is implemented as an inclusive or exclusive strategy, the objective is always to control *where* the trade can or cannot be.

I now review research on three major spatial regulation methods in terms of how they have been used to manage the sex trade: strategic urban planning, informal zoning and formal zoning. For each I demonstrate how it can (and has) been implemented as both an inclusive and an exclusionary strategy while identifying the objectives and limitations when used either way. Both inclusive and exclusionary regulation tactics are outlined, followed by discussion of their impacts on targeted crime.

#### *Spatial Regulation Methods: Implementation to “Include” or Exclude*

As a method for spatial management, *strategic urban planning* weighs the growth and development of a city’s physical form to develop a plan for dealing with criminal activity, in this case sex work. It tends to go beyond the use of policing tools to additionally consider the geographic, functional and structural layout of the “problem area” based on input from a collective of police services, local residents’ associations and council initiatives

(Lowman 1992; Kerkin 2003). Strategic urban planning can be implemented for either inclusive or exclusionary purposes. As an inclusive strategy it could take the form of a formal red light district such as that in Amsterdam, Netherlands (see Hubbard and Whowell 2008), where the sex trade is legally permissible in a designated part of the city.

As an exclusionary tactic, urban planning can be used to develop or shape a city space so that certain areas will not be as “conducive” to illegal acts. To meet this objective the layout of an area is assessed in terms of a thriving crime problem (illicit activity in general or a particular behaviour). Possible or necessary changes are evaluated and then implemented to facilitate more effective regulation of the illicit activity while also making it more difficult for the act to be committed (Kerkin 2003; Matthews 1986). Examples of this exclusionary method used on the sex trade include road-closures or traffic management schemes (see Matthews 1990), where a major limitation is that it does not directly deal with the criminal activity and only displaces it to other areas of the city.

Some research on urban planning finds that even when tolerance for (or decriminalization of) prostitution is promoted as practice, contradictions arise in the specific planning work for a geographic area (Kerkin 2003). Kerkin’s (2003) study on street sex work in St. Kilda, Melbourne, found that in practice the trade is planned out of certain spaces despite a general policy of tolerance. Even with decriminalization, site-specific planning actually comes to limit and remove sex work from valued spaces while building it into more peripheral ones.

*Informal zoning* is a second spatial regulation method, the unofficial development of areas where certain criminal behaviours are habitually either allowed or forbidden, regardless of the legal approach to the activity (criminalization, decriminalization, legalization).

Informal zoning can be either an intentional effort or unintentional outcome of police enforcement patterns (understood as selective enforcement of laws) and can be implemented as an inclusive or exclusionary strategy for managing the sex trade. As an inclusive strategy, toleration zones are created by police when an area is informally designated as a place where sex work, although not encouraged or promoted, is permitted to occur (McKeganey 2006). As a management strategy of the sex trade it has been called “informal red light districts” (see Hubbard and Sanders 2003), as observed in Calgary throughout the 1980s (Brannigan *et al* 1989). In some British and American cities police also seem to tolerate street prostitution as long as it stays away from residential or “prime commerce” areas (Matthews 2005; Symanski 1981). These intentional tolerance zones represent police acknowledgement of street sex work as an urban reality. It offers evidence that designating a place for sex workers to work without “police harassment” brings the most satisfaction among relevant parties while reducing some risks faced by sex workers and building better police-sex worker relations (Brannigan *et al* 1989).

When implemented as an exclusionary strategy, informal zoning creates zones of intolerance, or areas where sex work cannot be, by use of methods like hot-spots policing<sup>18</sup> (see Sherman and Rogan 1995; Weisburd and Green 1995) or task forces (Lowman 1984; 1992). Zones of intolerance are most often aimed at eradicating illicit activities from a specified area (Weisburd *et al* 2006 citing Sherman *et al* 1997; Weisburd and Eck 2004), including the removal and restriction of sex work. This approach forcing sex work out of one area usually results in displacement and dispersal of the trade, without actually impacting the number of sex workers. When police efforts become so focused on the habitation of the trade

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<sup>18</sup> Hot-spots policing builds on the finding that reported crime is concentrated in specific geographic areas and not randomly distributed across cities or communities (Rosenbaum 2007, 26). Police resources are thus focused on locations where problems are occurring.

in “problem areas” of a city it is often observed that other areas become less heavily patrolled by police and thus develop as new or more common locations for sex workers to collect for work (Hubbard and Sanders 2003; Hubbard 1997). These new sex work areas could be considered temporary, unintentional tolerance zones as they only last until police begin receiving complaints about sex work in the new location and resources are re-distributed (see Larsen 1996a).

*Formal zoning* is a method for spatial management that uses legal tools to regulate where sex work can-- and implicitly cannot-- be in a city. It is used in various forms regardless of a nation’s legal approach to “prostitution” (criminalization, decriminalization, legalization). Although it can be implemented with the inclusion- instead of exclusion - of sex work as its objective (and vice versa), it is often practiced so that it legally authorizes sex work to occur in certain kinds of city zones while also restricting the trade from others (for example, school zones). When practiced in the form of municipal bylaws, for example, formal zoning is at once an inclusive and exclusionary tactic for dealing with the sex trade because it essentially follows a city map of zones that details where sex work can and must not be.

When formal zoning is used as an inclusive zoning strategy emphasis is placed on where sex work *can* be, sometimes called “managed zones.” Laws around business licensing are strictly enforced, denoting where certain types of establishments can be, their level of visibility and their hours of operation (see Hubbard and Whowell 2008, 5). Although this approach seems best suited for the indoor trade, it has also been used effectively to manage the street trade in Utrecht, Netherlands (discussed in Bellis *et al* 2007) and New South

Wales, Australia (briefly discussed in Kelly *et al* 2009) by creating parameters for where the street trade can be and how it should function.

When formal zoning is implemented as an exclusionary measure, emphasis is placed on where the sex trade *cannot* be. Area restrictions are an example of this strategy, built on an attitude that regardless of its legal status, certain illicit activities- in this case sex work- is absolutely intolerable in certain city spaces. The objective is to control the behaviour of individuals conducting the criminal activity and by doing so disrupt the “crime cycle” and reduce street-level disorder (Dandurand *et al* 2004, 48). This legal mechanism of the criminal justice system is used to individually remove and restrict workers from an area they are known to sex work in.

The primary limitation of formal zoning as a method for urban management is that enforcement practices ensure that even when it is used to legally allow sex work to happen in certain areas, it simultaneously reinforces that it *must not* happen in others. Workers are forced to work in certain areas that are not of their choosing and are not usually favourable in terms of working conditions. Formal zoning has been labelled “containment regulation” by some researchers (Howell *et al* 2008) for this reason. Some research findings indicate that policing is moving away from using spatial controls that “design out” prostitution, and instead towards a strategy of “designing it in” through zoning strategies that relocates it to industrial or commercial areas (Matthews 2005; Howell *et al* 2008; Hubbard and Whowell 2008). However, Matthews (2005) claims that this “new zoning strategy” is no different from alternative historical regulatory approaches to prostitution and that zoning is not actually an expression of tolerance of the trade, nor does it “normalize” prostitution. For him, along with other researchers, zones function to maintain notions of difference and exclusion, which

separate “normal citizens” from the “deviant” or “outcast” prostitutes who are being constantly surveyed and controlled while spatially isolated.

These three examples of spatial management methods- strategic urban planning, informal zoning and formal zoning- have indicated that there are a number of ways in which regulatory tactics use space itself as a tool to actively exclude street sex work(ers) from geographic areas. Some researchers suggest that forms of inclusive regulatory strategies for the sex trade are the best option for nations that criminalize sex work since they appease, to some degree, all involved parties by identifying where sex workers *can* work instead of only where they cannot (Lowman 1992; Larsen 1996a; discussed in Matthews 2005).

Research findings on the consequences of spatial policing strategies largely offer evidence for criticism of such tactics and that, regardless of the regulatory approach, there is always shared preoccupation with repressing spaces of street sex work (Hubbard *et al* 2008), particularly through exclusion (Beckett and Herbert 2008). Three major research findings on the consequences of spatial regulatory strategies that in practice exclude sex work(ers) have been presented in scholarship. For one, interruptions to the organization of the trade tend to further jeopardize the safety of individual sex workers (see Sanders 2009; Matthews 2008; Jeffrey and MacDonald 2006; Hubbard and Sanders 2003; Kerkin 2003). A second finding is that individuals are effectively criminalized and punished with little (if any) attempt to address or work towards solving problems associated with the trade, aside from its visibility in certain public areas (for example, Sanders 2009; Jeffrey and MacDonald 2006). The third major finding is the near-universal geographic displacement and dispersal of sex work(ers), sometimes at both local and national levels (for example, Sanders 2009; Larsen 1999; 1996a; 1996b; 1992; Lowman 1992) and subsequent displacement of customers (Holt *et al* 2008).

This third consequence of spatial management methods requires further discussion as it is a prominent issue of street sex work regulation. Some researchers suggests that displacement of crime is almost unavoidable when focused policing strategies are implemented (discussed in Bowers *et al* 2011; Guerette and Bowers 2009; Weisburd and Eck 2004), however, displacement and diffusion of sex work is often not observed (Weisburd *et al* 2006; Matthews 1990). In fact, findings advise that diffusion of *benefits* is actually more common than displacement of criminal activity during focused policing efforts (Bowers *et al* 2011).<sup>19</sup> Other research suggests that displacement and diffusion are impacted by the extent of the tactical network employed for a particular area or to deal with a particular issue (Weisburd *et al* 2006). While displacement might have positive results for communities (homeowners and business owners) connected to target areas through diffusion of crime control measures (see Guerette and Bowers 2009; Weisburd *et al* 2006; Matthews 2005; Weisburd and Eck 2004; Kerkin 2003), it seems to usually have negative impacts on sex workers' wellbeing and work (see how in Sanders 2009; Matthews 2008; Sanders and Campbell 2007; Jeffrey and MacDonald 2006; Hubbard and Sanders 2003; Kerkin 2003; Lowman 2000; Brock 1998).

The prevalence of use of exclusionary spatial strategies on sex work(ers) suggests that consequences for sex workers who remain in the trade are of secondary concern to decision-makers. Attention to area restriction strategies used in cities around the world has been increasing over the past decade. While the strategy seems to have gained favour for dealing with street sex work among criminal justice systems, community agencies who work with sex workers find area restrictions especially problematic. Such agencies claim that area restrictions do not actually impact the number of people involved in the street trade and that

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<sup>19</sup> Bowers *et al* (2011) do not specifically consider efforts to manage the sex trade.

area restrictions do not deal with the real problems linked to the sex trade. The following section reviews literature considering a variety of forms of area restrictions used in the United Kingdom, United States and Canada.

### **3. Research on Area Restrictions from around the World**

Area restrictions have been implemented in a number of different forms to deal with illicit behaviour in Canada and other places of the world. Canadian use of arrest-and-release area restrictions on the street sex trade has been documented in a small number of sources. In some, no more than a passing statement without any analysis is offered (Department of Justice Canada Reports), while others provide some critical discussion or more focused research efforts (publications of organizations like POWER, Stella and Stepping Stone who work closely with street sex workers or Jeffrey and MacDonald (2006)). Information from these texts is used as data for this thesis.

This section outlines various forms of area restrictions that have been used in other nations as well as types of spatial exclusion policing tools that have been used by Canadian cities in the past, seemingly as a precursor to the form of area restriction studied by this thesis.

In the United Kingdom, *Anti-Social Behaviour Orders* (ASBO) are currently used by the police to deal with a variety of illicit behaviours, among them the sex trade. ASBO “are civil orders made in court for which the police, local authorities and registered landlords can apply. Their aim is to protect neighbourhoods from anti-social behaviour that causes distress and harassment” (Pitcher *et al* 2006, 4). Although there are variations by jurisdiction, ASBO throughout the UK share common features: 1) they respond to individual behaviour, 2) they seek to regulate future behaviour by coerced agreement to a set of conditions, 3) they enlist

active compliance and promote individual self regulation by setting out a desirable change or abstention from certain behaviour.

ASBO are essentially contracts or agreements deployed on an individual basis to regulate deviant conduct and disorderly behaviour, most often for “nuisance crimes” (Sanders 2009 citing Crawford 2003; Sagar 2007). Although ASBO were not created to deal specifically with street sex work, sex workers quickly found themselves targeted (Sagar 2007 citing Wright and Sagar 2000). An ASBO can be used to prohibit a sex worker from entering a specific area, for example, and breaching an order is a criminal offence. They have developed as a common policing response to street sex work which has been increasingly considered and labelled a form of anti-social behaviour by authorities (Matthews 2005; Sagar 2007; Scoular *et al* 2007).

ASBO were the target of serious and sustained criticism when first introduced (Sagar 2007) and continue to be opposed by advocacy organizations for sex workers and even community residents (Scoular *et al* 2007). Initially ASBO were meant as a mechanism strictly for use once other methods had been considered but deemed either inappropriate or less effective for the circumstance (Sagar 2007 citing Home Office 1999). ASBO supposedly mean to prevent persistent anti-social behaviour without recourse to criminal sanctions, however, a breach can earn the defendant up to five years of imprisonment (Sagar 2007). The ASBO were proclaimed by police representatives as *the* effective deterrent to street sex work (Sagar 2007 citing Orr-Munro 2000; Matthews 2005).

ASBO granted at point of criminal conviction (called *CRASBO*) have also been implemented in the UK “and may be accompanied by restrictions, for example, on loitering” (Pitcher *et al* 2006, 4). Some research shows that they have become even more popular than

ASBO among police because they require less time and effort to assign while apparently yielding a high success rate in deterring sex workers from re-entering the trade (Matthews 2005). Both ASBO and CRASBO are considered by police in England and Wales to be effective devices to placate residents, keep street sex workers out of certain areas, reduce public complaints, deal with persistent and non-cooperative offenders and, in some cases, encourage women to leave prostitution (Matthews 2005). ASBO and CRASBO also tend to be supported by central and local government as useful and appropriate mechanisms for dealing with street sex work. This is despite the lack of evaluation regarding their success (Sanders 2009; Sagar 2007; Scoular *et al* 2007) and evidence that they have not worked when applied to sex workers (Sanders 2004; Pitcher *et al* 2006). Other research findings claim that ASBO appear to simply relocate the problem without actually lessening the amount of street sex work within a city (Sagar 2007 citing Campbell 2002).

Academic attention has also been given to the use of different forms of area restrictions in the United States. “Trespass exclusion laws” or “civil exclusion orders” are used by law enforcement to restrict sex work(er) access to certain city areas. Trespass laws<sup>20</sup> are increasingly being interpreted, adapted and implemented so that individuals can be banned from a particular space for extended periods of time- including formerly public streets (see Beckett and Herbert 2008, 10-11 for full explanation). Some US municipalities have supplemented trespass exclusions with “off-limit orders,” also called spatial restrictions or exclusion zones (Beckett and Herbert 2008).

A Portland, Oregon city ordinance created in 1995 to deal with gentrification efforts in a particular area of town provides one example of this phenomenon. While police were

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<sup>20</sup> “Trespass exclusion laws” were formerly used by private property owners to restrict access to their property, typically indoor spaces that were available to the public (libraries, hospitals, schools, commercial establishments) (Beckett and Herbert 2008).

authorized to impose them, individuals arrested for “prostitution or prostitution procurement” within 500 feet of the “prostitution-free zone” were legally restricted from that area for 90 days (Sanchez 2001, 124). If convicted of the offence the individual was legally restricted from that area for an additional year, and if police found the person in the area while they were on the ordinance, the individual could be arrested for trespassing (Sanchez 2001). This model, nick-named the “Portland experiment,” has since been implemented in a number of other American cities to deal with the sex trade.

Supporters (mostly police, city government, and some residents) claimed the “prostitution-free-zone” ordinance focuses on geography and citizen concerns rather than punishing the person (Sanchez 2001, 132). However, the ordinance raised constitutional questions concerning double jeopardy, freedom of travel, and contradiction of “federal crime procedure statutes, requiring criminal prosecutions in order to focus on a person’s conduct rather than her status” (132). Critics complained that people could be banned from city spaces on arrest, regardless of their reason for being there, prior to conviction of any crime. Off-limit orders have also been observed in Seattle, Washington, called SOAP orders- an acronym for “Stay out of areas of prostitution”- which similarly legally keep those convicted of prostitution offences out of common sex trade areas (Beckett and Herbert 2008, 13).

In many US cities these spatial restriction mechanisms specifically target drug and prostitution offences and those convicted can be legally removed and restricted from “common areas” of drug sales and/ or prostitution (Beckett and Herbert 2008, 13-14 citing Flanagan 2003). In some cities (for example, Portland, Oregon and Cincinnati, Ohio) off-limit orders were initially handed out by police at arrest but challenges to the ordinances have led to modifications so that now only judges and/or probation officers may impose them

(Beckett and Herbert 2008, 13-14). They are given to an individual when prosecution is deferred and/ or as a condition of an individual's probation sentence. Exceptions may be granted if people live, work, or have "legitimate reasons" to be in said areas. In practice, these forms of area restriction are very similar to the ASBO used in the UK: they are applied individually based on an arrest, not necessarily conviction, and function to respond to a person's behaviour by regulating their future behaviour.

Canada's recent history of regulation attempts for the sex trade also reveals a variety of area restriction mechanisms. *Injunctions* against public nuisances are a way that provinces in Canada have tried to manage the street sex trade on two occasions. An Attorney General has the authority to "bring an injunction against a public nuisance in order to restrict prostitutes importuning pedestrians within a specified area" (Barnett 2008, 13 citing Berryman 2000). The West End of Vancouver, BC provides an example. It was a major site of street sex work in the 1970s and early 1980s and other regulation efforts<sup>21</sup> had not noticeably impacted levels of sex trade activity and only moved sex workers around within the larger geographic area (Lowman 1992; 1984). Lowman (1992) claims that the threat and use of a "civil-nuisance injunction" to legally move sex workers is what ultimately cleared sex workers out of the West End high-rise district.

In the case of West End Vancouver, civil proceedings saw the Attorney General sue prostitutes for offending public morals and interfering with residents' use and enjoyment of their property by plying their trade in that area (Watson 2007). There is research that suggests the real result of the West End injunction was only displacement and dispersal to other areas, causing new battles with residents and police (Lowman 1992; 1984). Barnett

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<sup>21</sup> Other efforts included "john shaming" tactics and policing efforts by residential groups, by-law enforcement, and the Task Force.

(2008, 14) suggests that injunctions are likely not “a good long-term solution for provinces... given the mixed response from the courts and difficulties of enforcement,” although the difficulties, or even terms, of enforcement are not mentioned. It seems possible that nuisance injunctions were the precursor in Canada to the form of area restrictions of focus to this thesis, but this could not be confirmed within the scope of this study. Although injunctions seem to have a spatial element to them that is similar to the area restrictions considered by this thesis, it is not clear in scholarship as to why the courts allow the continued use of one but not the other.

Halifax, NS was Canada’s second attempt to use an injunction against street sex workers. In an effort to “restrain 48 known (female) prostitutes ‘and other persons unknown’ from carrying out prostitution related activities” in two specified areas of the city, the Department of the Attorney General of Nova Scotia lodged the injunction (Graves 1989, 32). It “would have set a territorial order barring the 48 co-defendants ‘and persons unknown’ from engaging in any prostitution related activities in or around the two heterosexual stroll areas” (33). The injunction was served to co-defendants by posting copies of it and the list of defendants names on telephone poles throughout the areas included in the proposed order (Graves 1989). The Supreme Court of Nova Scotia refused the nuisance injunction, ruling that it infringed upon federal powers, which implied that it would not have stood up in court (Graves 1989; Lowman 1992; Barnett 2008).

The continuation of Vancouver’s story into the mid to late 1980s provides further example of use of other area restriction mechanisms. The displacement of sex work into Mount Pleasant caused by the Vancouver injunction frustrated residents there but BC would not use the nuisance injunction again because of expected changes to the *Criminal Code*

resulting from the Fraser Report (Lowman 1992; Barnett 2008). Failed attempts at using informal zoning to solve the problem led Vancouver judges to begin routinely imposing what some researchers refer to as “area restrictions” on sex workers by 1986 (Larsen 1996a; Lowman 1992; Lowman 1986). Details about how these area restrictions worked are scarce, but evidence shows that they were only imposed on sex workers, not their customers, by judges as conditions of release pending trial (Larsen 1996a). Lowman (1992) does explain that the result of these area restrictions typically only meant sex workers moved to work in spaces “just outside” the boundaries of their restrictions. Only in rare cases was there evidence of area restrictions actually deterring a person from sex working (Lowman 1989).<sup>22</sup>

Very similar to those just discussed in Vancouver, Montreal, Quebec offers another example of Canadian use of area restrictions to manage the street sex trade. Borrowing a strategy successfully used to deal with drug-related problems in the city, in the mid-to-late 1980s the Montreal Organized Crime Division had judges impose *district restrictions* as bail conditions on sex workers (Gemme 1989). Liaison officers at this time, through Crown attorneys, were systematically calling for an area restriction for repeat offenders who plead not guilty, and were occasionally asking for them in probation orders as well. Gemme’s (1989) study does not explain succinctly how the district restrictions worked, however it is clear that the order restricted individual access to specified city areas that seemed to vary by case (sex worker).

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<sup>22</sup> Since the problem of sex work in the Mount Pleasant area still was not solved, a Task Force was charged to deal with the constant displacement of street sex workers by “driving prostitution out of certain areas” (Lowman 1992). After continued failures with use of harassment techniques a more community-response to sex work was attempted. Meetings held between police, social workers, and residents lead to the creation of an informal “no-go” zone, which sex workers were *asked* not to work in because it was a residential and school area. Larsen (1996a) claims they also negotiated an area of toleration. This was the most effective strategy at alleviating discontent with the trade, despite that it did not actually reduce the number of sex workers (Larsen 1996a).

During this time, one police station was posting photos of sex workers on area restrictions in the station meeting room so that officers could more easily check for violations of bail conditions before their shifts began (Gemme 1989). Despite some police sentiment that the observed decrease in the number of street sex workers was more due to the use of district restrictions than the recent law change (Bill C-49), it was reported that police at the regional enforcement section did not favour the measure “because the [resulting] shifts of prostitutes to different areas [forced] them to divide up their teams, causing loss of time and productivity” (Gemme 1989, 69). The regional enforcement section felt that the concentration of sex work in the same sector had at least facilitated enforcement. While the district restrictions used on sex workers by one police section did seem to decrease the crime rate in that area, an increase in crime rates of surrounding areas was also observed (Gemme 1989).

One final example of Canadian area restriction methods are the *mapping restrictions* documented in Halifax, NS in the mid to late 1980s (although no comment was made about how long these practices had been being used). Prosecutors in Halifax were observed to request that judges impose these mapping restrictions along with probation restrictions for juvenile prostitutes, instead of primarily fining (Graves 1989). “The rationale for requesting mapping restrictions was to remove the juveniles from the street scene and to provide police with an effective means of ensuring that the juveniles stayed off the street” (Graves 1989, 41). Once again, it is not outlined how this form of area restrictions worked, however they somehow functioned to restrict individual access to particular city area.

Each of these reports mentioning the use of area restrictions on the sex trade seem to imply that they were somehow linked to the implementation of Bill C-49 in 1985. However,

CACSW noted in 1984 that it was a “common practice for prostitutes to be released on bail with conditions that they not be in certain areas of the city, etc., pending trial” (35). They also claim that it was common, upon conviction, that terms of probation would be imposed that had a similar effect to the area restrictions of bail conditions. “The obvious import of these conditions is to prevent the person from resorting to areas of the city normally frequented by street prostitutes” (CACSW 1984, 35).

Research on area restriction-type strategies for sex work has largely ignored direct study of how sex workers’ lives and work have been impacted, aside from their displacement. Studies that have considered this element of the phenomenon have largely only measured *perceptions* of the impacts of area restrictions (see Pitcher *et al* 2006; Lowman 1989 for examples), however these collections are still helpful in discerning issues created by area restrictions. Although the direct intent of these policing mechanisms is to regulate the aspect of sex workers lives that is their involvement in the sex trade itself, they enforce conditions that place comprehensive restrictions on sex workers so that their lives outside of the sex trade are also included. Canada, for some time now, has been using forms of area restrictions but researchers have not done well to document the phenomenon.

### **Conclusions**

This chapter has reviewed scholarship on the history of “prostitution” in Canada to outline the development of the most relevant legislation and enforcement practices, leading to how the street trade is currently dealt with. Researchers have shown that laws have been influenced by (sexual) *moralism* since before Confederation, and that the laws and their enforcement have disproportionately targeted women (as sex workers) involved in the trade over men (as customers or exploiters). Further, it seems it is the *visibility* of sex work that is

the offence, since prostitution is technically legal in Canada but receives most complaint and legal attention when the outdoor trade is evident in public locations.

In effect, the law has created a divide between those deemed “valued” and those deemed “devalued” citizens, which has implications for access to police protection and use of public space. Sex workers are positioned among devalued citizens. Review of scholarship has also shown that governing authorities below Parliament are constitutionally prevented from creating and using laws that prohibit the sex trade at their local level upon formal challenges to those methods. At the same time, the enactment of law and use of other legal tools are successfully mobilized in ways that work towards the same objectives, keeping sex trade activity out of particular geographic areas.

Theoretical contributions from the field of human geography have been fundamental to research on the spatial regulation of (street) sex work by helping to understand the rationalization for legal geographical instruments of regulation. The reviewed literature on space, boundaries and exclusion shows that legal tools are used to regulate social relations through geographic borders in order to manage the city. Since space influences interactions and vice versa, social inequalities become spatialized according to decisions on *who* or *what* can be *where*. Sex workers are frequently among the groups targeted by systematic, lawful spatial regulation.

The final sections of this literature review considered research on spatial regulation of street sex work, where findings have illustrated the lawful ways in which ideologies have been realized as policing strategies. “Inclusive” and exclusionary tactics are often used in tandem, however, the mandate is always to repress places of street sex work and keep it out

of particular city areas. Despite its popularity, results of exclusionary tactics do not appease anyone in the long term and only enhance problems and risks faced by sex workers.

The reviewed scholarship on area restrictions shows common use on the sex trade in cities in the United Kingdom, United States of America, and in Canada. These tactics were initially imposed by judges but have more recently become a power available for use by police as arrest and release conditions. Further, the use of different kinds of area restrictions has experienced a significant amount of social criticism and legal resistance in the courts.

### **CHAPTER 3- THEORETICAL FRAMEWORK**

The previous chapter provided a literature review of relevant scholarship linked to “prostitution” in Canada and its spatial regulation. This chapter outlines theoretical work used to frame and provide tools for later analysis within this thesis, mainly from a combination of sociological, human geographical and philosophical work on space, place and the city and literature on sex work regulation. These tools help to conceptually frame the use of area restrictions in Canadian cities to manage the street sex trade and guide analysis and discussion at every stage of this thesis.

The first section orients the standpoint taken by this thesis on “prostitution”/ sex work by identifying three major contemporary perspectives: a) prostitution as vice, b) prostitution as a symbol of female oppression, and c) prostitution/ sex work as recognized labour. This thesis works from the third perspective. The second section of this chapter positions the city as a hegemonically-ordered environment, despite the heterogeneity of its population, and further identifies the consequences of this scenario. Relevant contributions from Henri Lefebvre’s notions of the *oeuvre* and *production of space* are discussed in terms of this thesis. Here I outline how different citizenships are created according to how individuals or groups measure up to hegemonic standards, while linking (access to) public space with citizenship.

The third section explains the ways in which street sex work(ers) are socially and legally regulated. Stigma is outlined as a form of social regulation using Goffman’s (1963) definition for stigma and contributions from Hannem and Bruckert (forthcoming) and Pheterson’s (1996) “whore stigma.” Stigmatized status is identified as a warning for when an

individual sex workers' citizenship is in jeopardy. The legal regulation of sex work(ers) through law and its enactment is also discussed in terms of area restrictions, understood to create a "non-citizenship" status.

The fourth section of this chapter explains how (social and legal) regulation and boundary erection have produced area restrictions, a tool that makes geographies of exclusion and *unacceptable citizenships* very real for individual sex workers. Georg Simmel's theorizing about boundaries, Sibley's (1995) work on the boundary as a tool for exclusion, and Blomely's (2005) spatialized legal boundary are applied. This section incorporates general, preliminary information on area restrictions.

### **1. Sex Work as Work**

There are three major perspectives of the sex trade, 1) prostitution as deviance and as a crime, 2) prostitutes as victims of oppression, and 3) recognizing prostitution- or sex work- as a form of labour. This section explains each of these positions and outlines and justifies the stance taken by this thesis.

The traditional view of "prostitution" is criminological, where it is framed as the quintessential women's crime or the symbol of female criminality (Parent 1994). This outlook is based on the assumption that the sex trades involve activities that are inherently bad or deviant and that financial exchange for sexual services is immoral. Analyses in this tradition work to find biological, psychological and/ or sociological factors that cause women to become "prostitutes" (Parent 1994; Bruckert, Parent and Robitaille 2003). From this viewpoint, "prostitutes" are presumed to be fundamentally different from other women and especially from men and "prostitution" is not acknowledged as labour. Laws, regulation and

judicial rehabilitation become the logical response for dealing with the problem and are not considered as potentially contributing to the problem (Parent 1994).

A second major perspective on prostitution developed with the feminist movements of the latter half of the 20<sup>th</sup> century.<sup>23</sup> For contemporary feminists in the 1970s “prostitution” became the symbol of the social, sexual and economic domination of women by men in patriarchal societies (Parent 1994; Bruckert *et al* 2003). Those working under this perspective denounce “male privilege which allows men, as a gender, to oppress women” (Bruckert *et al* 2003, 4; Parent 1994). Power relations between women and men are understood as being actualized in the buying of sexual services and so clients, pimps, and police officers, among others, are held accountable (Parent 1994; Bruckert *et al* 2003). In this way, the feminist perspective rejects the double standard of morality that stigmatizes women who sell sex but not men who buy it, and they further denounce the laws and their enforcement that facilitate this imbalance (Parent 1994).

From this standpoint, the State becomes less an answer and more a part of the “prostitution problem” (Parent 1994). For the most part, decriminalization of “prostitution” is demanded to reduce the victimization of women by the State and to protect them from violence wrought by the current legal context; prostitution-related laws are seen to perpetuate the power relationships between women and men (Parent 1994; Bruckert *et al* 2003). Although the feminist perspective seeks the cooperation of “prostitutes” in their struggle, those working from this perspective typically believe that “prostitution” should be eliminated (Bruckert *et al* 2003).

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<sup>23</sup> This discussion considers contemporary feminist (late 20<sup>th</sup> century) perspectives of prostitution. To understand in more detail the different campaigns of feminists’ perspectives from the 19<sup>th</sup> century and early 20<sup>th</sup> century, or the approaches by different contemporary branches of feminism (liberal, Marxist, socialist, radical), see Parent (1994) or Bruckert *et al* (2003).

Another contemporary feminist expression emerged more recently and in response to the feminist stance of the 1970s and 1980s, positioning “prostitution” as inherent and endemic violence against women. This attitude frames “prostitutes” as “suffering” women whose “injuries” result from the dehumanizing sex involved with prostitution (discussed in Doezenia 2001). Further, “prostitution” is defined as “sexual exploitation” that victimizes “all women, justifies the sale of any woman, and reduces all women to sex” objects (CATW 1998 cited in Doezenia 2000, 34) and “involves specific acts of violence but is [also] *a form of violence by definition*” (Weitzer 2005, 212). Voluntary prostitution is rendered impossible- some coercion is apparently always involved- and all prostitution is a violation of human rights. This position is overtly anti-prostitution and its “sweeping claims” are applied to “all historical time periods, all societies, and all types of prostitution” (Weitzer 2005, 212).

Contemporary feminists place themselves in a challenging balance where support is given to “prostitutes” as (victimized) women while the institution of “prostitution” is condemned: most “feminist analyses have endorsed the traditional moral condemnation [of the sex trades] while also attempting to provide support to “prostitutes” not as workers but as victims of patriarchy (Bruckert *et al* 2003, 52).

The third major perspective on the sex trades emerged in the late 1970s and early 1980s and was developed by organized “prostitutes” and their advocates. It positions “prostitution” as work and recognizes the civil rights of sex workers. “Sex work is neither a vice nor a symbol of women’s social [, sexual] and economic inferiority” but “a profession that is, for the most part, voluntarily chosen by women,” and those working in the trade are defined not as victims but as workers (Bruckert *et al* 2003, 4; Parent 1994). This position questions both traditional and feminist morality and challenges dominant values and

customs. “Prostitution” is a stigmatized profession, not a social problem, and “prostitutes” are ordinary people who share the needs and aspirations of everyone else, not deviant women or victims with psychological or social problems (Parent 1994).

The *sex work as work* perspective identifies neither clients nor pimps as the fundamental problem. Rather it is the “actions of the criminal justice system that penalizes [sex workers] and makes their profession difficult and dangerous” (Bruckert *et al* 2003, 4). This viewpoint asserts that the decriminalization of prostitution-related activities is the answer to the “prostitution problem” and calls for laws that will actually protect the rights of sex workers (Bruckert *et al* 2003; Parent 1994). As long as sex work is considered socially illegitimate, sex workers “cannot be considered on par with other workers in the labour market. Until that time, the [current] laws and regulations [...] will continue to lean toward the protection of the client and the community, and not the workers” (Bruckert *et al* 2003, 7 citing Chapkis 1997).

Ultimately, the concerns of this position are that sex workers can work safely, free from harassment and as full citizens (Bruckert *et al* 2003, 7 citing Tong 1984, 57). Research from this perspective recognizes that decriminalization alone would not ensure safe working space for sex workers nor guarantee the protection of their rights as workers (Bruckert *et al* 2003). While promoting decriminalization it also encourages other necessary social changes. For example, *sex work as work* demands the right of women to control their own bodies, define their sexuality outside traditional sanctimonious discourse or rhetoric associated with love and affection, and also that equality between men and women be advanced.

As a theoretical approach, *sex work as work* recognizes that sex trade occupations<sup>24</sup> involve commercial exchange of sexual and/ or emotional labour that is widely considered illegitimate (Chapkis 1997) and, although marginal, the sex trades “operate in relation to broader market processes and practices” (Bruckert *et al* 2003). Further, it “acknowledges the unique configuration of challenges, problems and difficulties confronted by women working in stigmatized and/ or illegal sectors of the labor market” (Bruckert *et al* 2003, 13-14). For example, the ways social and legal discourses and practices impact their organization of labour, “increase the danger and stress negotiated by workers, and shape the relations of workers to their social and personal worlds” (Bruckert *et al* 2003, 13-14). In this way the complex interplay between labour, subjectivity and law can be observed. This position is not meant to deny that forms of exploitation and oppression occur within the sex trades, nor to reduce the status of victims who are unable to understand and/or manage their lives, but to redefine the problem according to the people who practice the sex trade (Parent 1994).

This thesis researches the spatial regulation of street sex work in Canada from the perspective that sex work is a form of marginalized labour. Debates around deviance are thus external to this research. However, this approach allows for other avenues of inquiry that can fully consider the experiences of those working in the street trade as both *workers* and *people* with lives outside of that labour). In this way, analysis and discussion for this thesis can consider how area restriction strategies affect sex workers’ working and personal lives.

*Sex work as work* also influences the terminology used by this thesis. Dominant social norms around “prostitution” do not acknowledge the labour of the sex trade. Instead, they frame involvement as deviant or criminal behaviour that is inherently associated with

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<sup>24</sup> The range of sex trade occupations include strip or erotic dance (skin work), erotic massage, escort, indoor and street-based sex work.

other social problems such as drug abuse, violence and careless spreading of disease (Jeffrey and MacDonald 2006; Brock 1998, 2009; Chapkis 1997; Pheterson 1996; Bruckert (forthcoming). “Prostitute” is the term most commonly used to refer to those working in the sex trade and generally refers to the heterosexual sexual services offered to men by women. “Prostitution” embodies practices that go against certain standards of sexual conduct imposed on women and involves an element of stigma (Parent 1994). The attached history has made “Prostitute” a derogatory term and a status. In effect, it does not aptly separate the individual from their work, nor does it escape notions of morality and the inherent associations with other social issues (Jeffrey and MacDonald 2006).

This thesis uses the terms “sex work” or “sex worker” to associate the conditions of trade or sale of sexual services for compensation, in other words, to recognize the sex trades as a form of labour.<sup>25</sup> These terms better acknowledge that the lives of individuals cannot and should not be reduced to only a worker or deviant, but also that involvement in the sex trade is a form of income, much as an individual working on a construction site can be called a “construction worker.” “Sex work(er)” avoids the common stigmatization associated with the trade that reduces understanding of an individual to their stigma. By doing so it allows the researcher to see the interaction between one’s work and other aspects of their lives while emphasizing that the subjects are people for which sex work is only one aspect of their lives, their employment.

## **2. The City, Its Space & Its Citizens**

Framing sex work as work means that the spaces – the streets, neighbourhoods, communities - where the trade occurs are understood as a working space for sex workers and

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<sup>25</sup> “Prostitute” or “prostitution” will be used in quotation marks when they were the terms used in the original source being discussed.

a space that shapes their conditions of work. Further, the legal, social and political opposition faced by sex workers influences space and can be read as routine challenges of working in the street sex trade. This section follows from the above discussion to contextualize the research by theoretically characterizing the setting in which it takes place: the public space of the city and its regulation according to normative standards of mainstream society on social, cultural, political and legal levels.

Two theoretical factors are considered: A) the city is a heterogeneous place largely controlled by mainstream ideals and dominant social groups, and B) the stratification of citizenship based on access to (“public”) space.

*A) The Heterogeneous City, A Homogeneous Public*

Due to its large size and high population density, the city is a place that is necessarily more public than rural or peripheral settings like towns and villages. The city is also a forum of heightened encounters between different individuals and lifestyles via social interaction and exchange, tension and conflict. The population of the city can thus be characterized as a heterogeneous group of people who live within a space of more public experiences than other kinds of populated spaces. Lefebvre’s notion of the city as an *oeuvre* (Lefebvre) and work by Mitchell help to outline that different inhabitants of the city continuously struggle over how the city should be experienced and how it is formed.

Henri Lefebvre argued that the city is an *oeuvre*, a collective work in which all its inhabitants participate. However, participation and contributions emerge in many different forms because not all citizens play the same role(s) within the city and its spaces. For Lefebvre, the city is a place where a variety of people and groups with diverse projects, views and values live in close proximity. However, “what is different is [...] what is

excluded” because differences threaten hegemonic-centred social order (Lefebvre 1991, 373). Although difference lives within the city it is resisted by mainstream society and the many groups that make up the heterogeneous public struggle over the city’s development, the terms of access to the public realm, and the rights of citizenship (Mitchell 2003, 18). Out of this constant struggle, the *oeuvre* is shaped and modes of living and inhabiting are continuously (re)created.

Within this struggle certain groups, particularly the dominant class, hold more influence over the character of the city and how its spaces are shaped (Mitchell 2003, 18). The *oeuvre* becomes alienated from more marginal groups, such as street-based populations, and the city develops more as a site “of *expropriation* by a dominant class” than one for participation by all members of the city’s population (Mitchell 2003, 18 discussing Lefebvre). Put differently, the city has always been a place of difference but also a place of constant struggle between different projects, perspectives and values. In effect, city spaces are produced *for* the public by a dominant class or mainstream society, rather than being produced *by* public as a whole.

According to Hubbard (2001), there is an overbearing social sentiment that the public should embrace certain heteronormative values as desirable and be simultaneously prepared to expel those who do not conform. Deviants, like street-based populations, become “others” who are considered (very) different from the public who do accept hegemonic values, such as middle class property owners, characterized as “we”/ “us”/ “Self.” This creates a basis upon which acceptable (“us”) and less or in- acceptable (“other”) citizens can be distinguished and difference becomes regulated more keenly in some places over others (Hubbard 2001, 59-60).

Despite the struggle of the city, Lefebvre claimed that people have a right to the *oeuvre* that is related to objective needs that cities should be structured toward meeting. “The right to the city was the right “to urban life, to renewed centrality, to places of encounter and exchange, to life rhythms and time uses, enabling the full and complete *usage* of ... moments and places”” (Lefebvre 1996 [1968], 179 cited in Mitchell 2003, 19). Further, “the right to the city manifests itself as a superior form of rights: right to freedom, to individualization in socialization, to habitat and to inhabit. The right to the *oeuvre*, to participation and appropriation... are implied in the right to the city” (Lefebvre 1996 [1968], 174)” (Mitchell 2003, 18).

For this thesis it can be deduced that citizens (those entitled to the right to the city) *should* have access to (and be able to use, live and *be* in) city spaces. However, certain groups within the general population have their claim to the right to the city and their contribution to the *oeuvre* taken away from them. Groups associated with street life commonly experience this degradation of citizenship, among them sex workers. As a social phenomenon, sex work is one of many activities representing a struggle between the preservation of the homogeneous public and the inclusion of the heterogeneous public. Lefebvre’s notion of the *oeuvre* is useful to consider the use of area restrictions on street sex workers in Canadian cities.

Mitchell (2003, 140) explains that the public in its entirety is not acknowledged (understood as respected, protected) by the law, and the portion that *is* recognized is relatively homogeneous in terms of living in line with hegemonic norms. However, the homogeneous portion of the public is not representative of the entire, heterogeneous public body. Further, certain areas of public space are especially valued by mainstream society.

These places are thus regulated and (p)reserved for the homogeneous (fake) public (understood to be acceptable citizens) while the larger heterogeneous public (understood to include unacceptable citizens) are not welcome. Valued spaces are created and maintained to allow for separation of acceptable and less or in-acceptable citizens in certain non-private space, in other words highly valued public spaces.

In terms of this thesis, spaces generally regarded as public are made legally accessible to *only* those considered members of the *acceptable public*. Thus, only the accepted can contribute to the shaping of that space. These valued public spaces become inaccessible to the groups that are legally rendered the *unacceptable public* because of their limited access to public city space. This thesis uses “public” space to refer to the spaces reserved for the acceptable citizenry because they are not truly public space if the entire public cannot legally access them.

Legal responses to groups identified as different such as sex work(ers), homelessness, and panhandlers work to create a space, even a city, in which an entire class of people cannot be. The kinds of actions outlawed are not themselves subject to total societal sanction, as they are actions that much of the public partake in, but the problem is often *where* these actions occur and *who* does them (Mitchell 2003, 171). The rights of this restricted class of people do not matter when compared with “our” rights, rather the mainstream public composed of good or deserving citizens, to order, comfort, convenience, etc. The way society works convinces us that these deviant people are bad or undeserving citizens by using things like anti-sex work laws, regulation strategies and media help to institutionalize this conviction (Mitchell 2003, 183).

### B) The Production of Space & Citizenships

Lefebvre's theory on the *production of space* helps to explain how the struggle for the city is experienced by street sex workers. It allows for deeper consideration of the spatial regulation of street sex work, their legal access to the city and stratified citizenship when considering the significance of *where* street sex work happens, *who* is involved with area restrictions, and why *visibility* matters. First, a brief overview of the most relevant elements of space to the stratification of citizenship in terms of access to city spaces.

Space is socially created by “ideological, economic, and political forces ... that seek to delimit, regulate and control the activities that occur within and through it” (Zieleniec 2007, 61 discussing Lefebvre). Space is central to the human experience because all happenings are spatialized: space produces and is produced by the (inter)actions that happen within it between and among things, while also influencing and being influenced by the ideas and discourses about that space that have emerged with social practice (Zieleniec 2007, 65 on Lefebvre). Since space is clearly not neutral or static these phenomena are linked to the issue of *who controls or influences space*. The City is a hub for spatialized interactions, ideas and discourses charged by certain ideas and values of how things should be. Building on Lefebvre's ideas, it is a place of (re)production of citizens, where not everyone sufficiently measures up to hegemonic standards, nor gains unlimited access to the full range of public city spaces (Zieleniec 2007, 65 citing Lefebvre 1996, 101).

According to Lefebvre the *production of space* (*la production de l'espace*) has three elements: 1) spatial practices, 2) representations of space (*representation de l'espace*), and 3) spaces of representation (*espaces de la representations*). The first element is the most important for this thesis. *Spatial practice* is perceived space and is empirically observable; they are the things (“physical and material flows..., circulations, transfers and interactions”)

that people (“individuals, groups or communities”) do “in and across space” (Zieleniec 2007, 72). As such, certain “places and spatial compositions” become particular to arrangements of social relations (72) and certain activities and behaviours are deemed more or less suitable, fit or unfit, for particular places and spaces commonly referred to as public. Street sex work is a spatial practice, a kind of interaction between people that tends to occur in particular city spaces. However, its publicity (and very existence) is controversial based on the various perspectives about “prostitution”/ sex work (discussed in previous section). Especially with the legal context, there are habitual groups of people that come to be involved in this social practice: sex workers, clients, police officers and various criminal justice agents, other residential and business community members, etc.

Lefebvre explains that through spatial practices, individuals come to understand space and the conditions of their social reality through their own and others’ use of space. How and why people interact in “specific places for particular reasons” are derived from the close association “between daily reality (daily routines) and urban reality (the routes and networks)” that connect the different kinds of places used (Lefebvre 1991, 33 and 38). *Where* street sex work happens and is restricted from happening and how that restriction operates send important messages about how those involved in the trade are understood. The social significance of area restrictions will be discussed in terms of the message their use sends to street sex workers as citizens, an issue central to this thesis.

Spatial practice associates “the ownership, use and designation of [city spaces] ... with an intrinsic element of social control (policing and surveillance)” (Zieleniec 2007, 72). Public space is traditionally understood within democratic societies as spaces designated as “accessible for use by the public.” However, within the hegemonically ordered city, only

those in line enough with heteronormative values, interests and behaviours are able to fully (and for this thesis, legally) access and use public space. On this basis, and with the use of area restrictions to legally restrict or limit (re)entry into particular city space, street sex workers are positioned among those considered too different from the heteronormative standard to deserve full access to public space. By order of Federal laws pertaining to “prostitution,” police enforcement seems to maintain that street sex workers do not have claim to and are not permitted use of certain “public” spaces, which thus insinuates that they are not considered citizens because of their legally recognized involvement in the sex trade. This issue will be more thoroughly discussed during the final chapters of this thesis.

Lefebvre’s second and third elements for the production of space help to better understand how exclusion from public spaces functions. Representations of space (*representation de l’espace*) are constructed as the dominant (most influential) spaces in society. They are linked to “the relations of production and to the ‘order’ which those relations impose, and hence to knowledge” as a mixture of understanding and ideology (Lefebvre 1991, 33). In other words they are abstract but have practical consequences. Representations of space can be thought of as conceived space, or *discourses* on space, because they are spaces constructed by people and influenced by hegemonic forces and previous representations of space (Zieleniec 2007, 74).

For this thesis, representations of space are the ideologies linked to place concerning what should or should not happen (or be) within certain city spaces. The mentalities are influenced by decision-makers, history, and the law (and its many instruments), which aim to control how space is represented and also how it develops and is used. Laws communicate and media (as messenger) provide information on instructions about space and relationships

and the law's enforcement, media (this time as social control), and social stigma function as tools to ensure that those directions are respected. Within this conceived space is the decision that sex workers should not be visible in certain public spaces. This element of the *production of space* is not developed any further, as it has been used to frame understanding only.

Spaces of representation (*espaces de la representations*) are the third element necessary for the production of space, which is directly lived and experienced space of everyday life. Within spaces of representation, mental and social factors interact to produce culturally and socially influenced spaces that are used by the people within that space. In terms of this thesis, city spaces become (re)created according to particular dominant societal ideals of certain spaces and behaviours. Appreciating space as “a set of relations between things” (Lefebvre 1991, 82-3 in Zieleniec 2007, 76) means that public city space and access to it can be understood as representing how well an individual measures up to mainstream values, interests and behaviours. This concept will thus be used to tease out the messages communicated by the restriction of individuals from certain city spaces, rather than the restriction of only their controversial behaviours.

Lefebvre's production of space will be drawn on later in this thesis. The *spatial practices* concept is used to understand the stratification of citizenship based on access to space. Ideas from *representations of space* and *spaces of representation* are used to appreciate the ideological (re)creation of certain city spaces as reserved for certain kinds of spatial membership to the city.

Throughout this section a stratification of citizenship has emerged according to access to public space, making a drastic distinction between acceptable citizens who can

access public space and unacceptable citizens who have restricted access to public space. This thesis studies the use of area restrictions to indicate how this theoretical framework takes shape in reality, and how stratified citizenship and (limited) access to the city are notions that have been built into law enforcement strategies to respond to “the problems” of the street sex trade. Findings define the citizenship statuses legally applied to street sex workers.

Two types of citizenships that fall into the acceptable category can be defined according to the ideas discussed thus far: 1) *deserving citizens*, who are the ideal acceptable citizen and live according to hegemonic standards of citizenship and can thus enjoy access to all public space. And 2) *undeserving citizens*, who are bad citizens that are stigmatized for living somewhat deviantly from hegemonic standards of citizenship. However they are not sanctioned by the law if they access the public spaces, Their stigma represents that they mainstream society considers them as being undeserving of holding the same rights of citizenship accorded to those who live within heteronormative parameters. Unacceptable citizenships would include people/ groups who have likely experienced stigma, a warning of sorts for their improper behaviour or lifestyle, but who have continued to live or behave “inappropriately” so that their citizen status is subsequently downgraded. As such, punishment sees that they are legally removed and restricted from valued public spaces that only the acceptable public are allowed to enjoy. When analyzing and discussing findings on area restriction strategies, this scheme of citizenship categories is used to define the citizenships applied to sex workers by area restrictions according to access to public space.

At this point in this thesis, however, it is clear that the relation between citizenship and access to space represents another layer of the rejection of sex workers by mainstream

society. This layer is observable through the enforcement of law by means of strategies that draw imaginary boundaries within the city to communicate messages to sex workers about citizenship and access to the city. These legal boundaries apply to both their work as a sex worker and their daily life outside of the trade. The overall message is that individuals who work in the sex trade do not deserve full citizenship because of that labour, and they experience limited accessibility to the city as a result. The following discussion of social control mechanisms illustrates that the “problem” of street sex work is constructed as an individual lifestyle choice and the decision to remain in the stigmatized trade changes one’s citizen status so that legal removal from certain public spaces is warranted.

### **3. Social Control Mechanisms for Sexual Citizenship**

Jeffrey and MacDonald (2006, 105) describe social control as “the mechanisms designed to discipline members of society into prescribed modes of behaviour” by targeting groups deemed most problematic for particular intervention and control. Mechanisms of social control are developed to hide unacceptable or deviant behaviours, or at least diminish their appearance in public so that the overall effect is the moral cleansing of city spaces (see Johnston and Longhurst 2010 or Sanders 2009). Sex workers and their activities and behaviours while working in the trade are blatantly deviant from the mainstream and profiled as problematic.<sup>26</sup>

“The modern state assumes citizens to be heterosexual men or women who engage in particular kinds of sex” (Johnston and Longhurst 2010, 115), which is often very different from the (sexual) interactions and/ or relationships that sex workers have with clients. Further, public space is also considered the most sensitive to deviant sexualities because of

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<sup>26</sup> Discussed more fully in terms of sexual citizenship politics by Sanders (2009).

the increased formal and social surveillance that comes with a larger collection of people. For these reasons, sex workers are targeted by social control mechanisms and thus struggle with stigma, marginalization, a lack of recognized employment rights, and criminalization. Public stigma and the law and its enforcement are two of the most common types of social controls that sex workers are subjected to (Jeffrey and MacDonald 2006, 105).

Emphasis on self-governance within the current social climate means that individuals within the city must take control of their own lives. For female sex workers, the expectation is that they will exit the trade upon receiving legal “help” in the form of arrest and detainment and sometimes diversion programs. However, prostitution policy offers social inclusion while reinforcing exclusion of unwanted sexualities, which renders citizenship conditional for those who remain in the trade (Sanders 2009, 521).

The following outlines the most pertinent forms of social control of street sex work to this thesis. The first subsection addresses social regulation through stigma by drawing on Goffman (1963) to define stigma and outlines symbolic and structural stigma using excerpts from Hannem and Bruckert (forthcoming). Pheterson’s (1996) “whore stigma,” which begin to specify types of acceptable or included types of citizenships, identifying deserving and undeserving statuses. The next subsection explains legal regulation of the trade through law and enforcement, which perpetuates and justifies the marginal citizenship of sex workers and create kinds of unacceptable or restricted citizenships. This section begins to describe the social boundaries that are created between sex workers and non-sex workers as a result of the state-sanctioned stigma and marginalization.

*Social Regulation: Levels of Stigma Faced by Street Sex Workers*

For this thesis the social regulation of street sex work is largely framed in terms of stigma. Goffman (1963, 3) identifies stigma as a discrediting attribute that reduces a person “from a whole and usual person to a tainted, discounted one” in their perception by others. Further, Goffman (1963, 4) explains that stigma is not just an attribute, but rather a “relationship between attribute and stereotype.” An individual characterized by an attribute deemed undesirable by others based on (negative) stereotypes incites avoidance or discriminatory behaviour from others towards the stigmatized person (Hannem forthcoming, 23)<sup>27</sup>. Such reaction to the attribute is the observable evidence of stigma, which Hannem (forthcoming) explains is not inherent to the individual attribute but is realized during interaction with non-stigmatized persons.

The stigmatic characteristic is not necessarily obvious to others and the individual with the stigmatized attribute may not be immediately discredited for having it. However, the person is discreditable upon discovery of the attribute by the non-stigmatized (Hannem forthcoming, 24). “Passing” may allow a person to avoid immediate or overt discrimination, which Goffman defines as the concealment of discrediting information. The ability to “pass” is generally dependent on the visibility of the stigmatic attribute, but Goffman asserts that context and history together impact its “evidentness.” For example, involvement in the sex trade would be deemed a “moral failure,” and is less evident than physical abnormalities. Hannem (forthcoming, 25) explains that “passing through nondisclosure is generally unproblematic and allows for surface-level interactions to occur without concern for prejudice or discriminatory behaviour.” In this case, a discreditable person need not be subject to stigma with every interaction and can have a “normal” identity in at least some

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<sup>27</sup> This manuscript has not yet been published. Page numbers may differ slightly from the final, published copy.

social contexts as long as the stigmatic attribute is not evident (Goffman 1963). Sex workers are in this position as long as they are unknown to the law or other community members.

Stigma is rooted in cultural understandings and definitions and the stigma attached to different kinds of characteristics means that the experienced impact also varies. For example, the stigma linked to a criminal conviction “may have a broader and more general impact on perceptions of the individual’s respectability, trust-worthiness and/ or abilities” when compared to a physical stigmatic characteristic that the bearer would not be blamed for (Hannem forthcoming, 26). Hannem asserts that stigma linked to character and morality, as it is with sex workers, has “the greatest impact in terms of levels of discrimination and acceptance from “normals” in the larger society” (forthcoming, 27). A blemish in character is seen as a personal failure of will and so responsibility for it lies with the individual. Stigma attached to character may be “easier” to conceal than a physical attribute, but “it is potentially far more socially debilitating for those who are “outed” or who choose to disclose their discreditable attribute” (Hannem forthcoming, 27). For this thesis, the effect is understood as having implications for a street sex workers’ citizenship status.

In addition to the different kinds of stigmatic attributes, there are also different kinds of stigma. *Symbolic stigma* is commonly experienced by individuals who belong to marginalized groups as psychologically or emotionally hurtful (Hannem forthcoming, 33). Individuals are able to successfully negotiate it while it remains an individual concern but symbolic stigma becomes an issue when stigma comes to be systematically applied by individuals or groups in society to a particular entire group of people (33). At such point, the stigma goes beyond that of the perception of an individual attribute to become a wider

“stereotypical concept that taints an entire group and pushes them to the margins of society” (33).

*Structural stigma*, understood by this thesis as building on symbolic stigma, “arises out of an *awareness* of the problematic attributes of a particular group of people and is based on an intent to manage a population perceived to be ‘risky’ or morally bereft” on the basis of the stigmatic attribute (Hannem forthcoming, 34). In this way symbolic and structural stigma interact to cause an inherent disadvantage to a group of people. “Whether or not an individual experiences symbolic and individualized stigma in interactions, he or she is marked and may be subject to a myriad of interventions, regulations and surveillance, not on the basis of *individual* factors, but on the recognition that he or she belongs to a statistically ‘risky’ group” (Hannem forthcoming, 34). Further, structural stigma is the product of institutional or bureaucratic decision-making to manage the perceived risk of a certain population to themselves, the institution, or greater society (35).

Bruckert (forthcoming, 80) discusses structural stigma as it relates to sex work. With the understanding of sex work as stigmatized labour comes “recognition of the historical process of moral regulation.” To elaborate, “when *disreputable* and stigmatized activities are enacted as work, the workers and their labour site are enmeshed in a regulatory web” that is not experienced by widely accepted and understood mainstream occupations (80). These workers are then discursively constructed according to “stereotypes, first as anomalous, and then as at risk/ risky in official policy and practice” (80). The constructions come to develop “an authenticity that supports and legitimates subsequent regulatory initiatives” (80) which for sex workers means that stigma is “experientially real” because it permeates “professional, social and intimate [facets of their] lives” (90).

The visible nature of street-based sex work means that street sex workers “confront stigmatic designations on a regular basis” (Bruckert forthcoming, 91). Bruckert explains that in addition to being defined as someone who is different from “us” (understood as “normal, acceptable people” of mainstream social groups) a street sex worker is also “often undefined” as being risky or somehow threatening to “us” (91). Furthermore, Bruckert asserts that “street-based workers are particularly vulnerable to structural stigma [because] stigmatic assumptions about sex workers permeate the ... laws that seek to save at the same time as they punish” (forthcoming, 92). Gail Pheterson’s (1996) “whore stigma” elaborates on this important point, which helps build the foundation for the Discussion and Conclusion Chapter.

Women caught participating in unlawful activities are typically socially deemed either 1) *bad* “if motivated by their own self-interest (in itself transgressive for women [who are “supposed” to be obedient to men])” or, 2) *fallen* “if [their actions were because they fell] prey to malicious male design” (Pheterson 1996, 11).<sup>28</sup> Whether transgressive women were agents or victims in their misbehaviour, they become distinguished from “virtuous women” by the stigma “whore.” Pheterson (1996, 11) makes clear that “this political function of the whore stigma effectively isolates [sex workers] from other women while rendering a range of liberties incompatible with female legitimacy.” Those deemed “fallen women” are judged negatively and are socially punished for the “sexual autonomy, geographic mobility, economic initiative and physical risk-taking” through which most men earn respect (11).

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<sup>28</sup> This is not meant to exclude consideration of transsexual and male sex workers, however, female sex workers are comparatively more common, more observable, and are represented by the findings.

Based on heteronormative standards of feminine sexuality (monogamous, heterosexual, procreative),<sup>29</sup> the *prostitution prism* denotes that women are either legitimate or illegitimate. Pheterson importantly points out that “any break or impropriety in the heterosexual-married-childbearing chain can be used to rationalize the whore stigma and its abusive consequences” (1996, 15). Sex workers overtly defy this chain. This thesis understands the whore stigma as removing the status of deserving citizen from a recognized sex worker and downgrading that individual’s citizenship to non-deserving citizen.

The whore stigma, as a social and legal branding for women suspected of “being or acting like prostitutes,” is a major hurdle for accessing individual rights (Pheterson 1996, 30), particularly those pertaining to citizenship. Any woman suspected of behaviour related to soliciting money for sex acquires the social status “prostitute.” This makes her vulnerable to legal and social controls and punishments and branding her as “The Prostitute” or the prototype “whore” (Pheterson 1996, 31; also Sanders 2009, 520). Since female sex workers are often forced by legal and social labelling to remain “prostitutes” and bear the prostitution status in all aspects of their lives, their citizenship is attacked. The stigmatized sex worker is rendered an undeserving citizen. The relationship of this citizenship status to geographic space permits a sex worker to *legally* access public spaces, although their *social* position is marginal. A sex worker legally labelled “prostitute” by an active criminal charge falls into the unacceptable citizen category with limited access to public space through area restrictions. This category is now discussed.

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<sup>29</sup> For Pheterson (1996, 14-15), “Whore as prostitute” and “whore as unchaste” are both stigmas woven into the general pattern of female lives and contribute to (inaccurate) assumptions about women, prostitutes and dominant moral or social codes.

### *Legal Regulation: Law & Its Enactment*

Legal regulation of street sex work includes both the law and its enactment. The law provides instructions for proper citizenship and social behaviour according to hegemonic norms and the enactment of law by police power enforces those instructions with state-sanctioned threat of penalty (Mitchell 2003, 27-28; similarly Sanders 2009, 519). As stated above, there are narrow standards of acceptable citizenship and current Canadian legislation criminalizes acts surrounding sex work while leaving prostitution itself legal. Its criminalization is enough to position the status “prostitute” as undeserving or bad, however this citizenship is to some extent tolerated in that stigmatized sex workers can still legally access public space.

Hubbard (1997, 1998a) supports that the real aim of the law is to reduce the visibility of sex work (as an unacceptable human sexuality) in the public realm. Although laws pertaining to prostitution more or less communicate that street sex work must not happen in any city space, both the enactment of law and dominant moral geographies (understood as social controls) dictate that its visibility is more acceptable in certain spaces over others. As such, it seems that street sex work is legally framed as an assault against standards of public morality and decency which then provokes legal and moral (social) response or controls.

Carr, Brown and Herbert (2009, 1963) explain that inclusion under the law translates into exclusion from city space, where the law functions to exclude some people and behaviours and simultaneously includes and protects those that are “socially, politically, and economically valued.” Legal regulation is based on normative conceptions of citizenship and is thus not neutral. As a result it creates, reinforces, and spatially codes kinds of citizenship by demarcating who does fit (“orderly,” “appropriate” and “desirable” populations) and who

does not fit (populations, like sex workers, deemed socially “disorderly,” “inappropriate” and “undesirable”) within the “good” city.

Hubbard (1997) describes a relationship between the legal regulation of street sex work and the social controls that thus emerge, particularly the stigma that creates a citizen status for sex workers that is separate from “normative” women. According to Hubbard (1997, 134), current legal discourse about prostitution contributes to a stigmatizing approach that is especially apparent when women are legally labelled “prostitute” after being convicted of soliciting. “Through this label, current prostitution laws effectively distinguish between the civil rights afforded to sex workers and those offered to other women,” particularly in terms of legal protection (Hubbard 1997, 134 using Lopez-Jones 1990). As a result, the combination of prostitution laws, political, medical and religious narratives construct sex workers as different from “decent” women (Hubbard 1997, 134). In many cases, this comes with the belief that sex workers abnegate certain rights upon avoiding “opportunities [offered by criminal justice actors] to exit prostitution: in short, if they ‘choose’ to remain street prostitutes they become flawed citizens in the eyes of the state and the law, and take on the mantle of criminalization” and lesser citizens (O’Neill, Campbell, Hubbard, Pitcher and Scoular 2008, 77 citing Scoular and O’Neill 2007; also in Sanders 2009, 521).

This social phenomenon is what this thesis aims to document by observing police use of area restrictions to manage the street sex trade. Sex workers are legally recognized as being too different from the heteronormative standard to be allowed free-range access to the city. Social boundaries are made legal and sex workers are put on area restrictions from certain spaces. The enactment of the law through area restrictions creates *unacceptable citizenships*.

Legal and social regulations are understood as informing and perpetuating one another and as this subsection has shown, sex workers are targets of both forms of social control. The moral condemnation and eventual exclusion of sex work as a “scary” heterosexuality and practice illustrates how heteronormativity and patriarchy intertwine to create lesser citizenships based on sexuality and/or sexual practice. The next section discusses (access to) public space based on prescribed citizenships and resulting legal boundary erection as an ever-prominent social control mechanism.

#### **4. Geographies of Exclusion: Border Erection & the Creation of “Public” Space**

Social regulation in the form of stigma and legal regulation in the form of law and its enactment create different layers of boundaries between citizens who work in the sex trade and those who do not. This section briefly outlines the *boundary* as it is conceptualized by this thesis and discussed in the final chapter in terms of area restrictions.

The creation of boundaries linked to physical space allow for the organization and regulation of things within the designated space by fundamentally effecting social interactions. Within the context of this thesis, legal regulation interacts with boundary erection to impact the citizenship of already stigmatized and socially marginalized sex workers so that they become non-citizens with restricted access to public space. Although law theoretically encompasses the entire space of the city, it is more often performed or enacted in certain spaces and at certain times over others, most often in spaces of difference (Mitchell 2003, 46). “The very nature of urbanism is at least in part a product of the struggle over legal content of public space- who owns it, who controls it, who has the right to be in it, and what they may or may not do once there” (Mitchell 2003, 46). This section also offers a

preliminary explanation of how boundaries are used as criminal justice tools to create area restrictions and legally punish sex workers as unacceptable citizens.

Georg Simmel's description of boundaries is useful to emphasize the significance of boundaries, whether social, physical, or both. He explains that the creation and use of boundaries means that objects and actions within space can be ordered and regulated according to a broader plan fuelled by certain values, principles or purposes while simultaneously structuring "the inter-relatedness of its contents" (Zieleniec 2007, 42 on Simmel). In this way, socially constructed space creates real and potential limits for the bounded space and its contents because the boundary influences spatial and social relations between and among objects and human actions. Concisely put, bounded space closes an area from an "outside" and cultivates a more "real" and concretized spatial character for the boundary, but it also creates an inner cohesiveness among the contents of the boundary that are subject to its own localised regulations (Zieleniec 2007, 42 on Simmel 1908). This notion has important implications for the function of creating "public" spaces that those under area restrictions become restricted from.

Following Simmel's logic, a group becomes "inwardly homogeneous because its existence is enclosed in acutely conscious boundaries" (in Zieleniec 2007, 42). The unity of this group, their attachment to the contents of the boundary, and the function of the boundary is then strengthened and reinforced in the reality of the boundary. In terms of this thesis, the "inside" and "outside" created by boundaries *within* cities symbolize distinctions between the groups or individuals *allowed* inside those spaces. Specifically, acceptable citizenship and unacceptable citizenship is legally signified based on who has access to the "public" space within the

boundary. The support for the separation is perpetually reinforced by the fact that the boundary exists as a dividing mechanism to keep the homogeneous public safe from difference.

An additional outcome of the use of boundaries within the city is that public space as not-private space and “public” space reserved for acceptable citizens are differentiated. Lechner (1991 discussed in Zieleniec 2007, 42) draws on Simmel’s work to show that the partitioning of space “prioritises and creates the potential for social hierarchies to be created and maintained.” The spatial framework and/or social status “that an individual or group occupies has consequences for order and control in and of space that feeds back into the social relations and actions of groups” (Zieleniec 2007, 42). Since space has a reciprocal relationship of influence with its components, it is a determining factor for the social interactions occurring within it. For Lechner (1991 discussed in Zieleniec 2007) this means that order within and control over the boundary has important implications for movement, circulation and control of and through the broader city.

Important to this thesis is that boundaries do two things: they provide a means of sustaining the “us,” the creators and occupiers of the boundaries, while also identifying and/or excluding “them,” those restricted from the bounded space (Zieleniec 2007, 43). Sibley (1995 discussed in Hubbard 1997) tells that *exclusion* has been the dominant process in the creation and maintenance of social and spatial boundaries. Exclusion has been “a fundamental means of controlling those who do not conform to dominant norms and practices” and so the erection of social and physical boundaries has become a “key means by which dominant... interests are able to define certain groups, classified by virtue of their ‘other[ness]’ ... as deviant or ‘polluting’” (Hubbard 1997, 134 discussing Sibley 1995).

This thesis observes a particular exclusionary treatment for street sex workers as deviant “other.” And as Blomely (2005, 282) adds, the spatial inscriptions of law as legal boundaries can help to shape legal consciousness, understandings, and particular ways of thinking that coincide with legally-created schema. These are based on hegemonic ideals and the legal element helps to facilitate the reframing of public spaces into properties that become “ours” and not “yours,” in other words, applying property rules to places commonly deemed public.

Until a sex worker is placed on area restrictions, their social status is “undeserving citizen,” denoted by the stigma they carry as a result of being socially recognized as a sex worker. The creation or erection of non-physical boundaries within the city makes the terms and conditions of area restrictions possible. It also makes their effects real by fixing the status of “unacceptable/ restricted citizenship” to space. Simmel described this as giving unstable objects (those that exist only in interactions between people) a “spatial determinacy” that provides a “pivotal point” to maintain a system of elements in a particular way (in Zieleniec 2007, 43). In addition to the stigma that sex workers experience in any city space when their involvement in the trade is known, the significance of fixed spatiality is felt by sex workers whenever they need or want to enter the areas rendered “public” space by their area restriction. The “public” space is realized as a pivotal point whenever an individual sex worker, the conditions of area restrictions, and a geographic (“public”) space that the individual would like to enter interact.

The function of the pivotal point is dependent on the fixed quality of contested “public” space, the mobility of the homogeneous public, and a presumption of the mobility of the street sex trade (workers). Logically, if a thing is immobile in space then people must

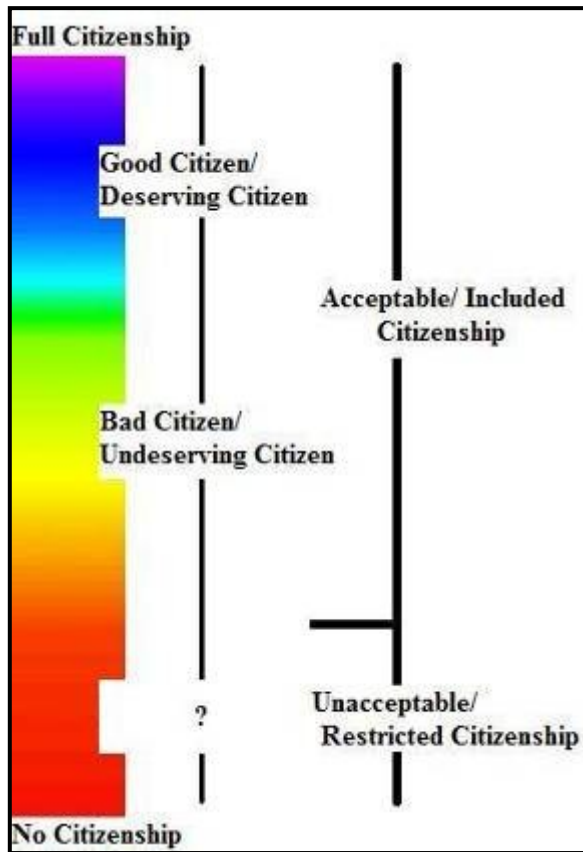
travel to it to use it or access what is in it (Zieleniec 2007, 46 on Simmel). Area restrictions are enabled because the non-physical boundaries are stabilized through anchorage to a permanent physical location (46, discussing Simmel). Since the sex trade cannot be dismantled (whether or not that is the intent of the law and state), its mobility is significant to the extent that those involved in the trade can be displaced, and their mobility legally restricted. Further, the immobile areas formerly considered public are effectively reserved for only (mobile) acceptable citizens.

The “public” space becomes a socially important pivot that showcases right and wrong interactions/ behaviours while also demonstrating the consequences of not conforming. Legal access to “public” space represents citizen status as either acceptable or unacceptable. The fixed spot in the physical world, the area that is restricted for the sex worker, becomes a pivot for the relationship and the social context of citizenship and “public” space. The fixity of a sex workers’ unacceptable citizen status to a particular space makes it exist in and of itself because it then has stability.

### **Conclusion**

This chapter theoretically contends that not everyone who lives within the city is considered a citizen of the public with full rights to citizenship. Along this logic, this chapter furthers that “public space” does not refer to space available to everyone living within the city, but instead only to those who are considered citizens according to measurement against mainstream standards of acceptability. By conceptually framing the relationship between *space*, (*social and legal*) *regulation* according to hegemonic social values, and *citizenship*

*status* this chapter has outlined a spectrum<sup>30</sup> of citizenship statuses; two categories and subcategories of citizenship can be considered at this point in relation to street sex workers (see Figure 1below).



**Figure 1 Citizenship spectrum as understood for this thesis.**

*Acceptable citizens* are a category of citizenships made up of those individuals and groups who are included, to various extents, by the heteronormative standard and who thus have access to all public city space. Within this category are two subcategories of citizenship that are considered by this thesis: *deserving/ good citizens* who are essentially non-sex workers and do not suffer any legal

or social penalties associated with involvement in the sex trade; and *undeserving/ bad citizens* who are stigmatized and marginalized as sex workers but continue to have legal access to all public space, although they may experience social penalties that dissuade them from accessing some public spaces. This subcategory of citizenship is not different enough from heteronormative standards to be legally excluded, however such individuals are in jeopardy of losing legal rights of citizenship.

<sup>30</sup> A spectrum has been chosen because I am not presenting a quantifiable equation to determine citizenship, rather a theme defined by two extremes- and even these do not come into play here. The use of spectrum implies a range of conditions or behaviours grouped together and studied under a single title for discussion.

*Unacceptable citizens* are the second category of citizenships. This status is created on the basis of law and is a group that is criminalized and excluded, in addition to being marginalized. These individuals and groups become distinct in particular ways, based on behaviour, from the heteronormative standard of citizenship and thus have restricted access to city spaces. This thesis works to identify subcategories of this status by considering restrictions from “public” city spaces.<sup>31</sup> Concisely put, public space does not belong to everyone who inhabits the city and instead only belongs to those with deserving citizen status. Undeserving citizens, although socially marginalized and stigmatized, still have *legal access* to public spaces. However, unacceptable citizenship denotes a legal difference in how an individual can experience, access and use the city. Sex workers on area restrictions do not have rights to all public space and their legal restriction from certain spaces referred to as public is the embodiment or physical realization of their lesser status.

Regulation of “public” space could then be understood as enforcement of property rights, where mainstream society is in possession of property rights over “public” space which allows them “to exclude unwanted people [(non-citizens)] from access” (Mitchell 2003, 20 citing Blomely 2000 and MacPherson 1978). This exclusion is essentially state-sanctioned customization of the city through control over *where* different *kinds* of people can legally be. Much as the “police can be called to physically remove a trespasser [from a home or business owner’s private property]; injunctions prepared, criminal sanctions sought” (Mitchell 2003, 20), sex workers as non-citizens can be removed and excluded from public spaces for long periods of time as trespassers on “public” space.

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<sup>31</sup> Although this thesis focuses on sex work, specifically street sex workers, and access to public space, the author suspects that this spectrum of citizenship could be applied to any controversial behaviour. For this reason, the spectrum has been given a generous width to suggest avenues of citizenship-focused enquiry for other “social problems.”

## **CHAPTER 4- RESEARCH METHODOLOGY**

This chapter details the research questions that have guided this thesis as well as the epistemological orientation of the project and the methodological approach. The methods and data sources are carefully detailed while explaining why they were chosen, what they entailed and the limitations or difficulties encountered by this thesis.

At different stages this research project has been both exploratory and descriptive in nature because of the lack of available information on area restrictions used against the street sex trade in Canada, and specifically those imposed at release from police custody. To contribute to public education on the topic and the development of a common understanding arrest-and-release area restriction strategies on the street sex trade, this project used a qualitative research design.

### **General Research Questions**

Yin (2008, 10) claims that defining a study's research questions is likely the most important step. Two general research questions have guided this project since its earliest stages: **In Canada, what are arrest-and-release area restrictions and how have they been used to control the street sex trade? And, how can area restrictions be associated with the mapping of the city and the exclusion of “undesirable” populations, in this case street sex workers, from public spaces?**

This project responds to a knowledge gap by researching where why, and how area restrictions are used in Canada on the street sex trade. The product combines both a practical and theoretical approach to understanding this issue through holistic consideration of data collected from 13 research sites. The inclusion of multiple cities across Canada meant that

patterns of *what is happening* could be mapped and analyzed. This offers insight on *how* and *why* area restrictions developed in Canada and whether or not they have achieved desired results. However, additional research is required to answer such questions more fully and concretely.

### **A Note on Epistemological Considerations**

Epistemology pertains to meta-theories of knowledge and how it is achieved. There are three major branches: Idealism, Empiricism and Realism. This thesis falls within the Realist tradition, where epistemology is understood as being different from ontology (the theory of being) so that reality is understood to exist independent of its human conception (Danermark *et al* 1997, 5-6; Trochim 2006). More specifically, Critical Realism<sup>32</sup> holds that there are unobservable events that cause observable ones, meaning that although a researchers' aim to understand reality, one can never actually achieve that goal because all observation is fallible and unintentionally biased (BYU 2011; Trochim 2006; Danermark *et al* 1997). Efforts contribute in some way to understanding reality, but cannot capture the full picture.

To apply these notions to social science, there is a reciprocal influential relationship between humans and society which in turn impacts human activities (BYU 2011). Rules of culture and society thus cannot be universal and social structures are open and cannot be controlled in a laboratory- type setting. As such, critical realism does not have predictive power *per se*, but has explanatory benefits (see BYU 2011). Critical realism requires a “deep understanding” of the studied social situation beyond the observable to additionally investigate the mechanisms behind an event (BYU 2011). The use of theoretical

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<sup>32</sup> Roy Bhaskar is credited with providing “first thorough description” of critical realism, building on criticism of positivism (see Danermark *et al* 1997, 5).

contributions is thus very important to this thesis. Further, since all measurement is fallible, critical realism emphasizes the importance of multiple measures and observations (each of which may possess different types of errors) and the need to use triangulation to try to get a better idea of the reality under study. The following explains how these steps have been taken to strengthen the findings of this thesis.

### **Methodology**

Research methodologies are generally divided into quantitative and qualitative orientations. As Berg (2009, 3 using Dabbs 1982) explains, “*quantity* is elementally an amount of something” where quality considers “the what, how, when, and where of a thing.” As such, quantitative research focuses on counting and measuring units of things while qualitative research is concerned with “the meanings, concepts, definitions, characteristics, metaphors, symbols, and descriptions of things” (Berg 2009, 3). Quantitative orientations are often given more respect among the social sciences, which Berg (2009, 2) claims likely reflects social tendency to “regard science as relating to numbers and implying precision.” Such a position, however, ignores the richness and greater depth in understanding derived from qualitative procedures (Berg 2009, 2; Silverman 2006, 36). Further, Berg (2009, 15) asserts that as long as “*science* is defined as a specific and systematic way of discovering and understanding how social realities arise, operate, and impact on individuals and organizations of individuals,” both qualitative and quantitative orientations are empirical, scientific methods. It is the way in which a project is carried out that decides whether or not it can be considered as scientific research.

Qualitative research has contributed immensely and significantly to the social sciences both conceptually and theoretically (see Berg 2009, 3 citing Bogdan 1972). Certain

experiences and phenomena simply cannot be “meaningfully expressed by numbers” (Berg 2009, 3; similarly in Silverman 2006) and the choice of one research method over another “should depend upon what you are trying to find out” (Silverman 2006, 34). A valued strength of qualitative research is its ability to use naturally occurring data to find out *how* the object of study (*what*) is deployed, which thereby captures the character of some phenomenon (Silverman 2006, 44). However, it is very important to be specific and clear about *what* is being studied to maintain the integrity of the study.

This thesis used a qualitative, non-experimental methodology because it is researching a contemporary phenomenon, the use of a policing strategy in its real-life context. A qualitative approach facilitates research findings that will more clearly define the details around *how* and *why* area restrictions are used in Canada, but also how it compares to other nations. As Silverman (2006) explains, a qualitative approach is better able to capture the full range of details surrounding the focus of study and also allows the researcher to evaluate the meanings of such findings.

### **Research Design**

It is important to logically combine a project’s initial research questions, research design, and empirical data in a sequence that will accurately characterize a phenomenon in the study’s conclusions (Yin 2003). Research design functions to ensure the collected evidence will enable the researcher to answer the research questions as unambiguously as possible. One must ask “given this research question, what type of evidence is needed to answer the question in a convincing way?” Yin (2008) identifies five major research methods: experiment, survey, archival analysis, history and case study. Three conditions must be considered when choosing an appropriate method: a) the type of research question

posed; b) the extent of control an investigator has over actual behavioural events; c) the degree of focus on contemporary versus historical events (Yin 2008, 8).

The case study was chosen as most appropriate for this thesis because it is well suited for examining contemporary events when the relevant behaviours or variables cannot be controlled for the investigation (Yin 2008, 13). Further, case studies make it possible to capture “the processes created and used by individuals involved in the phenomenon” (Berg 2009, 319 citing Weick 1995), while also considering the real-world contexts in which it occurs (Yin 2011, 5). Yin’s (2008, 18) technical definition of a case study is twofold:

1. A case study is an empirical inquiry that i) investigates a contemporary phenomenon in depth and within its real-life context, especially when ii) the boundaries between phenomenon and context are not clearly evident.
2. The case study inquiry i) copes with the technically distinctive situation in which there will be many more variables of interest than data points, and as one result ii) relies on multiple sources of evidence, with data needing to converge in a triangulating fashion, and as another result iii) benefits from the prior development of theoretical propositions to guide data collection and analysis.

In particular, this study employed a *collective case study*<sup>33</sup> design because multiple cities were included as research sites. This approach is defined as involving “extensive study of several instrumental cases, intended to allow better understanding, insight, or perhaps improve ability to theorize about a broader context” (Berg 2009, 326). Further, Yin (2003) claims that collective case studies are typically regarded as being more compelling and thus the study can be considered more robust.

Building on definitions of case study and collective case study design, this thesis used these methods to improve common understanding of a real-life phenomenon by examining its use in greater detail. To do this it was pertinent to additionally appreciate the contextual

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<sup>33</sup> Other authorities have called this design multiple case studies, cross-case studies, comparative case studies, or contrasting case studies.

conditions in which area restrictions are used, in other words, the cities, their spaces, and the moments where area restrictions are or have been used on the street sex trade. The result is a more accurate comprehension of how area restrictions work and are used to manage the street sex trade in Canada.

Although a collective case study design was best suited to the objectives, time and financial constraints of this master's thesis, they are not without limitations as a research design and are often the target of criticism. For example, case studies have been called "less rigorous and less systematic than other forms of research" (discussed in Berg 2009, 317). For this reason, and in order to conduct a "good case study," case study research must follow certain design logic, data collection and data analysis since phenomenon and context are not always distinguishable (Yin 2008, 18). I now outline the case study protocol that guided this research project and explain the common tests to establish the quality of empirical social science research. I also identify the steps taken to increase the quality of this study while acknowledging weaknesses or points of criticism associated with the design.

### **The Case Study Protocol**

Yin (2008) outlines the case study protocol as an important part of the research design for case study investigation. It includes study questions, a theoretical framework, an identified unit(s) of analysis, logically linking the data to the theoretical framework, and creating criteria for objectively interpreting findings. This thesis followed Yin's case study protocol as a guideline, however, some aspects were adapted or modified to better suit this project. The following discussion focuses specifically on the study questions since the other components of the case study protocol are outlined in other areas of this chapter.

At the heart of Yin's case study protocol is a set of substantive questions- the "case study instrument"- meant to reflect the line of inquiry (Yin 2008, 86-87). The protocol's questions are directed at the researcher, thus the instrument acts to remind the investigator of the information that should be collected and why, keeping the investigator on track as data collection proceeds. Case study protocol questions should clearly distinguish between the different types or levels of questions of the research project and its various stages:

Level 1: questions asked to interviewees.

Level 2: questions asked of each individual research site.

Level 3: questions asked of the pattern of findings across all research sites.

Level 4: questions asked of an entire study, calling on information beyond the case study evidence and including other literature or published data.

Level 5: normative questions about policy recommendations and conclusions that go beyond the narrow scope of the study.

Yin (2008, 87) recommends heavy concentration on Level 2 because these are the questions that the investigator must answer during each case. Importantly, Level 1 and Level 2 questions should be distinct because the verbal line of inquiry, the literal questions for the interviews, should be different from the mental line of inquiry (87). Each protocol question should be accompanied by a list of likely sources of evidence, which may include names of individual interviewees, documents, or observations. Based on this guideline, I now outline the research protocol of this thesis project. To facilitate clearer understanding they are ordered according to scope and not necessarily the order in which they were developed.

Preliminary Level: Prior to the development of study questions from Levels 1 to 5, preliminary inquiry questions were formulated to generate working definitions of the phenomenon under study. The questions at this Level were concerned with loosely identifying what "area restrictions" were and where in Canada they were used. Sources at this stage included international literature on area restrictions and organizations who worked

with criminalized populations across Canada. This initial stage also informed the theoretical framework developed for this thesis (see Chapter 3). As Berg (2009, 319-320) identified, theory development prior to data collecting can help the researcher specify *what* is being explored during exploratory stages, contribute to a “complete and appropriate description” for descriptive research, and can support generalizations to other cases.

Level 1: These were the questions asked to research participants, the questions in the interview guide (see Appendix A). They were informed by information collected at the Preliminary Level. Details pertaining to the interview are discussed below as a data source.

Level 2: These were the questions asked of each research site (city) and followed the style of an exploratory case study method. Since there was little common understanding around area restrictions, these questions aimed to describe the phenomenon.

1. When and why were arrest-and-release area restrictions introduced? If they are not currently used, why? Who developed and implemented them? Are area restrictions used specifically for street sex work or on other “nuisance crimes” too?
2. In policy and in practice, how do area restrictions work? Have they been modified since they were introduced? If so, how?
3. What are the boundary zones, are they predetermined and why were they chosen? What is found within those zones (services, resources, housing, etc)?
4. Have tolerance zones (intentional or unintentional) developed outside of the zone(s) as a result of police efforts within the zone(s)?
5. How often are arrest-and-release conditions imposed on sex workers? How often are sex workers arrested for breaching their conditions? Have these rates changed at all over time?
6. Are female, male and transsexual sex workers equally targeted by arrest-and-release area restrictions?
7. (If possible) Has the volume of complaint received by police changed since the use of area restrictions? Have area restrictions impacted the level of street sex trade activity?

Interview data, collected documents (discussed elsewhere) and (a few) existing scholarly sources supported answers for these questions. This stage of research was a prelude to more in-depth investigation that collectively considered the research sites (discussed in Berg 2009, 327), and so it partially informed the next Level of study questions.

Level 3: These questions asked about the pattern of findings across research sites and facilitated critical and theoretical analysis of area restriction strategies. They aimed to provide an overview of how area restrictions have been used on the street sex trade in Canada. The questions were:

1. Considering the collected data, how have arrest-and-release area restriction been implemented in Canadian cities in relation to the street sex trade?
2. What legal body is responsible for the creation and implementation of arrest-and-release area restrictions in Canada? When and where in Canada were they first used as a policing tool for the street sex trade?
3. Why were police-imposed area restrictions introduced in Canada? What was the atmosphere surrounding Canada's regulation approach to the sex trade at the time when this policing tool began targeting street sex workers?
4. What is the philosophy or logic behind area restrictions and whose interests do they serve?
5. How have arrest-and-release area restrictions impacted the street sex trade, its regulation and the level of discontent associated with street sex work? How have interest groups responded to this strategy?
6. What can the use of arrest-and-release area restrictions tell us about current common practices for regulating the street sex trade in Canada?
7. Is there evidence that the use of arrest-and-release area restrictions on the street sex trade is rooted in gender discrimination, in terms of who it targets or how it is used?

This Level considered the entire data set of this thesis. The answers to these questions also helped to respond to the Level 4 questions, the general research questions of this study.

Level 4: These questions were asked of the entire study. Response to the general research questions drew from information beyond the case study evidence to include other literature as well as theoretical contributions. These two questions were discussed earlier in this chapter as the General Research Questions. Responses are outlined in the Discussion and Conclusion Chapter and explain the implications of this thesis' research findings in relation to theory and practice.

Level 5: These questions pertained to contextualizing this thesis within scholarship while making recommendations and conclusions that go beyond the scope of this study.

1. What overall conclusions can be drawn from this thesis, considering the area restrictions strategies used in Canada, their impacts on the street sex trade, and what seems successful and unsuccessful? What inferences can be made?
2. What does this thesis contribute to the body of scholarship on spatial regulation of street sex work? Who can benefit from or make use of these contributions?
3. What future research is necessary on area restriction strategies and their use on street sex work?
4. What recommendations can be made to regulation efforts for the street sex trade?

The information used to respond to these questions built on responses to the previous study questions, the theoretical framework, and existing literature on area restrictions. As stated by Berg (2009, 329), “the scientific benefit of the case study method lies in its ability to open the way for discoveries” and can easily work to inspire and inform subsequent studies. These future avenues for research are what Level 5 worked to identify and encourage, as questions at this level are much broader than this single study is able to answer. Responses to these questions are predominantly found in the Discussion and Conclusion Chapter.

### **Tests of Empirical Research & Research Limitations**

Four common tests to establish the quality of empirical social research are (from Yin 2008, 40-45): *construct validity*, which considers the appropriate identification of operational

measures for the concepts under study; *internal validity*, which does not apply to descriptive or exploratory studies as it follows the logic for establishing causal relationships; *external validity*, considering the generalizability of a study's findings; and *reliability*, which is concerned with whether or not the steps taken by the study could be repeated while reaching the same results (data collection procedures are especially of interest here). Case studies are often criticized for:

- lack of rigor through sloppy research (not following systematic procedures) that allows equivocal evidence or biased views to influence the direction of findings and conclusions (Yin 2008, 14). Case study investigators are prone to bias since they must understand the issues of the phenomenon before data collection and analysis (Yin 2008, 73 citing Becker 1958; 1967).
- providing little basis for scientific generalization.
- Case study research is often “downgraded” (Yin 2008, 16) because, like other kinds of nonexperimental methods, it cannot directly establish causal relationships, which is the typical goal of experimental research.

This thesis project has worked to “design out” the common points of disapproval so that the quality of this study is not jeopardized. To meet the test of *construct validity*, area restrictions (the object of study) are defined and operationalized in terms of specific concepts informed by sources of authority and literature on the matter.<sup>34</sup> Operational measures were also objectively identified based on data collected on the use of area restrictions across multiple sites. As Berg (2009, 39 citing Frankfort-Nachmias and Nachmias 2007; Leedy and Ormrod 2004) explains, operational definitions concretize the intended meaning of a concept in relation to a particular study and provide some criteria for measuring the empirical existence of that concept. By operatively defining a term or concept, a researcher can declare

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<sup>34</sup> The initial working definition for “area restrictions” was informed by preliminary inquiry and existing literature on comparable practices used in Canada, the United States and United Kingdom. The general definition of area restrictions created by this thesis is based on the collected data, particularly from interviews.

the term to mean whatever they want it to mean throughout and for the purpose of the research.

The goal of *reliability* is to minimize errors and biases. To do so it was necessary to document and clearly articulate all procedures conducted, and to make as many steps as operational as possible. This chapter illustrates that each step of this project was rigorously documented using “low-inference descriptors” to strengthen its reliability and validity (discussed in Silverman, 2006). This means that the objects of study were described in terms that are as concrete as possible and that very closely reflect the sources accounts so as not to inaccurately convey the intended message. Objectivity rests on this attention to detail so that others can repeat the research if they so choose (Berg 2009, 329). Case studies are as scientific as any other method as long as it is possible to replicate the study.

In response to concerns of *generalizability*, Yin (2008, 15) points out that a case study is not so different from an experiment in this regard. Like experiments, case studies are generalizable to theoretical or analytical propositions and not to populations or universes, or statistical generalizations. As such, the case study (like an experiment) “does not represent a “sample”” (Yin 2008, 15) but, instead, reflects the occurrence of phenomenon at the specific site(s) of the study while also providing an understanding about similar sites (Berg 2009, 330). This is called “replication logic,” where generalized results must be tested by replicating the findings in multiple sites where the theory has specified that the same results should occur.

The critique that case studies cannot directly establish causality overlooks the possibility that case studies *can* offer important evidence to complement experiments, which are limited in their ability to explain “how” or “why” a treatment worked (Yin 2008, 16

citing Shavelson and Townes 2002). Case studies should be “valued ‘as adjuncts to experiments rather than as alternatives to them’” (Yin 2008, 16 citing Cook and Payne 2002).

### **The Research Data: Sources & Collection**

#### *Data Sources*

Potential sources of case study evidence include interviews of the persons involved in the events, primary and/ or secondary documents, cultural and physical artefacts and direct observation of the events under study (Yin 2008, 11). This thesis mostly relies on primary and secondary documents and interviews as its sources, each coming into play at various stages of research.

Documents in the form of e-mail correspondence, media articles, proposals, release documents used by police services and formal studies of the same “case” under study were used for this thesis. Publicly available information from sex worker organizations (information posted on websites, offered in pamphlets and handouts, and through public education sessions and campaigns) was also used as a data source where possible for research sites. At the same time as police services and organizations who work closely with sex workers are recognized as rich sources of information, the content of collected documents was carefully considered. It was necessary to be mindful of the different *objectives* held by the different sources, and inherently the many *perspectives* they were offered from. As Yin (2008, 103) states, you can make inferences from documents, although these should only be treated as clues for further investigation and not definitive findings.

Data was collected from interviews with two different types of contacts in each city, both very familiar with area restrictions but from different sides of the issue.<sup>35</sup> One contact in

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<sup>35</sup> Conducting interviews with lawyers and judges could also have been very fruitful to uncover certain facts about arrest-and-release area restrictions, however the researcher had not known enough about area restrictions

each city was a representative from a local organization that works closely with sex workers and who are therefore aware of area restrictions and the street sex trade, the spaces they encompass and potential problems associated with them. The second interview participant in each city was a police representative who was considered to have specialized knowledge and direct experience with the use and function of area restrictions and the street sex trade.

Interviews were necessary to extract the conceptual and practical details of the terms and function of area restrictions and the city spaces that they encompass because so little information existed. When required, participants were also contacted via telephone to answer follow-up or clarifying questions.

Yin (2008, 106-107) labels interviews as “one of the most important sources of case study information” and this thesis used *focused case study interview*<sup>36</sup>s as a data source. This type of interview is relatively open-ended and conversational in nature, however the interviewer follows “a set of questions derived from the case study protocol” (Yin 2008, 207). In this tradition, questions could be reordered during the interview, according to the information communicated by the interviewee, so that the conversation flowed more naturally. Wording of questions was also flexible, as long as the same points of enquiry were communicated in all interviews. This interview type also allows the interviewer to answer questions posed by the interviewee for clarification purposes (Berg 2009, 105). Questions were generally framed so that the interviewee could provide fresh commentary on the use of area restrictions in their city.

A limitation of relying so much on interviews is that they are verbal reports only, meaning that interviewee responses are subject to “problems of bias, poor recall, and poor or

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in the earlier phases of this project to realize this. Suggestions to contact lawyers and/or judges only emerged during interviews.

<sup>36</sup> This is comparable to a semi-standardized interview (see Berg 2009, 105-109).

inaccurate articulation” (Yin 2008, 108-109). However, attempts to corroborate data with information from other sources helps to combat such issues. The purpose of interviewing both police and organization representatives was so that certain facts could be corroborated between the two groups, but also between the interviews and previous studies, where possible. As Yin (2008, 108) explains, “well-informed interviewees can provide important insights into [current human affairs or behavioural] events” while also providing shortcuts to the history and context in which these situations occur. This helps to identify other relevant sources of evidence for future research endeavours.

#### *Data Collection: Procedures and Challenges*

After gaining understanding about exclusionary policing strategies and area restrictions from existing literature, organizations across Canada were contacted by telephone and/or email in an effort to determine where area restrictions are or have been used. Site selection was impartial in that the initial survey attempted to include all cities or regions where a relevant organization<sup>37</sup> was established (see email in Appendix B).<sup>38</sup> In total, 29 cities were either telephoned or emailed. Based on response indicating that some form of area restrictions were used in a particular city, discussion about information sharing for the purposes of my project proceeded. Many contacted organizations either did not respond (even after multiple contact attempts) or responded stating that they had no knowledge of the topic. In these cases, the cities were removed from the study. Some organizations were able

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<sup>37</sup> Relevant: an organization who dealt with criminalized populations. In the case that an organization working with sex workers could not be found, I contacted the regional or provincial Elizabeth Fry Society and/ or Salvation Army (Criminal Justice Services).

<sup>38</sup> Although a genuine attempt was made to include all regions of Canada, choosing to collect research sites based on a city or region having a specialized organization might have excluded some parts of Canada from the beginning.

to direct me towards other contacts that might be able to provide information on area restrictions.

Using such a survey scheme, cities with information on area restrictions and willingness to cooperate (on some level) with my project became included in the list of research sites suitable for the study. Each of these organizations were re-contacted to assess how much information on area restrictions was available and whether or not they were interested in (or able to) contributing to my research through interview participation. Based on their response and the researcher's ability to make cooperative contact with the police service, cities were sorted into sites for in-depth study or those that would be identified as using area restrictions but discussed to a lesser degree. One other factor was significant for deciding how many cities could be studied in-depth: the amount of time it would take for them to agree to the interview or for a contact to get approval from their organization to participate in an interview. This was, unfortunately, due to the time constraints of a master's thesis. As it was, interview data collection spanned a timeline from March 2011 to February 2012.<sup>39</sup>

Formal ethical approval of the project from the University of Ottawa's Office of Research Ethics and Integrity was acquired in order to ensure that the highest ethical standard was achieved. Where human subjects were the key data source, there was particular need to identify how participants would be protected from any potential harm (for example, by avoiding use of deception) through research design and other technical considerations. Berg (2009, 71) explains that with qualitative research where interviews are used, the relationship between researcher and subject is ongoing and constantly evolving. The

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<sup>39</sup> This seemed partially linked to the requirements imposed by the "conditional approval" status granted to this thesis project by the Ethics Board (explained below), but also because most interview contacts were dealing with an already-heavy workload that meant their availability was limited.

relationship that emerges is like a social contract that permits the researcher to study a part of the subjects' lives, especially because "both parties have some say about the contents of the agreement and in regulating the relationship" (Berg 2009, 71).

Upon receiving conditional ethics approval,<sup>40</sup> organizations and police departments were contacted in cities where use of area restrictions was confirmed to ask for participation in the study. Contacts were sent a Participant Recruitment/ Information Sheet that offered details about the study and also a Telephone Interview Data Collection sheet that outlined the kind of information that the study aimed to collect (see Appendix C for Participant Recruitment/ Information Sheet and Appendix D for Telephone Interview Data Collection document). Upon agreement to conduct an interview, informed consent was received from all persons who participated as an interviewee (see Appendix E for Consent Forms in English and French). *Informed consent* is the known consent to participate in a research study as an exercise of one's own choice, free from elements of fraud, deceit, duress, or any unfair inducement or manipulation (Berg 2009, 87). Consent forms were filled out and signed by all participants and the researcher. These forms concisely outlined the research project, risks and benefits of participating, the date of the interview, assured confidentiality and protection of the participant's anonymity, and requested approval for audio recording of the interview (to facilitate transcription and accurate data analysis).

Confidentiality is an active attempt to remove from the research records any means of identifying the participants and anonymity ensures that subjects remain nameless (Berg 2009, 90). Complete anonymity was not possible for this study because of the methods necessary to

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<sup>40</sup> Conditional ethics approval meant that the researcher was permitted to begin recruiting research participants. However, before the interviews could be conducted with approval from the University of Ottawa's Office of Research Ethics and Integrity, permission letters from each participating organization head and police service had to be submitted to the Ethics Board for individual approval of each interview.

recruit participants, however a high degree of confidentiality was maintained throughout all stages of this research project. Data collected from participants was handled and presented so that confidentiality was respected. This was to ensure that, as a result of their participation, individuals would not be “unwittingly put in any undesirable position” (Yin 2008, 73).

Discussion during all interviews focused strictly on issues relevant to area restrictions as a policing tool and the contexts in which they were implemented and used. Discussion followed an interview guide (Appendix A) composed of a set of open-ended questions that purposefully left little room for input of personal opinions so that the information collected was as close to the facts about area restrictions as possible (suggested by Yin 2008, 107).

### **Data Analysis & Findings**

Although this thesis was able to confirm the use of some form of arrest-and-release area restrictions to manage the street sex trade in 13 Canadian cities, only five of these cities were studied in-depth because of the abovementioned reasons. These five cities drew from existing research efforts, available documentary sources and interviews with experts on area restrictions. Informal discussion and/ or documents on eight additional cities (Sudbury, Saskatoon, Calgary, Chilliwack, Kelowna, Nanaimo, Vancouver and Victoria) provided *some* information on the use of area restrictions in those places. Information collected on all 13 cities contributed to discussion of area restrictions in Canada, however the five locations with interview participation provides the bulk of the data upon which this thesis’ findings are based.

Triangulation in the social sciences is the use of several (usually three) data collection technologies, theories, researchers, methodologies (or a combination of these four categories) to measure or evaluate a single object of study (see Berg 2009, 5-8). *Data triangulation* is a

research technique that uses multiple data sources from within the same method to inform the events or facts of the case study (Yin 2008, 116; Berg 2009, 6-7). Qualitative researchers generally use this technique to ensure that the depiction of a studied phenomenon is rich, robust, well-developed and well-informed (Berg 2009; Yin 2008). Documents are particularly helpful “to corroborate and augment evidence from other sources” (Yin 2008, 103). Some researchers believe data triangulation strengthens a study’s research design and addresses potential problems with construct validity by compensating for the different strengths and weaknesses of different data collection strategies (for example, Esterberg: 2002, 36; discussed in Berg 2009).

This thesis relied on data triangulation and corroboration to strengthen findings and make them more accurate while also developing more convincing conclusions. “The need to use multiple sources of evidence [when doing a case study] far exceeds that in other research methods” (Yin 2008, 114-115) so as many data sources as possible were used to develop converging lines of inquiry about each finding.

This thesis employed a *qualitative content analysis* of the collected data, as well as its three levels of coding- open coding, axial coding and selective coding. Through “constant comparison,” this method inductively identifies groups and differentiates the data throughout the collection process rather than beforehand (Hseih & Shannon 2005; Ezzy, 2002, 90; Elo & Kyngas 2008). This is done in order to create thematic categories for analysis. This method was suitable for this project because the researcher was not previously aware of the particular details of area restrictions, nor of the terms enforced in each city. Coding categories were created as data was processed. This technique was enabled by the use of multiple data

sources and facilitated the development of sophisticated answers to research questions, especially since data sources were so diverse.

The analysis was a multi-stage process, reflecting the numerous levels of inquiry. The first stage of analysis examined the use of arrest-and-release area restrictions in each city. Information collected from all sources relevant to each site was combined to respond to Level 2 questions of the case study protocol. This created a profile for each research site. Every subsequent stage of analysis built upon the previous Level's questions by incorporating the necessary data or theoretical tools to respond to the respective Level's questions (this process was outlined with the discussion of the study questions).

Although all Canadian cities where arrest-and-release area restrictions were used against street sex work could not be included (or detected) by this study, the findings accurately represent the available data collected on 13 cities and respond to the identified study questions.

## **CHAPTER 5- DESCRIPTIVE FINDINGS: AREA RESTRICTIONS IN THE *CRIMINAL CODE* AND THE RESEARCH SITES**

This chapter provides legal context for the enactment of area restrictions as a condition of release from police custody. It also summarizes the different ways that area restriction strategies have been implemented in the 13 research sites.

### **Arrest and Release Area Restrictions in the *Criminal Code***

“The Criminal Code gives police the power to release anyone arrested for solicitation on conditions including that they agree to keep the peace; report regularly to police; have no contact with victims or witnesses; not to possess firearms, drugs or alcohol; or stay out of specific areas” (Hayes Dec. 10, 2007).

This section provides the legal context surrounding the use of area restrictions as a condition of release from police custody in terms of the *Canadian Criminal Code*. As the above excerpt begins to identify, Part XVI—Compelling Appearance of an Accused before a Justice and Interim Release of the *Canadian Criminal Code* provides police jurisdictions with the capacity to use area restrictions, among others, as a condition of release. Form 11.1 Undertaking Given to a Peace Officer or an Officer in Charge in the *Criminal Code* cites three sections as most pertinent to conditions of release: S. 493 Definitions for this Part, S. 499 Release from custody by officer in charge where arrest made with warrant, and S. 503 Taking before justice. The two most relevant sections for this thesis are S. 503(2) Conditional Release, which permits a peace officer or officer in charge to release an accused from custody on a promise to appear or recognizance, and (2.1) Undertaking which allows a peace officer or officer in charge to release an accused with certain conditions. The options for conditions of release available to police officers are outlined in S. 503(2.1) and on the

Form 11.1. Police services use one of either S. 503(2.1)(c) or (h) to issue area restrictions to sex workers and other criminalized individuals, depending on the city.

As one participant explained, there is “a list of what we [police officers] are allowed to put on [as a condition of release]. It’s very- it’s all pre-designed in an undertaking [form], this is all on a form that’s designed for officers to release on” (OPS Participant, 2011).<sup>41</sup> If a police officer wanted an individual to have restrictions beyond those available in Form 11.1, an officer would request those conditions from a judge (a process that largely goes beyond the focus of this thesis). Although the options for conditions of release available to police are pre-authorized in that they are included in the *Criminal code*, the specific parameters for a condition of release depend on the interpretation of the *Code* by the courts in each jurisdiction. This had led to variation in how this policing strategy has been implemented in cities across Canada.

#### *The Enactment of the Undertaking and Police-Imposed Area Restrictions*

Based on review of Statutes of Canada records and subsequently the 1994 House of Commons debates, Form 11.1 and police powers for conditions of release were enacted in 1994 with the *Criminal Law Amendment Act*. This would have been the earliest opportunity that a police service could have issued area restrictions to sex workers, among accusations for engagement in other illicit activities. Whether or not a police services used area restrictions as a strategy to deal with sex work is another issue, which is why time of implementation varied across research sites. The Bill largely pertained to “arrest, pretrial release and other matters involving police practices and procedures” (House of Commons Debates 1994, 6520). Specific changes were not detailed in this Debate and were passed as a

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<sup>41</sup> APA Citation Style does not normally include personal communications in the References. However, to cut down on the space that the in-text citations take up in the body of the paper, and to clearly convey where data has come from, I include all personal communications in the References.

block of clauses. This indicates that issues pertaining to conditions of release for police had been previously raised and debated in the House of Commons, however, this process is largely outside the scope of this thesis. General comments in the 1994 Debates do provide some incite about the logic behind the development of conditions of release for police services.

A significant improvement in the use of policing on court resources will be achieved by permitting police to release an arrested person on certain conditions restricting their liberty rather than as is now the case, having only the choice of releasing unconditionally or detaining an accused in custody until a hearing before the justice of the peace could be arranged [...] Greater fairness to the accused persons will be achieved through reducing unnecessary pretrial custody. Police will be able to spend more time on the beat preventing crime or detecting offenders rather than waiting in the corridors of courtrooms. (House of Commons Debates 1994, 6520)

In 1994 Form 11.1 offered only one option for issuing an area restriction, condition (d) of the time (Statutes of Canada 1994, 46-47). The current version of the form was implemented in 1999, making conditions (c) and (h) both options for issuing an area restriction (Statutes of Canada 1999).

Form 11.1 condition (c) outlines that an accused should “abstain from communicating with (name of witness or other person) or from going to (name or description of place) except in accordance with the following conditions: (as the peace officer or other person designated specifies)” (*Criminal Code R.S.C.*, 1985, c. C-46; emphasis added to identify relevant portion). Form 11.1 condition (h) outlines that the accused should “comply with any other conditions that the peace officer or officer in charge considers necessary to ensure the safety and security of any victim of or witness to the offence” (*Criminal Code R.S.C.*, 1985, c. C-46). Neither option is specifically tailored to allow police to restrict individuals from entire areas of a city. That interpretation can likely be credited to the vision of criminal justice actors in individual cities.

### *The General Processes of Police-Imposed Area Restrictions*

Individual police services may limit their application to certain illicit activities but in no way are area restrictions specific to a particular offence because of the *Criminal Code*. Although most cities have tailored the police use of area restrictions to their own needs, there are common practices across research sites based on guidelines outlined in the *Criminal Code*. In order to be released the accused must sign their acceptance of the area restriction conditions. If an offender does not agree by signature to the area restriction conditions, or any other release condition, they cannot be released and are held until they can go before a judge (or justice of the peace, depending on the city). The conditions of release are accompanied by either a Promise to Appear (Form 10) or a Recognizance Entered Into before an Officer in Charge or Other Peace Officer (Form 11) that the individual will attend their court date. The police-imposed area restriction, along with any other condition of release, are in effect until an individual's first appearance in court unless the accused has had it vacated or varied by the court. At the first appearance the area restriction can be upheld by the judge until a further trial date. However, at that point the condition would no longer be considered a police-imposed condition of release and would be judge-imposed under Form 12.<sup>42</sup>

Form 11.1 identifies important information to the accused. The accused can apply "at any time" to have their area restrictions, and any other conditions of release, "vacated or varied" by a justice of the peace or judge (depending on whether or not justices of the peace deal with such matters in a particular city) "pursuant to section 515 of the *Criminal Code*" (*Criminal Code R.S.C.*, 1985, c. C-46). A breach charge can be issued for "failure without

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<sup>42</sup> A Form 12 is an Undertaking Given to a Justice or a Judge, pursuant to sections 493 and 679 of the *Canadian Criminal Code*. It allows judges or justices of the peace to release individuals from custody with conditions, many of which are similar to those outlined in Form 11.1. However, judges and justice of the peace have more discretionary power than police officers and can apply more specific and/or restrictive release conditions.

lawful excuse to abide by any” condition of release, which “is an offence under subsection 145 (5.1) of the *Criminal Code*” (*Criminal Code R.S.C.*, 1985, c. C-46). The breach charge is more serious than the original prostitution-related charge and can mean up to two years of imprisonment.

This thesis focuses on how the arrest and release process proceeds for sex workers charged with offences related to the street sex trade, the vast majority of the time being section 213(1)(c) communicating for the purposes of prostitution in a public place. This charge is typically laid when police have conducted an undercover operation to “crackdown” on the street sex trade in response to complaints from community members. Upon arresting an individual, police officers decide whether or not a sex worker qualifies for release, where some jurisdictions try to release as many individuals as possible and others prefer to hold accused persons under section 497.

A sex worker will proceed through the criminal justice system differently depending on whether or not they are released by police or held for show cause court (also called bail hearing). In most cities included in this thesis, either scenario usually sees sex workers receiving an area restriction from one criminal justice actor or another. There are multiple opportunities for an individual to be issued these conditions: 1) either from the police at release of custody or from a justice of the peace/ judge upon release after show cause court; 2) from a judge at pre- or post-sentence court appearances; 3) upon release from prison as probation.

If the arresting officer had chosen to hold an individual for show cause they would typically request that the sex worker be issued an area restriction upon release by the justice after show cause (unless they were requesting that an individual be held for court and not

released at all). If an officer decided that a sex worker qualified for release from police custody on an undertaking, the accused is released on an area restriction and potentially other conditions of release until their first appearance at court. At first appearance the area restriction could be upheld by the judge until a further trial date, but at that point it would no longer be considered a police-imposed condition of release and would instead be a “Form 12” condition.

### **Police-Imposed Area Restrictions: A Summary of the Observed Area Restriction Strategies**

Before presenting in-depth data analysis it is important to report on where police-imposed area restrictions have been confirmed as a policing tool for the street sex trade and the policy and practice in these locations. This section is intentionally descriptive in order to create a reference point for the current use of area restrictions as arrest and release conditions for street sex workers. It provides a brief summary of the research sites and their area restriction strategies and begins to respond to some of the research questions of this thesis. While this section does not go into great detail about the processes of individual research sites, reports on the information collected on each city’s area restriction strategy can be found in the Appendix (Appendices F through R). Critical analysis of the different research sites and their strategies follows in the next chapter.

As Table 1 (below) illustrates, a number of data sources have contributed to this thesis. Data sources could not be consistent across all research sites but in the tradition of exploratory research the researcher placed more emphasis on developing a foundation for further research on area restrictions than limiting the variety of sources used. This has allowed for the inclusion of more research sites and helped to better understand the various ways in which Form 11.1 area restrictions have been adapted to different Canadian cities.

**Table 1** Identifying the Research Sites and their Data Sources

| City                              | Population <sup>43</sup> | Police Service                                   | Name of Area Restriction          | Contributing Data Sources                                                                                                                                                        |
|-----------------------------------|--------------------------|--------------------------------------------------|-----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Halifax Regional Municipality, NS | 403 200                  | Halifax Regional Police (HRP)                    | Boundary Release Conditions       | Formal interview and follow-up correspondence with HRP and community agency participants; information circulated by Stepping Stone; media articles; Jeffrey and MacDonald (2006) |
| Saint John, NB                    | 128 600                  | Saint John Police Force (SJPF)                   | 11.1s                             | Formal interview and follow-up correspondence with SJPF and community agency participants                                                                                        |
| Montréal, QC                      | 3 859 300                | Service de Police de la Ville de Montréal (SPVM) | Red Zones or <i>Quadrilatères</i> | Formal interview and follow-up correspondence with SPVM and community agency participants; information circulated by Stella                                                      |
| Ottawa, ON                        | 1 239 100                | Ottawa Police Service (OPS)                      | Red Zones                         | Formal interview and follow-up correspondence with OPS and community agency participants; information circulated by POWER; media articles                                        |
| Kamloops, BC                      | 87 000                   | Kamloops City RCMP Detachment                    | Red Zones                         | Formal interview and follow-up correspondence with community agency participant; telephone correspondence with RCMP officer; RCMP report; media articles                         |
|                                   |                          |                                                  |                                   |                                                                                                                                                                                  |
| Sudbury, ON                       | 163 000                  | Greater Sudbury Police Service (GSPS)            | Geographic Boundary Restriction   | Telephone and email correspondence with GSPS officer                                                                                                                             |
| Saskatoon, SA                     | 251 000                  | Saskatoon Police Service (SPS)                   | Unknown                           | Email correspondence with a community                                                                                                                                            |

<sup>43</sup> City populations reflect Statistics Canada's 2010 *Population of census metropolitan areas*. Statistics Canada define a metropolitan area as "a very large urban area (known as the urban core) together with adjacent urban and rural areas that have a high degree of social and economic integration with the urban core" (Statistics Canada website).

|                |           |                                    |                                             |                                                                                    |
|----------------|-----------|------------------------------------|---------------------------------------------|------------------------------------------------------------------------------------|
|                |           |                                    |                                             | agency contact                                                                     |
| Calgary, AB    | 1 265 100 | Calgary Police Service (CPS)       | Geographic Restrictions or No-Go Conditions | Telephone correspondence with CPS officer                                          |
| Chilliwack, BC | 92 308    | Chilliwack RCMP Detachment         | Red Zones                                   | Media articles; media release by RCMP                                              |
| Kelowna, BC    | 182 800   | Kelowna RCMP Detachment            | Red Zones                                   | H.O.P.E. Outreach (who collected data from RCMP and other social service contacts) |
| Nanaimo, BC    | 98 021    | Nanaimo RCMP Detachment            | Red Zone                                    | Media articles; report prepared for City of Nanaimo                                |
| Vancouver, BC  | 2 419 700 | Vancouver Police Department (VPD)  | No-Go's or Red Zones                        | Email correspondence with VPD officer and other social service contacts            |
| Victoria, BC   | 360 900   | Victoria Police Department (VicPD) | No Go Zones or Red Zones                    | Email correspondence with a social service contact                                 |

One Level 3 Research Question asked *How have arrest-and-release area restrictions been implemented in Canadian cities in relation to the street sex trade?* Collected data illustrates that the implementation of arrest-and-release area restrictions varies across research sites in many ways. Differences can be attributed to the relevant factors at play within a particular city. Table 1 (above) outlines that both municipal and RCMP police services use this strategy on the street sex trade in cities of various sizes; research sites in this thesis ranged in population from approximately 87 000 (Kamloops) to 3 859 300 (Montreal). Of note, the common names referring to a city's area restriction strategy also vary by city.<sup>44</sup> For a detailed presentation of the information gathered on each research site in response to this research question, the reader can consult the Appendix for city reports. The remainder of this summary concisely identifies the most significant details on implementation and use of area restrictions strategies across Canada.

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<sup>44</sup> The multiple names attributed to area restriction strategies, varying by city and by source, complicated the data collection process.

### Implementation and Use

Another Level 3 Research Question asked *When and where in Canada were area restrictions first used as a policing tool for the street sex trade?* Cities have implemented area restriction strategies for sex work at different points since 1994 when the conditions of release from police custody were written into the *Criminal Code*. Table 2 shows that ten research sites provided relevant information on this point, however, the exact year could not be confirmed for most. Sources provided estimates based on what was known about the use of the strategy.

**Table 2** Implementation and Duration of Area Restrictions on Street Sex Trade.

|                      | 1994                                                                          | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|----------------------|-------------------------------------------------------------------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| <b>HRM</b>           |                                                                               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>SJ</b>            |                                                                               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Montreal</b>      |                                                                               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Ottawa*</b>       |                                                                               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Kamloops</b>      |                                                                               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Sudbury</b>       | Could not determine when introduced. GSPS stopped using on sex trade in 2011. |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Saskatoon</b>     | Could not determine when introduced and when/ if stopped being used by SPS.   |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Calgary**</b>     |                                                                               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Chilliwack</b>    |                                                                               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Kelowna</b>       |                                                                               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Nanaimo</b>       |                                                                               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Vancouver</b>     | Could not determine when introduced and if still current practice.            |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Victoria</b>      | Could not determine when introduced and if still current practice.            |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| <b>Criminal Code</b> |                                                                               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |

Since police records were not available for when cities started using area restrictions on the sex trade, most start values are approximate. Although not used for most start dates, lighter shading represents uncertainty in data. See city reports in the Appendix for further details.

\* There is evidence that area restrictions have been used by the OPS almost since it was written into the *Criminal Code* but other evidence suggests it was only more recently used on the street sex trade.

\*\*Area restrictions were only used on sex workers in the “early-to-mid 1990s” but they have continued to be used on customers.

As seen in Table 2 (above), Calgary was likely among the first to implement police-issued area restrictions for the sex trade in the mid 1990s. The HRM, Montreal, Ottawa and Victoria implemented the strategy as early as 1997-2000. For Ottawa and Victoria there is evidence that area restrictions were used on other illicit activities during this period but it was not clear if the strategy was common practice for the street sex trade at that time.

Since implementing area restrictions for street sex workers, police contacts from three cities confirmed that their service has stopped using this response to the sex trade because of the problems it created: HRM, Sudbury, and Calgary. Due to lack of data it could not be confirmed whether area restrictions were still common practice in Saskatoon, Nanaimo, Vancouver or Victoria. Contacts from Saint John and Kamloops communicated that undercover operations to arrest sex workers were not conducted very often anymore and so area restrictions were issued less frequently. Chilliwack had implemented area restrictions for the sex trade most recently, using them for the first time in 2011. It could not be confirmed whether they are still in use or were only used during a single campaign in 2011.

Table 3 (below) illustrates the behaviours or activities targeted by area restrictions in the research sites. In some research sites police services only used area restrictions on the street sex trade where others used them to respond to various illicit behaviours or activities. Also, some police services only issued area restrictions to sex workers themselves while others used the conditions on sex worker customers too.

**Table 3 Targeted Behaviours and Activities of Area Restrictions**

|                   | <b>Sex Trade- Specific or Used on Various Illicit Behaviours</b> |                                 | <b>Used on Customers/ Clients of Sex trade</b> |
|-------------------|------------------------------------------------------------------|---------------------------------|------------------------------------------------|
|                   | <b>Street Sex Trade Only</b>                                     | <b>Various Illicit Activity</b> |                                                |
| <b>HRM</b>        | Yes                                                              | --                              | --                                             |
| <b>SJ</b>         | --                                                               | Yes                             | Yes                                            |
| <b>Montreal</b>   | --                                                               | Yes                             | --                                             |
| <b>Ottawa</b>     | --                                                               | Yes                             | Yes                                            |
| <b>Kamloops</b>   | --                                                               | Yes                             | Yes                                            |
| <b>Sudbury</b>    | Yes*                                                             | --                              | Yes                                            |
| <b>Saskatoon</b>  | ?                                                                | ?                               | ?                                              |
| <b>Calgary</b>    | --                                                               | Yes                             | ?                                              |
| <b>Chilliwack</b> | Seems so.                                                        | ?                               | Yes                                            |
| <b>Kelowna</b>    | --                                                               | Yes                             | --                                             |
| <b>Nanaimo</b>    | --                                                               | Yes                             | ?                                              |
| <b>Vancouver</b>  | --                                                               | Yes                             | ?                                              |
| <b>Victoria</b>   | --                                                               | Yes                             | ?                                              |

\*The area restrictions used on the street sex trade was only used on the sex trade but it was clearly communicated that other versions of the strategy were used for other illicit behaviours.

Almost all research sites used area restrictions on a variety of criminal activity, particularly street-level or “nuisance crimes.” However, some cities had a modified version of the release condition that was specific to the street sex trade (Saint John, Sudbury, and potentially Calgary). The HRM and seemingly Chilliwack *only* used the area restriction strategy on the street sex trade. Of the 13 research sites that used area restrictions on street sex workers, evidence supported that five police services also used the strategy on customers/ clients of the sex trade.

#### *Policy, Zones and Terms of the Restriction*

Table 4 (below) helps to show the different ways that restriction zones are assigned to accused sex workers and the variation in the terms according to the extent of a strategy’s restriction. “Predetermined” zones refer to strategies that have a particular area (or areas) that

they are working to keep the street sex trade (and other illicit activities) out of. These bounded areas have been designated as the zone(s) from which deviants will be restricted; in general, everyone issued an area restriction receives the same zone. “Situational” means that some area restriction strategies do not have predetermined zones. Instead, an individual’s restriction is dependent upon certain factors relevant to their particular charge, like where the act happens or the volume of sex trade activity and/or the complaint structure in that area.

**Table 4** Designation of Zones and their Terms

|                          | Designation of Restricted Area        |             | Extent of Restriction                     |                        |                                             |
|--------------------------|---------------------------------------|-------------|-------------------------------------------|------------------------|---------------------------------------------|
|                          | Predetermined<br>(Number of<br>Zones) | Situational | Comprehensive<br>Restriction from<br>Area | Exceptions<br>Included | Restrict<br>Sex<br>Work<br>Activity<br>Only |
| <b>HRM</b>               | Yes (2)                               | --          | --                                        | Yes                    | Yes                                         |
| <b>SJ</b>                | Yes (1)                               | --          | --                                        | Yes                    | --                                          |
| <b>Montreal</b>          | --                                    | Yes         | Yes                                       | --*                    | --                                          |
| <b>Ottawa</b>            | --                                    | Yes         | Yes                                       | --                     | --                                          |
| <b>Kamloops</b>          | Yes (2)                               | --          | --                                        | Yes                    | --                                          |
| <b>Sudbury</b>           | Yes (2)                               | --          | Seems so**                                | --                     | --                                          |
| <b>Saskatoon</b>         | ?                                     | ?           | ?                                         | ?                      | ?                                           |
| <b>Calgary</b>           | ?                                     | ?           | ?                                         | ?                      | ?                                           |
| <b>Chilliwack</b>        | Yes (1)                               | --          | Seems so**                                | ?                      | ?                                           |
| <b>Kelowna</b>           | Yes (1)                               | --          | Initially                                 | Currently              | --                                          |
| <b>Nanaimo</b>           | Yes (1)                               | --          | Seems so**                                | ?                      | --                                          |
| <b>Vancouver<br/>***</b> | ?                                     | ?           | Seems so**                                | Seems so**             | --                                          |
| <b>Victoria</b>          | Seems so**                            | ?           | ?                                         | ?                      | --                                          |

\*Montreal police officers cannot make exceptions to area restriction but in order to allow a sex worker to access certain services or their home the police will sometimes limit the restriction to a certain street(s) or a curfew instead of a larger area.

\*\* “Seems so” indicates that there is evidence suggesting that a research site’s area restriction has that characteristic, but that it could not be confirmed within this study.

\*\*\*There is evidence that VPD use two different area restriction strategies, one that seems to impose a comprehensive restriction (No-Go’s) and the other that permits exceptions (No-Go except for\_\_).

As Table 4 (above) shows, the majority of research sites had predetermined zones and many of these were located in or around a city's downtown core. For more specific information on a city's restriction zones, see the individual city reports in the Appendix.

Table 4 (above) also illustrates the variation in the extent of the area restrictions across research sites. A "comprehensive restriction" legally restricts an individual from re-entering an area for any reason. Some area restriction strategies do identify legal excuses for an individual to re-enter the restricted boundary; these are either already outlined on the release documents for the area restriction or police officers are able to add the exceptions on an individual basis. HRM, Saint John, Kamloops, Kelowna and Vancouver (when a "no-go except for \_\_\_\_" is issued) either have exceptions included in the terms of area restrictions so that a sex worker is able to enter the boundary for particular reasons, or the police services are able to add such exceptions. Montreal's police service typically uses a more comprehensive exclusion, however if a sex worker can prove the need to be in the area the police will make the area restriction a curfew or limit it to certain streets instead of the whole area. Ottawa and Vancouver's no-go's are comprehensive exclusions and there was evidence that this was also the case for area restriction strategies used in Sudbury, Chilliwack, Nanaimo and Victoria, indicated in Table 4 by "seems so."<sup>45</sup>

Of note, HRM was the only research site where the area restriction specifically applied to sex working activity, meaning that a person is only supposed to be restricted from sex working in a zone and not from being there at all (see Appendix F for more information). With the exceptions included in the terms, sex workers in the HRM could receive an area

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<sup>45</sup> The GSPS contact implied that Sudbury's area restrictions had been comprehensive unless modified by a judge but this could not be confirmed. For Chilliwack and Nanaimo, the descriptions given in media articles and Nanaimo's City Spaces report (2008) make it seem as though restrictions were comprehensive. Victoria's agency contact and media article left a similar impression.

restriction from where they live if they lived within either of the zones. Sex workers in Kelowna could also be issued a red zone from where they live but adjustments were typically made to the area restriction in these cases. Upon proving to the police officer that they lived within the area restriction boundaries, sex workers in Saint John, Montreal, Ottawa and Kamloops would not be issued a restriction from the area of their own home. However, if one cannot prove their address to an arresting officer it is administratively possible for police officers to restrict a sex worker from their own neighbourhood. This “invalid condition” would remain in place until proof of residence could be presented to a judge, at which time the undertaking would be varied.

The Saint John Police Force and Ottawa Police Service seem to have a formal policy that an individual cannot be restricted from where they live. The Service de Police de la Ville de Montréal and Kamloops RCMP’s policies on this matter seemed to be informal, but all four police services communicated that police officers made efforts not to restrict someone from where they lived, and that if this mistake was made it would be changed upon application to a judge. Other sites did not have information on this issue.

### *The Spaces Included in Area Restrictions*

The designation of zones for area restrictions and the extent of the restriction have implications for other details of a city’s area restriction policy. In research sites that had either multiple pre-determined boundaries or situationally-determined boundaries for area restrictions it was possible, and in some cases common, for a sex worker to hold restrictions from several city neighbourhoods at one time. This was the case for the HRM, Montreal, Ottawa, Kamloops and Sudbury.

Across research sites there were common trends with the areas typically included in area restrictions. Across all research sites where such information could be collected, health and support services were typically located within area restriction boundaries, particularly those that target street-based populations. For example, sexual health clinics, community health clinics where health cards are not necessary to access health care, housing shelters, soup kitchens, agencies that work specifically with sex workers, and methadone maintenance programs. In some cases the services within the restricted area were not offered elsewhere in the city or by other agencies. Details around this phenomenon could not be collected from Saskatoon, Calgary, Chilliwack, and Vancouver however further details for other research sites can be found in the city reports in the Appendix. Contacts from six cities also identified that at least a portion of sex workers lived within the areas used for restrictions, a large portion in some places. These cities were the HRM, Saint John, Montreal, Ottawa, Kamloops and Calgary, where some affordable or social or shelter-type housing options were included in the boundaries.

#### *Trends in Changes or Modifications to Area Restrictions*

There were trends among the research sites in the kinds of changes or modifications made to area restriction strategies since their implementation. In many research sites changes had occurred in terms of the areas included in a city's area restriction strategy. In some research sites the number of areas included in their area restriction strategy had increased since its implementation for the sex trade. There was evidence of this in Montreal, Ottawa, Sudbury and potentially Nanaimo. In both Montreal and Ottawa the police officers expressed that the red zone areas for sex trade were "pretty much the same areas" (OPS Participant, 2012) but the community agency workers had the perception that the number of areas had

increased. In Ottawa they believed it had grown from one area to three and the Montreal worker communicated a similar evolution. The Sudbury officer expressed that prior to boundary restrictions there had only been one street sex trade area, but the strategy had to be modified to include a second because of displacement. For Nanaimo it was not entirely clear whether the added area for the strategy simply expanded the initial boundaries or added a second area; Nanaimo's downtown core was the original red zone but in 2007 the RCMP created an "orange zone" that included the south end of the city. Data sources did not make it clear whether this was an entirely separate zone or an extension of the original zone.

It was evident that the zones in five of the research sites were expanded since the implementation of area restrictions. Sources in Saint John, Ottawa, Kamloops, Kelowna and Nanaimo identified that the boundaries of their area restrictions were enlarged. In nearly all of these cities displacement of the targeted behaviour(s) was credited for the expansion. The SJPF officer explained "when these different bars opened up and then all of a sudden there was problems there. And they were really sort-of on the edge of the zone, we just included that street. [...] it's a matter of 100 feet, it wasn't that much." An Ottawa agency worker commented "the displacement is definitely happening but I would say that the zones are growing with it" (Participant 2, 2012).

The Kamloops RCMP increased the size of the downtown zone to include an area where "a lot of criminal activity [was] happening [around the parks and so ...] they increased it to take in that section of the park. But that was more so drug activity than prostitution" (Kamloops Community Agency Participant, 2012). A Kelowna source expressed that the red zones were expanded to include an area that a large number of "criminal transients" had moved to (Hayes and Moore Sept. 22, 2008). The HRM and Montreal did not communicate

any expansion in the size of their red zones; neither the officers nor the agency workers in these cities were aware of any changes in this regard.

It was much less common for research sites to change the terms of the area restriction conditions. Kelowna was the only research site to explicitly report changes to the terms of their area restriction strategy since implementation. The RCMP initially issued comprehensive exclusions to the problem area but eventually changed the terms of the area restrictions to allow individuals into the red zone to access meal times and medical care from services. There is evidence that Saint John informally modified their area restrictions in this way. The SJPF officer stated that the only change is that they have “become more sensitive. [...] so say a new shelter opens up [...] or new social service [...] when they put the new methadone program at St. Joseph’s, well, you can’t say don’t go there. You can say ‘go directly to, between the hours of such and such, and that’s fine” (SJPF Participant, 2012). In other words, the police have become more aware of the services and supports that are in the area that sex workers need or should have access to and have included these considerations in their area restriction strategy.

In the HRM, Montreal, Ottawa and Kamloops sources expressed that they were not aware of any changes to the terms of their area restrictions. The OPS officer communicated that although they had not changed the terms of their restrictions, “if anything, we’re better at making sure those girls don’t live in that area. We’re a lot more thorough with investigating their needs. [...] We’re better at [using the red zones properly]” (OPS Participant, 2011).

This overview of research sites has highlighted a number of significant issues that trigger various reactions to area restriction strategies from interest groups and in many cases raise concerns about the use of this release condition on street sex workers. As stated

throughout this chapter, for more in-depth information on a particular site, refer to the city reports in the Appendix.

### **Characterizing Area Restriction Strategies**

Before considering the more in-depth analysis of the next chapter, two important themes surrounding the use of area restrictions emerged from the collected data: the extent of collaboration between criminal justice and non-criminal justice services and the practical approach taken by the police to using area restrictions on the sex trade. These two issues play into the major findings of this thesis.

#### **Extent of Collaboration among Services**

In nearly all research sites it was indicated that the implementation and use of area restrictions as conditions of release was a collaborative strategy by various criminal justice factions. This typically meant that sex workers would be kept on area restrictions from the point of release from police custody until after their sentencing and warrant expiry date, a period of time often spanning multiple years. In some cities there was also evidence of collaboration between the criminal justice system (typically police services) and community agencies around the use of the strategy.

Police services and community agencies in Saint John and Kamloops regularly worked together and information-shared to respond to the sex trade. In both cities, community partnerships and regular collaborative meetings among interest groups had rendered law enforcement a last resort for responding to the sex trade and behaviours associated with street-based lifestyles. These efforts were not only from community agencies and police services, but also from businesses and complainants because of the public education initiatives supported by agency and police partnerships. When enforcement *was*

used, the network of services would collaborate in an attempt to respond to individual needs of the “most problematic” individuals. Sources from both of these cities communicated that intelligence-led policing was involved in developing and using area restrictions. Nanaimo might have had a similar collaborative approach, but more information is required to confirm it.

Aside from these cases, few collaboration efforts were evident in other research sites and none in terms of the development or use of area restrictions. In Ottawa the OPS seemed only to work with a community agency for purposes of diversion programming after a “sweep” was conducted. For the HRM, it was pretty clear from media articles and the discussion with the agency worker that community agencies and the Halifax Regional Police did not work together on the area restriction strategy. Montreal community agencies and the SPVM seemed to have a very similar relationship to that of the HRM. The two groups did not appear to work together to respond to issues linked to the street sex trade. In the HRM and Montreal there seemed to be little information-sharing about area restriction policies.

Interestingly, neither city with regular collaboration efforts between police services and community agencies (Saint John and Kamloops) reported significant, if any, displacement or dispersal of the trade since the implementation of area restrictions where other cities have. Sudbury *currently* seemed to have a strong relationship with community agencies for sex-work related issues. Upon realizing that their area restriction strategy was not producing desirable results, the GSPS began working collaboratively with criminal justice and non-criminal justice services to develop a more effective response. The goal of the GSPS was to help sex workers exit from their involvement with the sex and drug trades; the contact reported success with this new strategy.

*Diverging Approaches: Punitive for Temporary Relief versus Problem Solving for Outreach*

The researcher derived two different approaches to the terms and use of area restriction strategies: as a punitive action or as an outreach mechanism. Going beyond the stated intent of the strategy communicated by sources, the researcher considered the policy and common practices of the research site. Before discussing each approach in turn it should be acknowledged that these two attitudes do not exist independently and in some research sites both were identified. Although both approaches still use area restrictions to exclude or limit access to public space, the readiness to use the conditions, the justifications for doing so, and the extent of the imposed limitations grouped research sites in one camp or the other. In some sites, different parties view the use of the strategy differently (for example, social services understanding area restrictions as punishment for sex workers while the police service view them as a support to help sex workers overcome harms linked to the sex trade). If anything, this shows the very subjective nature of police use of area restrictions.

A strategy was interpreted as a punitive action against sex workers when a combination, not necessarily all, of the following factors were evident in the data set for a research site: i) enforcement was the first and/or only method used by police to deal with problems associated with the sex trade; ii) the primary goal was to remove the sex trade from an area to provide complaining community members with “temporary relief” from the trade.<sup>46</sup> This position acknowledges that that police services know that the use of area restrictions on the sex trade is not solving problems linked to the trade. iii) The area restriction was a blanket exclusion from the area; and, iv) there was little or no evidence of collaboration between criminal justice and non-criminal justice services in the use of area

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<sup>46</sup> The police perspective of area restrictions as a tool to provide a community with “temporary relief” from street sex work(ers) is discussed in the next chapter.

restrictions. This approach was purely reactive, responding to the immediate problem of complaints about sex trade in an area but doing little to respond to what might be causing it. The research sites that fell into this category were the HRM, Montreal, Ottawa, potentially Chilliwack and Kelowna.

That said, there was evidence that some if not all of these strategies were less about a desire to punish sex workers and more about providing aid to complaining community members while being inconsiderate of street sex workers' circumstances and/or needs. Ottawa provides a good example of this approach. There is evidence that the OPS have a desire to help sex workers exit the trade and overcome drug addiction,<sup>47</sup> however, their area restriction strategy was inflexible and allots punishment for “going against the community” by sex working. In addition to charging sex workers with a communicating charge, the OPS also lay a mischief charge.<sup>48</sup> This adds more weight to the case because it positions the community as a victim in the matter. The OPS officer explained:

We do [lay] two charges when we're doing a prostitution sweep, no matter what. Communication for the purposes of prostitution and mischief. So the mischief [charge] is the reflection of the community complaints, because it's mischief in preventing the enjoyment of property. [...] The prostitution charge is irrelevant, really. It's the mischief charge that's really indicative of what the community's concern is. [...] that's actually our main charge. (OPS Participant, 2011)

This rationale holds that “there was harm being done to the neighbourhoods” by sex work being there (Ottawa Community Agency Participant 1, 2011). By working in front of somebody's house, a sex worker is framed as inhibiting or preventing the resident's lawful enjoyment of their property while also causing loss to property values in the area (Ottawa Community Agency Participant 1, 2011). Overall, the area restriction strategy

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<sup>47</sup> A reminder here that the OPS work with the Salvation Army for the Sex Trade Education Program, which gives sex workers an option “to be diverted out of the legal system by taking a series of life skills and educational workshops” (Salvation Army CJS Ottawa website).

<sup>48</sup> Mischief falls under section 430.(1) of the *Criminal Code*.

is not about policing women who don't want to be doing what they're doing, they're policing sex workers because they're bothering the community. In their perspective this is what the crime is. It's that they're interrupting the community and causing harm to the community. (Ottawa Community Agency Participant 1, 2011)

Dual charging is largely outside the scope of this thesis but it has helped to show how common practices around area restrictions are not only about punishing the sex worker.

A city's area restrictions were interpreted as a problem solving measure for outreach when some, but not necessarily all, of the following elements were evident: i) enforcement was a last resort to "regain control" over an area and help get an individual into treatment or programming for health or social problems they are believed to be experiencing; ii) criminal justice and non-criminal justice services (health and social service agencies) worked together to provide a network of support that responds to individual needs of those in the sex trade; iii) the needs and concerns of parties from all sides of the issue (sex workers, their advocates, other residential and community members, police, etc) are considered and included in the response to issues linked to the sex trade; iv) a primary intent of the strategy was to help sex workers access the help they are believed to need to regain control of their lives; the area restriction only targeted sex trade-related behaviour, or only that aspect of an individual's life.

This approach was more pro-active or preventative of future disturbances by working to address root causes by including and considering needs of sex workers in the process. Saint John and Kamloops clearly fell into this category. To use Saint John as an example, SJPF's response through law enforcement is a last resort to deal with problems linked to the street sex trade.

if there's a problem developing in an area, like on one street, you know, some of the girls have taken to sitting on residents' cars [for example ...] the police will

say, you know, ‘that’s just a real problem, we’re getting a lot of calls,’ and [someone from STAC will speak] to the girls: ‘you know what, you’re increasing the police presence here because you’re sitting on those cars. And if you don’t do that, that’ll relieve some of the pressure.’ So they immediately respond to that sort of thing [...] because they sort of self-regulate [...] like, if there’s one worker who’s causing a lot of grief, the other workers will take care of that.” (SJ Community Agency Participant, 2011)

As mentioned earlier, Saint John and Kamloops were the only two cities that did not report significant displacement or dispersal of the trade. There is potential that Nanaimo also used area restrictions as an outreach measure, since police there only used area restrictions on an individual if programming and support services for addictions problems were refused. However, more information is required to make this assessment.

Three research sites indicated that a positive change had occurred in the problematic areas with the use of area restrictions. Those sites are Saint John, Kamloops and Nanaimo. In Nanaimo the reported change did not only apply to the sex trade and further information is required to make such a determination. Both Sudbury and Calgary noted positive changes to issues surrounding the street sex trade since they *stopped* using area restrictions. Notably, their current release practices for sex workers would not fall into the “punitive action” category described above. For other research sites there was either no indication of change that sources would even partially credit to their area restriction strategy (HRM, Montreal, Ottawa, Kelowna) or such information was not available.

Where this chapter aimed to provide an understanding of area restrictions strategies, the next chapter outlines and discusses the implications of the policies, processes and terms as identified by the various data sources.

## **CHAPTER 6- COMPARATIVE FINDINGS AND ANALYSIS OF AREA RESTRICTIONS STRATEGIES USED IN CANADIAN CITIES**

This chapter largely responds to Level 3 Research Questions of the case study protocol (outlined in Methodology Chapter). Throughout this chapter each research question is presented as it is addressed. This research is based on data collected from the 13 research sites (HRM, Saint John, Montreal, Ottawa, Sudbury, Saskatoon, Calgary, Chilliwack, Kamloops, Kelowna, Nanaimo, Vancouver, and Victoria).<sup>49</sup> Some of the research questions that referred to Canada as a whole could only be answered in part. However, findings provide detailed information on area restriction strategies and the range of issues associated with them. The gathered facts are relevant to cities across Canada that use area restrictions, whether police- or court-imposed, on the street sex trade and other illicit street-level activity.

### **Why Were Area Restrictions Introduced?**

A Level 3 Research Question asked *Why were police-imposed area restrictions introduced in Canada? What was the atmosphere surrounding Canada's regulation approach to the sex trade at the time when this policing tool began targeting street sex workers?* A complete response to this research question goes well beyond the intended scope of this thesis, as it would involve assessment of the broader debates and decisions around the *Criminal Law Amendment Act* (1994, Bill C-42), which were not in any way specific to the street sex trade. That said, data collected from the research sites provides partial response to these questions. Sources provided input on why police services started using police-imposed area restrictions on the sex trade in their city. These reasons offer insight on why the strategy

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<sup>49</sup> Since little information could be collected for Saskatoon, it did not contribute much as a research site for this thesis. Unless otherwise stated, Saskatoon data could not be considered for findings.

was introduced and the atmosphere around sex trade activity at the time. Three motivating factors were identified.

(1) “Prolific offenders” were a major incentive for using area restrictions on street sex workers. Area restrictions were expected to be *a tool to address high recidivist rates* of prostitution- related charges by keeping sex workers from returning to the stroll shortly after release (HRM, Ottawa, Sudbury, Kelowna). In the HRM, for example, the area restriction strategy was developed to respond to the “revolving door of arrest, punishment, and return to the same community” (Jeffrey and MacDonald 2006, 115). Prior to BRC a sex worker would be charged, released, and then back out on the street sex working “ten or fifteen minutes after you released her” (HRP interview cited in Jeffrey and MacDonald 2006, 115). The criminal justice system apparently introduced the strategy so that an individual caught prostituting in the same area shortly after her arrest and release could be re-arrested and held until the morning for court (HRP interview cited in Jeffrey and MacDonald 2006, 115). This was a more direct legal response compared to waiting until trial for the communicating offence.

(2) A second incentive for introducing area restrictions was the “critical levels” of street-level disorder experienced by some research sites. *Previous policing strategies proved ineffective* for dealing with this issue in the HRM, Saint John and Kamloop where street sex work was one of the many problems. In Montreal, Ottawa, Chilliwack and Nanaimo sex trade and related behaviours were increasingly identified as a major problem for businesses, residents, and/ or “touristy” areas. The strategy was meant to relieve “growing fears among downtown merchants and residents” (Walton Jan. 26, 2010). In all sites where such information could be collected, area restrictions were implemented for sex workers during a

time of high levels of complaint about illicit street activity from residential and business community members.

(3) Most cities commented that the strategy was developed to respond to the *prevalence of illicit behaviours and too-regular public disturbances in certain areas of the city* (HRM, Saint John, Kamloops, Kelowna, Nanaimo, and seemingly Chilliwack). Thus, a third reason for introducing area restrictions, shared by nearly all the research sites, was that the street sex trade was concentrated in definable areas of the city (HRM, Saint John, Montreal, Ottawa, Chilliwack, Kamloops, Kelowna). Area restrictions were intended to “provide support” to these areas.

Of note, none of the research sites stated the intent to eradicate the sex trade itself, though deterrence seemed to be an underlying motivation of introducing the strategy. “It is not the goal [...] to attempt to eradicate prostitution or substance abuse, but to provide support to an residential and business area afflicted with an extremely high level of prostitution and drug use” (Lewis n.d., 4). Other issues at the time of implementation included *gentrification efforts* (Montreal, Ottawa) and the *visibility* of the sex trade, or other criminalized behaviour (HRM, Ottawa, Kamloops, Kelowna, Nanaimo). Further, in a number of these cities the drug trade was the initial or stated target while the sex trade seemed more an afterthought in many instances.

### **Reasons for Using Area Restrictions**

This section considers the *reasons* identified by data sources for police use of area restrictions in partial response to the Level 3 Research Question *What is the philosophy or logic behind area restrictions and whose interests do they serve?* The portion of this research

question that considers the philosophies at the core of area restriction strategies concludes this chapter, as it considers the range of details discussed up to that point.

Sources provided a number of *practical reasons* for why police services use area restrictions on the sex trade, eight of which are outlined here. The researcher loosely sorted these reasons into two categories: (1) the strategy provides aid to sex workers and (2) the strategy helps police services do their job and police the community. These two categories are not entirely exclusive, but the researcher grouped the reasons into one or the other for discussion purposes. The intent of punishment seems to coincide with some of the reasons in the second category.

(1) Area restrictions were described as useful for providing aid to sex workers in a few different ways.

i) One such reason was that removing and restricting sex workers from the common strolls would motivate them to leave the sex trade, connect sex workers with support services, and keep sex workers out of an area that is problematic for them in terms of their exit from the trade. The HRM, Saint John and Ottawa communicated these objectives. The SJPF officer outlined this rationale.

‘Why do I not want this girl to go back? Why am I going to release her to re-offend? Her life’s in danger, this is not a good place.’ We’re trying to get some help for her. And you know, she may not be cooperative but sometimes you have to try to help people. And I know it seems like a weird way to help people, but it is, that’s the whole crux of this thing. (SJPF Participant, 2012)

Keeping sex workers out of an area that has been problematic for them in the past in terms of their involvement in the sex trade is meant to protect individuals from re-engaging in that “self-destructive [lifestyle] and anti-social behaviour” (OPS Participant, 2011).

These cities also identified that area restrictions also help police protect sex workers by keeping them away from the dangers associated with the street sex trade. For example, an

HRP sergeant was quoted in an article: “‘Is it the best solution? [...] Probably not the best. But it’s the best solution we have for the problem.’ As he sees it, getting women off the streets--- getting them healthy, getting them jobs and getting them ‘away from the abuses they suffer,’ is the goal” (Dault Aug. 20, 2009). In Saint John, the officer explained that “‘if we think that she’s out of control, we’ll just hold her. And we take criticism for it, [...] unfortunately it’s better than having them seriously injured or finding them dead. And sometimes they take the help” (SJPF Participant, 2012).

Drug addiction and mental health were two concerns. Officers feel that the best way to get sex workers into treatment was area restrictions:

[Police officers] feel strongly that it [street sex work] has to do with [drug] addiction. [...] they all need treatment [...] and they [police officers] want them to be healthy, happy, in university studying, working, like they want those things for the women [...] and that they think treatment is the option [...] I think they see them as victims, largely, and they want them out [of the sex trade] in terms of their own health. (Ottawa Community Agency Participant 1, 2011)

Other perceived dangers were abusive “johns,” drug dealers or “pimps.” The OPS contact made clear that police officers

don’t hate prostitutes [...]. They care about these people. [...] My officers are the only ones out there who are protecting these people. [...] The pimp is a crack dealer who’s waiting in a house for that girl to bring back money to sell her crack. And when she doesn’t have it, or she owes him money, then yeah he forces her back out. But he’s not out there protecting her, he may protect her from other crack dealers because he wants the client, but he’s not really out there protecting her from johns. There are a few, but the vast majority of these girls are alone. They have nobody to help them. [Police officers] aren’t looking to make these girls miserable. My guys want to get these girls help. We do that through charges. (OPS Participant, 2011)

ii) The above accounts also identify a second way that area restrictions are seen to help sex workers: they provide an alternative to detainment until trial for the prostitution-related charge. This allows sex workers to continue on with their life until trial. Saint John was the only city to communicate this reason, stating that area restrictions are “not something

punitive, this is not punishment, this is preventative. This is so that you can go on and continue your life [...] until your court date” (SJPF Participant, 2012). While the SJPF “set release conditions with a goal of keeping the Subject away from [a] location or person which has been problematic for them.... the alternative is to incarcerate them until Trial” (SJPF Participant email correspondence, 2011). Incarceration is presumed to be less favourable than area restrictions. Although this reason seems well-intentioned, it does not take into account that restricting a citizen from fully interacting with(in) a certain community is still a punishment. Even though area restrictions may keep an individual out of jail, from the viewpoint of sex workers, their advocates and agency workers it is still a punishment.

iii) A third justification was that area restrictions are seen to give sex workers an opportunity to lighten their sentence through demonstration of “good behaviour” by not receiving a breach charge before their court date. Saint John was the only city to communicate this reason. As the officer explained, area restrictions allow an individual to “show the judge hopefully that you have figured this out, or you’ve made some changes to sort your life out. Maybe it was a mistake, and now you’ve got 12 weeks, or whatever it is, to show the judge that it was a mistake” (SJPF Participant, 2012). Instead of holding a sex worker “for court, here’s your chance, go away, don’t do anything [until your court date ...] And then you can come to court and say ‘hey, I’ve been good’ and the judge can take that into account” (SJPF Participant, 2012).

(2) The other collection of reasons for using area restrictions on the sex trade pertain to helping police services do their job and respond to community complaint and concern around street level crime.

iv) One such point was that area restrictions function to move sex workers and the sex trade out of a particularly problematic area and keep them out. Cities with this rationale included the HRM, Ottawa, Chilliwack, Kamloops, Kelowna and Nanaimo.

A red zone is a boundary. [...] they're applied for people who are committing crimes in an area that they're not living in. [...] So, if they're committing crimes in a neighbourhood and they have nothing to do with the neighbourhood you prevent them from returning to the neighbourhood on a condition on the undertaking. (OPS Participant, 2011)

The strategy helps keep troublesome, unwanted people out of a community that they "don't need to be in" (OPS Participant, 2011). The use of area restrictions are at least in part "a reflection of the community's concern, [because] they don't want it there [...] it's dangerous" (OPS Participant, 2011). Since complainants do not want sex work in their community, police services work to remove it through area restriction strategies. An agency worker tried to explain this rationale:

Where they're coming from is to help restore and sustain civil vitality. That's what they're [the RCMP and criminal justice system] trying to do. So they're saying that having all these people around is a problem for business, kind of stuff. So they're trying to have an effect on the community, a positive effect. [...] the street level crime is detrimental to the community, so if they enforce these no-go zones then they are helping to clean up the neighbourhoods. (Kamloops Community Agency Participant, 2012)

Area restrictions are viewed as a tool to serve complaining community members and facilitate *public safety* by working to protect them from the sex trade and deviant behaviours associated with it.

Red zones are being used to protect communities from street level prostitution. [...] they put on a red zone restriction in order to protect the community from that individual because the community feels a particular harm has been experienced by [or as a result of] this person. (Ottawa Community Agency Participant 1, 2011)

A Kamloops RCMP Inspector was quoted as saying "The red zone is very effective in enforcement and keeping the city safe" (Fortems Sept. 25, 2009). A Crown attorney in the

HRM explained that BRC are used to “keep prostitutes away from the strolls and away from family-oriented residential areas” (Hayes Dec. 10, 2007). An HRP contact explained that a major objective of area restrictions was to “protect residents [in or near the strolls] from feeling victimized by living in their homes” (Non-Participant,<sup>50</sup> 2012). The officer identified that elderly citizens in particular were afraid to go outside, felt unsafe, saw the “activity going on” and that the HRP were trying to assist those citizens with enjoyment of their property.

Further, area restrictions were used to “break up the nucleus of crime” in certain city spaces. The efforts of Nanaimo police had “diffused the intensity of drug activity” by pushing the “visible homeless and street-entrenched population [...] out of downtown and into neighbouring areas, but at a more fragmented scale” (City Spaces 2008, 7). This was presumably favourable to having deviant activity centred in one area.

v) Another reason for using area restrictions was that they help police to regain or maintain control of an area. Police contacts described the strategy as a “band-aid” or “temporary relief” measure to give the complaining members of the community and the police services “a break” from the street trade in that area. This was communicated by Saint John and Montreal. The SJPF contact explained

The arrest part for us is a band-aid to keep control of that neighbourhood [...] You know, your options are: do nothing and just let the drugs and the pimps[, the ...] people that prey on the girls and supply them with drugs, and who very often use them to do tricks to get them their drugs. So we could just do nothing and let those people take over. Let the creeps and the perverts and the ones that want to beat the girls up, let them come and just not do anything- which we’re not going to do. We’ve got to keep control of the neighbourhood. [...] and you just can’t let

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<sup>50</sup> “Non-Participant” refers to an HRP contact who was not formally interviewed but was contacted for follow-up communications. At the time of follow-up, the HRP interview participant was no longer working in a division with current knowledge of policing the street sex trade. Some follow-up questions could be addressed by the original interview participant but the researcher was also put in contact with an individual who did have current experience with the issues studied by this thesis.

the disorder take over because it's not fair to everybody. That's the quandary that we're in. (SJPF Participant, 2012)

Also,

Typically enforcement action with regards to the female s[e]x-workers is ONLY taken when a number of resident's complaints are received or i[f] there have been a number of disturbances/ assaults/ fights, etc. In short, enforcement is used (with significant sensitivity to the issues) to re-gain some measure of control in that area. (SJPF Participant email correspondence, 2011)

Although the overall intent of the strategy may be to move the trade out of an area, the SPVM officer identified that area restrictions were not necessarily used because the strategy is effective in the long-term. The "break" from the street sex trade provided to the neighbourhood and police officers is the accomplishment.

Participant: I would say conditions are used to impose some conditions on the sex trade, on these women, not to hang around. The way I see it [...] is that we have around 60% of the girls on the street, if there is no conditions, we pick them up and they just come back again. So it's needed to get rid of that, to drive them away from here, give them a break, give us a break, give the citizens a break, but, really, you know, one leaves [and] two others come up.

Researcher: Right, I guess it's just getting at that temporary relief then because you did mention earlier that they typically end up coming back to the areas that they were working in [...]

Participant: Yes. [...] It's a temporary measure to get the girls, the women, the workers, out of this area, and to just ease the traffic of clients, ease the traffic of women, it's really a band-aid solution, you know? It's temporary. (SPVM Participant, 2011)

vi) A third justification was built on the notion that area restrictions were preventative of recidivism by creating parameters around the geographic aspects of the criminalized act. Area restrictions are used as a deterrent by working to keep sex workers out of the area, and hopefully off the street or out of the trade. This was explained by sources in Saint John, Montreal and Ottawa.

What happens is that when people come in, you release them, they get a bunch more charges. You release them again, they come back. So that's what this whole thing stops. 'Now you're on release conditions, it's going to give you some freedom, you can go get some help, or you can continue your job or continue

with school, but you can't do this behaviour. [...] you can't be back on the block [...] because that brought you into conflict with society, that's what brought the cops there' (SJPF Participant, 2012)

An additional element of this rationale was given by Ottawa and Kamloops sources: sex workers who cannot be deterred become susceptible to the breach charge when they return to the restricted community. "Breaching of the undertaking is a criminal charge so that's why we place the red zone on the undertaking" (OPS Participant, 2011). With this component of the strategy "you don't have to wait for [an individual] to commit a crime, you can breach [the person] on the undertaking because [they have] returned to" the restricted area (OPS Participant, 2011). Presumably, returning to the neighbourhood shows intent to recommit the offence and no further evidence is necessary to charge sex workers for breaching their conditions. Police officers do not need to wait for them to actually commit a criminal act in order to arrest them.

vii) Building on the last point, police also use area restrictions because the strategy enables pre-trial detainment through the breach charge once someone has shown that they will not (or cannot) stay out of an area. Montreal and Ottawa gave this rationale. An agency worker explained that *quadrilatères* seem to be valued as a tool that facilitates detainment of sex workers.

We see in the police stats a large number of communication charges [...] and then all of a sudden they go very low, but then the number of broken conditions charges are through the roof. So any time they run out of tools to arrest people with, they just need to do a whole blitz of giving people communications charges [and releasing them on *quadrilatères*] and then they can have tools to control their movements, to detain them, to displace them for a number of years. (Montreal Community Agency Participant, 2011)

The Ottawa officer mentioned that many police officers view incarceration as an opportunity for a sex worker to distance themselves from the sex trade and its dangers, to “start over” without involvement in street sex work (OPS Participant, 2011)

viii) The other identified reason for police use of area restrictions on the sex trade is that it shows sex workers and other residents of a community that the police are attentive to complaint calls, have a presence in the area, and are doing something about the street sex trade. In other words, the strategy sends a message through use of a measure that has immediate, visible results: removing the problematic individuals from the neighbourhood. Both Saint John and Kamloops expressed this point.

Participant: I mean, the no-go zones are always going to probably exist for the repeat offenders, the guys that deal drugs. But as far as the prostitution goes, I think that the no-go zones, I think sometimes it’s just given to show them [the sex workers] ‘we’re watching you, we’re in this area’ even though I wonder just how much they [the police] are.

Researcher: Right, [...] it sends a message to the business community or the residents, the complainants, that the police are doing something about it.

Participant: That they are doing something, right. (Kamloops Community Agency Participant, 2012)

This point is problematic because it suggests that there is only one way to respond to community concerns: through enactment of law.

Of note, no source identified that area restrictions were being used because they could eradicate the street sex trade. A number of the accounts also provided above indicate doubt as to the effectiveness of area restriction strategies. With some overlap, data sources uncovered at least eight reasons for why police services use arrest-and-release area restrictions. However, it is unlikely that all of these accurately reflect the outcomes produced by the strategy, or how some strategies have *actually* been implemented (problem solving versus punitive approaches).

Some reasons for why research sites stopped using the strategy were also identified, which in some cases directly oppose the rationales that support the strategy. Three police services contacted for this project had stopped using area restrictions. Some of the reasons for having done so directly oppose reasons outlined above that support the strategy, which helps to indicate major weaknesses to their strategies that contributed to its phasing out. In turn, this identifies areas of concern for strategies still being used on street sex workers.

For example, an HRP contact explained that in the past area restrictions were used to assist citizens who felt victimized by the trade being in their neighbourhood. The original idea was to move sex workers to another area of the city to alleviate some citizens' immediate concerns of victimization from the trade being in their neighbourhood; 'where one citizen is bothered by it, another may not be'. However, the HRP perspective had drastically changed: it is "not really fair to push somebody from one area of the problem to another area, it doesn't actually address the problem" (HRP Non-Participant, 2012). After recognizing that area restrictions were not alleviating the problem "in the bigger picture" (HRP Non-Participant, 2012) the HRP believed that issues associated with the sex trade must be "tackled" from the "grass roots instead of just pushing it around" (HRP Non-Participant, 2012). Other reasons given for why HRM, Sudbury and Calgary police services stopped using the strategy are discussed below, in another section, along with reactions by other interest groups to area restrictions.

Not only has this section identified a number of reasons supporting the use of area restrictions on the street sex trade, it has also helped to contextualize the criminal justice system's optimistic outlook on the area restriction strategy. However, the three research sites that had stopped using area restrictions on street sex workers suggested that their strategies

were ineffective for a variety of reasons and represent critical reactions to area restrictions by actors working in the criminal justice system.

### **The Targets of Area Restrictions: People and Places**

Some of the research questions posed by this thesis aimed to consider whether or not area restriction strategies were discriminatory in practice in terms of the targeted group or place. One question asked of each research site was whether or not intentional or unintentional tolerance zones developed outside of the area restriction zone(s) as a result of police efforts within the zone(s). This thesis could not confidently detect the prior existence or development of tolerance zones linked to the area restriction strategy in any of the research sites.<sup>51</sup> In any area where complaints were made about the sex trade, or where the sex trade became very visible, enforcement typically followed.<sup>52</sup> Police contacts consistently commented that enforcement efforts were the same within or external to the zones included in area restrictions, and that any area that seemed to be a “tolerance zone” was unintentional and likely did not incite many complaint calls.

A Level 3 Research question considered gender discrimination, asking *Is there evidence that the use of arrest-and-release area restrictions on the street sex trade is rooted in gender discrimination, in terms of who is targeted and how it is used?* It is difficult to respond to this question based on the collected information. Whether or not sex trade area restriction strategies are influenced by gender discrimination depends entirely on how it is used in a particular city. The researcher considered two factors as relevant to this question

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<sup>51</sup> As discussed in the Literature Review, tolerance zones are areas either formally or informally designated by police services and/or municipalities as places where sex work is permitted although not encouraged or promoted (McKeganey 2006).

<sup>52</sup> That said, sources for the HRM and Ottawa identified common areas for male street sex encounters that police did not regularly enforce. These areas were known male strolls in less or non-residential areas, where activity was typically associated with “cruising” rather than street sex work.

one being whether or not area restrictions were used on all sex workers or only female sex workers. The second factor was whether or not area restrictions were used on clients and the pimp-figure in addition to sex workers. Considered together, these dynamics were used to indicate whether or not a city's use of area restrictions may be discriminatory.

Only the interviewed sources provided information on whether or not male and transsexual sex workers were also targeted by area restrictions. From these, three scenarios were identified. The first found *male and transsexual sex work to be a “non-issue”* at the time of interview because there were so few, or none, on the street. Area restrictions had not been issued to those groups but police contacts expressed that male and transsexual sex workers would be treated “the exact same” if they were on the street. This was the case for Saint John and Kamloops. In Saint John, female, male and transsexual sex trade activity was originally “a couple of blocks over” from the current street trade area (SJPF Participant, 2012). When female street sex trade moved into the current area, the male and transsexual sex trade lingered in the “old area” for a time but has since disappeared from the street almost entirely.<sup>53</sup> In Kamloops male and transsexual sex workers did not typically work on the strolls because their trade was more off-street (Kamloops Community Agency Participant, 2012). Male and transsexual sex trade was not a point of complaint in either of these cities.

The second scenario was that *male and transsexuals were actively equally targeted*, and thus impacted, by the area restriction strategy, the only difference being that there was less of it on the street. Montreal and Ottawa fell into this category. In Montreal the male trade is not as widespread as the female trade but *quadrilatères* work “exactly the same way”

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<sup>53</sup> The male sex work in the old area largely developed into “cruising” behaviour, which has since dissipated and moved online or into one of the city's parks, however the officer explained that “we don't lump that into the same project as the street sex trade because they're there for different reasons” (SJPF Participant, 2012).

for male sex workers, who receive conditions on a fairly regular basis (SPVM Participant, 2011). As explained in Montreal's Report, transsexual workers had potentially been impacted to a greater degree than female sex workers because they are somewhat anchored to particular neighbourhoods and have not been able to move away from red zones as other sex workers have. In Ottawa the male street sex trade was largely a non-issue but the officer recalled two transsexual workers that had been issued area restrictions and explained that since there are fewer of them on the street it is not as common. The transsexual workers who have gotten area restrictions work in the same areas as female sex workers and self-identify as women. Based on this information, area restrictions in both of these cities targeted *any* sex workers in the areas common for street sex trade where complaints are made but sex workers were predominantly female within those areas.

The third scenario saw the area restriction strategy used *only on female sex workers* and the HRM was the only interviewed city that took this approach. Although one HRP contact was aware of potentially one or two male sex workers having been issued BRC, none of the other contacts knew of any. Also, the terminology of *Appendix "A"* only refers to female sex workers. The agency worker identified that male strolls were left out of the BRC strategy and that there were "very few" transsexual sex workers on the street, so the chances of either group being issued BRC were slim. Based on the available information on this factor, the HRM was the only city where evidence showed discrimination towards female sex workers.

The second factor informing whether or not a city's area restriction strategy was discriminatory was whether or not area restrictions were used on clients and the pimp-figure, both of which are predominantly male. Any of the research sites that were asked expressed

that “pimps” or the conflated “pimp-drug dealer” figure was almost always too difficult to link to the street sex trade, if caught by police at all. As a result, it was improbable that a pimp-type character would receive an area restriction as a result of their involvement with the sex trade. Additionally, the SJPF contact explained that such an individual would not typically qualify for conditional release because of their criminal history. Sex trade customers, however, are much more susceptible to police detection and are regularly included targets in undercover operations. That said, at least two of the research sites *did not* use area restrictions for clients of sex workers charged under the same section of the *Criminal Code* (HRM and Montreal). For Ottawa and Calgary it could not be confirmed whether or not it was common practice to release sex trade clients/ customers on area restrictions and in Saint John, Sudbury, Kamloops and Chilliwack it *was* common practice to do so.

Based on the available information on this factor, the HRM and Montreal were the only research sites where the area restriction strategy was discriminatory against sex workers because it was not used on their clients as well. In cities where the strategy was applied to both sides of the trade the researcher could not further evaluate the issue with the available data.

In response to the research question, sex workers *generally appeared* to be issued area restrictions more than male or transsexual sex workers only because their strolls or work areas were in more problematic areas for other community members, which thus stimulated more complaint. Areas targeted by area restriction strategies were chosen according to complaints about illicit behaviours within the area. However, this finding should not take away from the fact that in most research sites female sex workers were more often impacted

by area restrictions than male or transsexual sex workers because a higher percentage of them remain on the street. Also, the HRM's *Appendix "A"* release document presents their strategy as overtly discriminatory. The second factor further incriminates the HRM because they only used BRC against sex workers, not their clients/ customers. Montreal was the only other city where it was clear that area restrictions were not used on the client side of the trade. Although Montreal's strategy seems prejudiced at least in terms of status, only the HRM could be labelled overtly discriminatory based on gender.

It is important to note that an approach that sees customer-targeting (nick-named "john-targeting") as producing a more favourable outcome for sex workers is paradoxical and that sex workers would not want strategies to target their clients any more than they are targeted because such an approach potentially penalizes sex workers even more. Customer-targeting is often presented as fostering equality. However, sex workers are financially punished when legal circumstances lead to a decrease in clients. This is in addition to the other ways in which sex workers are socially and legally chastised (stigmatized, marginalized, criminalized; discussed in-depth in Theoretical Framework). Customer-targeting leads sex workers to change their working behaviours so that sex trade interactions become less visible to police, which often means their work becomes more risky (see discussion in Jeffrey and Sullivan 2009 or any critique of the Swedish Model, like Dodillet and Östergren 2011).

### **Reported Impacts of Area Restriction Strategies on Street Sex Work, the Level of Discontent with Sex Work and the Responses from Interest Groups**

This section responds to the Level 3 Research Question that asked *How have arrest-and-release area restrictions impacted the street sex trade, its regulation, and the level of*

*discontent associated with street sex work? How have interest groups responded to this strategy?* For this section we turn to several viewpoints held by a range of interest groups, including various criminal justice factions (mostly police officers, Crown attorneys and defence lawyers), community agencies, and sex worker advocates. For the most part, the perspectives of sex workers, other residential and business community members and judges could not be captured by this thesis. The intent is not to evaluate the debates within these areas, but rather to identify points of consensus and problematic details and outcomes linked to the use of area restrictions on street sex workers. In this way, future avenues of inquiry are outlined. Responses from interest groups are reviewed first, as they identify a number of the issues that are explored in more detail when considering the perceived impacts of area restrictions strategies on various aspects of the sex trade.

#### *Interest groups' responses to area restriction strategies*

Reactions to area restrictions range from support to opposition among interest groups. Generally speaking, community agencies, a small number of sex workers referenced in media articles and their advocates were critical of area restrictions based on their first-hand understanding that they negatively impact sex workers' lives and/ or work. The few business owners referenced in media articles were very supportive of area restrictions and the criminal justice system and the handful of residential community members referenced in media articles presented mixed reactions. Many reasons for supporting area restrictions were identified in the section *Reasons for Using Area Restrictions*. A variety of reasons why interest groups *oppose* the use of area restrictions are outlined here. These issues include (1) the point at which area restrictions are issued, (2) impacts on sex workers resulting from area restriction strategies, and (3) impacts on the criminal justice system.

*(1) Criticism for the Point at which Area Restrictions are Issued*

The point at which area restrictions are issued to sex workers was a major problem identified by community agency workers. Four concerns were identified in this area, the first being that i) “agreeing” to area restrictions as a release condition is couched as offering the sex worker a choice. The process of issuing an area restriction technically allows sex workers to decide between detainment or release on a restriction but the “choice” is between two adverse options. Since police typically detain sex workers for a time before being released, sex workers “agree” to police-imposed area restrictions as their release conditions because by that point “they just want out. So sometimes they don’t give a care because it’s ‘I want out. It’s ridiculous anyways, I don’t care. I just want to go.’ And so they do this” (Ottawa Community Agency Participant 1, 2011). This account identifies that for many sex workers, area restrictions become the only opportunity to avoid extended police custody.

ii) A second criticism about the point at which area restrictions are issued is that sex workers are treated as though they are guilty before they have had an opportunity for trial. Agency workers expressed anger that area restrictions, a condition that can have such a significant impact on one’s daily life, are used for those *accused* of a summary offence. As an agency worker explained, when area restrictions are issued by police the sex workers “haven’t had a trial, [...] they haven’t plead, that condition is still in effect, which I think is legally a little problematic because it goes back on the idea of ‘innocent until proven guilty’ and you’ve been charged and you’re having consequences even though there hasn’t been a finding by a judge” (Ottawa Community Agency Participant 2, 2011). This treats the individual as though they are guilty and the accused “agreeing” to the condition, a punishment, is likened to admitting guilt. A police officer denounced this argument, however, by explaining that “agreeing”

is not about pleading guilty, it's not about agreeing that you're being charged, but you have to agree to abide by these conditions and if you don't, if you object to them, which is fine, you go before a judge. So we don't force them to sign, it's not a forced thing. But if they agree to the conditions at the scene, it's not a pleading of guilt, it's just saying "yeah ok, i acknowledge that you've given me these papers and I acknowledge that I've read these things and that I am to abide by them until my court date. (OPS Participant, 2011)

iii) A third point of criticism for the point at which area restrictions are issued contrasts the ease with which a sex worker's movement can be limited with the process for restricting the movement of more threatening individuals in instances where there is real concern of victim safety. Although speaking from an advocacy point of view, that does not enable them to assess the work of the criminal justice system, an agency worker identified an aspect of unfairness that was associated with the area restriction strategy. The process involved with getting a restriction order when an individual is under threat of harm by another is seen to be (unfairly) much more difficult than the process of restricting the movement of a sex worker. The agency worker explained:

[in cases where violence is involved and] somebody actually has assaulted you or someone's harassing you and you have to go through this very onerous process of getting a restriction order that prevents that person from coming into your home, or where you work, or, you know, there's boundaries put on that individual. And this is the case where somebody is clearly harassing or harming somebody, how onerous that process is on an individual to get protection from somebody who clearly wishes them harm, and yet in this scenario [of putting sex workers on area restrictions], the neighbourhood who just doesn't like the social conditions of their neighbourhood can pin on very easily these very onerous conditions on an individual who has access to limited resources (Ottawa Community Agency Participant 1, 2011).

Although comparing two very different situations, the agency worker suggested a double-standard between these processes for restricting individuals' movements. In one instance the agency worker sees the limitations placed on an accused or offender are given much more consideration than those issued to sex workers, even though sex workers are not a direct or

physical threat to their community. Whether or not this is actually the case is another matter entirely.

iv) The fourth concern about police issuing area restrictions at release from custody is that the terms of an area condition are very difficult for sex workers or support agencies to alter at this point. This concern is particularly strong because it stems from the application of the law and has been directly observed by community agencies, meaning that they can speak from experience on this point. If an individual does not have proof at the time of arrest for why they should be allowed into an area they are restricted from it. The only option for getting the terms changed after that is having their defence lawyer request modifications to the terms in court before a judge. Sex workers are essentially required to document their use of time and space. This information follows them as part of their criminal justice file and becomes institutionalized knowledge that can be used against them if they are caught using a certain space inappropriately.

Sex workers often do not have the means at point of arrest to challenge the police officer and there is no opportunity to contact a support service to challenge the terms before they are issued. As a community agency worker explained:

We have tried to fight the conditions, the issue is, however, that the conditions are in place right away. So, sex workers don't often know that they need to contact their lawyers right away when they're brought in to fight the conditions. Other times when they're booked they're given conditions and they're release until their court date, the conditions are placed at the police station by the police, so fighting the conditions has been very, very difficult. (Montreal Community Agency Participant, 2011)

The agency worker explained that although they know it would be most useful to help sex workers contest *quadrilatères* at the moment of arrest, it “has been pretty difficult to implement into practice.”

## *(2) Criticized for Impacts to Sex Workers Lives and Work*

Sources made clear that sex workers strongly dislike being on area restrictions and tend to plead guilty at their first appearance to do jail time instead of being on area restrictions any longer.

Because sentences aren't that long. They would prefer to do- that's actually one of our things in our culture right now is- they prefer to do the time to get it over with, because otherwise we have that leash on them. And they hate it. [...] if they want to go back to that area, that's where their crack is, that's where their trade is, so they usually will do their time. (OPS Participant, 2011)

There are multiple reasons why sex workers “hate” being on area restrictions, many of which came up during data collection.

Evaluation of the impacts on sex workers was not a research objective but some of these issues influence how interest groups responded to area restriction strategies. Three outcomes of area restrictions strategies impact sex workers' lives and work: i) limited access to services and resources because of the release condition; ii) sex workers often live within the restricted areas; iii) breach charges are hard to avoid and very disruptive; and iv) the impact of area restrictions on sex workers' ability to work, to earn income, which introduces another list of problems. This last issue was discussed to a lesser extent because it is relevant to each of the other points and so was not discussed independently.

i) It was already identified that important services and resources that specialize in street-based populations tended to be located within area restrictions in the research sites. Many sources communicated that in order for a sex worker to legally abide by their area restriction, they must cope with being limited in the services and resources they may access, including health care, methadone maintenance and often support services and networks (HRM, Montreal, Ottawa, Sudbury, Kelowna). Even when exceptions are written into a sex worker's conditions so they can access a particular service the restriction is problematic. If a

sex worker is already on a red zone and “discovers another social service that they want to go to, it’s too late” because it would not be included in the exceptions (Montreal Community Agency Participant, 2011).

This concern was among the “very negative results” that the GSPS credited to area restrictions, which led them to stop using the strategy on the sex trade. The Sudbury “police service determined that while restricting access to areas known to be frequented by individuals involved in the sex trade (consumer and supplier) the boundary restrictions limited access of sex trade workers to vital outreach (food, shelter, counseling, medical) which were also located in the immediate area” (GSPS email correspondence 2012). Further, police or judge discretion decide what is or is not an acceptable reason to be in the restricted zone. These decisions are subject to moral and gendered assumptions about appropriate use of time and space (for example, attending a social service might be deemed legitimate but visiting a friend or family member or shopping at a certain store are not).

The biggest area of concern among critics was that sex workers are restricted from health services. One police source contested this concern by emphasizing the need for services to be mobile in order to effectively respond to their clients. If services *are* mobile, area restrictions do not keep sex workers from accessing any service or resource.

The social services are trying to cry foul by saying that I’m banning these girls from their social services, and I said to them ‘If you’re designing your social service to all your clients going to that one office you may have in [one location in the city] would be like me saying I can’t go into a domestic because I have to stay in my station.’ Social services are not designed around people coming into your office. [...] One or two clients may come visit them, stable ones, maybe. Those aren’t the ones who are on the red zones, those [on red zones] are the ones living in a shelter or like, crack addicted. They’re going to find them, and if they’re not then they’ve designed their programs improperly. [...] All those services are mobile. Whether they want to be or not is irrelevant because they need to be. And they are. [...] but] some of them are saying ‘*some* of my clients aren’t comfortable meeting me at their residence.’ So I’m like, ‘well, meet them

somewhere else. If they've been banned from an area it's the community who's got priority.' (OPS Participant, 2011)

This perspective blames the social services for any complications wrought by area restrictions; if prospective clients cannot access their services it is because of a flaw in their design. This does not consider that social services encounter significant financial constraints which often limit their program design, nor does it acknowledge that many street-based populations are hard to reach. The quote suggests that criminalized community members are ranked as lesser citizens compared to law-abiding citizens, and whose needs are thus considered less important. Further, the officer identified that there are often multiple options for agencies that offer the necessary services or resources.

There's always other services. There's always other places to go, there's always other avenues for them to access. They're not automatically granted methadone clinics so when they say 'Well, I've gotta go to my meth clinic' well again, those are fallacies. [...] But [if they are in a methadone program...] there's other places where you can provide that service [...] and you can get services elsewhere. [...] Just because it's convenient for you to go to one place doesn't mean you can't go look somewhere else. (OPS Participant, 2011)

That may be the perspective of some criminal justice actors, however service providers explained that although there may be other health services in the city, there is usually a very limited number of "health services that are equipped and able to work with clients who have [...] the needs that they [street sex workers] do" (Ottawa Community Agency Participant 1, 2011). The participant was referring to agencies or clinics that individuals can access without having a health card. Many street based individuals do not have personal identification and because of that, they are limited in the number of places where they can access health care. Further, such clinics are likely the only places "that are going to be able to appreciate where they're coming from" and usually have specific programs to work with sex workers. In Ottawa, for example, the two clinics where no health

card is required offer “access to clean equipment, you can drop off dirty equipment, you can get counselling” among other things (Ottawa Community Agency Participant 1, 2011).

Methadone clinics were a particular issue for sex workers on area restrictions (HRM, Saint John, Montreal, Ottawa). As one agency worker explained, “When you have a prescription to methadone you cannot play around with which pharmacy you get your methadone from. You cannot just decide you’re going to get it from this pharmacy because I’m red zoned because of X, Y, Z. [...] you can’t just access it anywhere” (Ottawa Community Agency Participant 1, 2011).

ii) In many cities sex workers tended to live in the areas where they worked, meaning they were susceptible to being restricted from their own neighbourhood by area restrictions. Sources for six cities identified this as a problem: the HRM, Saint John, Montreal, Ottawa, Sudbury, and Calgary. Individuals typically build up social and support networks in their communities and this is no different for sex workers. Area restrictions jeopardize their access to “social workers, family, friends, and *their community*” (Bruckert and Chabot 2010, 75 *emphasis added*). Individuals would access these local support networks because of their familiarity with the community, like any other community member would. “[I]t’s your community and in some cases [...] they’ve grown up there. So all your services and your connections are there so it’s not just that you need to find a new clinic, it’s that you need to re-establish all your relationships with your doctor and your nurse and the councillors, and all that” (Ottawa Community Agency Participant 2, 2011). And “[a]s far as AA meetings, and all other kinds of things, [...] if you’re not from that area why would you access support services out of another community? It doesn’t make any sense” (Ottawa Community Agency Participant 1, 2011).

Area restriction strategies were also identified as problematic for instances when sex workers live in shelters located within common restriction areas (Ottawa Community Agency Participant 2, 2011). One source reported cases where sex workers were forced to sleep outside in order to abide by their area restriction (Bruckert and Chabot 2010, 74). The Calgary contact identified that the CPS had realized that sex workers tended to live in the areas they were being restricted from. Since the restrictions were not truly addressing causes of the street trade (among them, addictions, socio-economic conditions and mental health instability) the CPS decided that it did not make sense to keep using them on sex workers. The CPS found that area restrictions only added to the “difficulties” faced by sex workers “who were going to work anyways,” regardless of enforcement efforts (CPS personal communication, 2012).

A few police sources were adamant that sex workers did not get restricted from accessing their own homes or shelter and that this should not be a real concern. Even if that were true, being restricted from the *area* in which one lives remained an issue for agency workers, sex workers and their advocates because they cannot fully interact within their community.

iii) The breach charge was identified as another cause for concern. As one source put it, area restrictions are “‘basically a banishment measure.’ [...] Unless workers are willing to move or find work or services elsewhere, they risk being charged with a breach of release conditions” (Allison Dec. 2, 2011). As a result, area restrictions “increase the likelihood of arrest and incarceration and contribute to the criminal record of sex workers which impedes their transition out of sex work and into ‘mainstream’ employment” (Stepping Stone n.d.). A number of contacts believed that incarcerating sex workers through breach charges was a

central objective of area restriction strategies. One contact felt that breach charges were used strategically by police when “under pressure from the municipal government to clear out a neighbourhood for X, Y, Z [reasons ...] but generally it’s in conjunction with the pressures in the neighbourhood” or seasonal attractions (Montreal Community Agency Participant, 2011).

Breach charges were heavily criticized in multiple sources for perpetuating the “revolving door” of criminality. A legal aid lawyer commented that “the justice system is ‘further victimizing’ sex workers by imposing release conditions [that] many find it impossible to abide by” (Hayes Dec. 10, 2007). For a variety of reasons, whether licit or illicit, both sides of the debate agreed that it is very difficult for sex workers to stay out of these areas. The consequences of this were explained by the deputy director of the Canadian HIV/AIDS Legal Network, “‘People are forced to choose between breaking the law and obtaining the help they need’ [...] ‘Of course, we have to respect the law. But what we end up doing is creating a revolving door between the streets and prisons for drug addicts and sex workers’” (McKinnon Apr. 15, 2010). This notion was shared by the HRM, Montreal and also the police services in Sudbury and Calgary, where area restrictions are no longer used. In fact, the Sudbury police contact explained that instead of encouraging individuals to leave the sex trade, their officers were issuing “a lot of breaches” to sex workers, which only added to the problem (GSPS personal communication, 2012).

Breach charges were also described as being “very disruptive” to sex workers’ lives and resulting in a number of very negative consequences that, if anything, would make exiting the trade more difficult. These consequences include loss of housing, severed community ties, low self-esteem, and constrained or a loss of support networks. This point

was communicated by critics of area restrictions in the HRM, Montreal and Ottawa and was well-illustrated by the following:

It's completely disruptive, [...] if you ask any social worker dealing with this population they'll tell you how hard they work to get people housed, [...] to get them into whatever addictions program and to get them to have regular access to their children, and the breach totally disrupts all of that. And it takes them out of the community, like physically takes them out of their life and their structures, and it also makes people feel crappy and sets them up for relapse if they're dealing with an addiction, mental health issues. And it also burns some bridges. Like if you were in a certain housing project and then you lost it because you went to jail they're not likely to take you back again later, it depends on the one, but it just leaves you with a lot less options. And it's just so demoralizing and it has the opposite effect on people than you would hope. [...] it's not therapeutic at all. It's not helping them, it's devastating. (Ottawa Community Agency Participant 2, 2011)

In sum, area restriction strategies, including breach charges, have received a lot of criticism for the many ways in which they impact sex workers' lives and work. They have been called "a very common tool for repressing people" (Montreal Community Agency Participant, 2011) and accused of treating sex workers as "disposable people" (various sources in HRM, Montreal, Ottawa, Kelowna). These views are very much rooted in the idea that neighbourhoods included in area restriction strategies become zones of exclusion for sex workers because the restriction actively works to exclude sex workers from that particular community.

When you've identified that you don't want this person in a community it's quite effective in removing them. [...] I don't know how effective they are in actually preventing harm in a community. I think it really has no effect on that, in changing the dynamics of the community, I think it's quite ineffective. (Ottawa Community Agency Participant 1, 2011)

As such, the overall result is a "social displacement of people" by pushing individual sex workers away from certain city areas (HRM, Montreal, Ottawa, Kelowna).

Negative impacts were reported as resulting from the denial of pro-social contact between sex workers and support systems, restricted ability to make safer choices while

working, the added difficulties of trying to find or keep housing, and potentially limited access to health care. By now it is evident that critics of area restrictions generally believe that the strategy makes it *more difficult* for sex workers to “straighten out.” This includes overcoming addictions problems or exiting the trade and finding “legitimate work” (Purvis, Bruckert and Chabot 2011; Bruckert and Chabot 2010; Stepping Stone Mar 3, 2009). For future research endeavours, a worthwhile project would evaluate the extent that area restrictions impact sex workers’ lives and work, as this thesis was only able to identify a range of the causes and impacts.

A number of sources questioned the constitutionality of police-imposed area restrictions based on the various issues outlined above. These sources were mainly community agency workers from the HRM and Ottawa or other agency workers, advocates and defence lawyers quoted in media articles. However, evaluation of such a claim is a project in and of itself and is also outside the scope of this thesis.

### *(3) Criticized for Unnecessary Impacts to Criminal Justice System*

A few sources suggested that the use of area restrictions has negative consequences for the criminal justice system. One source explained that “boundaries break down communication between sex workers and law enforcement as police are often unsure as to who is on boundaries, who is not, and what allowances were provided by the court for boundaries” (Stepping Stone n.d.). As a result, sex workers who are not on area restrictions often experience harassment from police officers during efforts to enforce area restrictions and try to avoid interaction with police officers.

Even though it is very difficult to assess, some sources also suggested that the use of area restrictions is likely very costly to the criminal justice system through increased “law

enforcement, court appearances, [and] incarceration costs” (Stepping Stone n.d.). The executive director of the Elizabeth Fry Society of Ottawa also supports this claim, since the strategy is not “resolving core issues” that fuel involvement in the street sex trade (McKinnon Apr. 15, 2010) and only provides additional grounds to continue arresting sex workers.

### *Impacts on the Street Sex Trade*

Although this thesis cannot establish causation between area restrictions and any changes to the sex trade since their implementation, sources provided input on whether or not they noticed any changes to the sex trade alongside the use of the strategy. Information centred on three issues, (1) impacts to the level of street sex trade activity, (2) the creation of riskier circumstances for street sex workers, and (3) the displacement or dispersal of the street trade.

(1) Sources from all interviewed research sites mentioned a general decrease in the level of *street* sex trade over the past decade (HRM, Saint John, Montreal, Ottawa, Kamloops). However, it was typically credited to technological advancements and *not* to area restrictions or even other policing efforts. Cellular telephones, the internet, social networking and the like have helped move sex trade workers with access to such things off-street, but *not* necessarily out of the sex trade. As a result, there was consensus that those who remained at the street-level were the most vulnerable, desperate and in need of support.

In terms of area restrictions having an impact on the level of street sex trade activity, sources from most cities did not think the strategy had changed much because it did not address the issue but merely moved it around (HRM, Montreal, Ottawa, Sudbury, Calgary, Kelowna). Both GSPS and CPS contacts identified that their services stopped using the

restrictions because they were “very unsuccessful” at reducing the level of street trade activity (GSPS personal communication, 2012). As one participant explained, “when they work they need to work, and so they’ll still work within their red zone, but they might change their behaviour a bit because of that fear of getting caught. Or they might move slightly but it’s usually [to] just outside of their red zone” (Ottawa Community Agency Participant 2, 2011; similarly CPS personal communication, 2012).

Contacts for the HRM and Sudbury commented that area restrictions only extended the previous cycle of arrest, charge, and release to also include release on area restrictions, breach charge, and increasingly severe sentences. This was described as “a cycle that keeps on occurring; [and it’s one] that you can’t seem to get away from” and an HRP officer agreed that the strategy did not address the issue (Interview cited in Jeffrey and MacDonald 2006, 116). Even in Chilliwack where area restrictions were only for a two week “clean-up campaign” of the sex trade, sex workers were re-arrested and charged for breaching their restriction by the end of the campaign (Tommer Oct. 4, 2011). Sources in the HRM also reported that the street sex trade was “pushed farther outside of the communities. It’s more marginalized and underground now. That’s about the only change” (HRM Community Agency Participant, 2011).

Saint John was the only city that clearly identified a reduction in the level of street sex trade activity but it was not credited to the area restriction strategy alone. The SJPF officer claimed that Saint John’s collaborative approach to the sex trade made a difference.

It seems to be that there’s less and less [street sex trade activity] all the time, so maybe the methadone [program] and maybe some of the social services that have been brought on board, and maybe the needle exchange, Sex Trade Action Committee and anti-poverty initiatives and all this stuff, maybe it’s working. [...] people say ‘well how do you know it’s working?’ Well, something is. [...] Stats Can averages are down in the last 10 years [...] Your serious crimes and your

reported crimes are down a lot right across Canada. So something- the interventionist approaches and the harm reduction approaches, as well as beefing up some of the enforcement issues, are working. Or something's working. (SJPF Participant, 2012)

(2) Some sources argued that area restrictions force sex workers to make riskier decisions that increase their chances of being victimized. One reason was that the area restrictions and their enforcement (with the threat of a breach charge) makes sex workers less cautious when choosing clients, rushing the process to avoid police detection (Chapin Oct. 23, 2008). Another argument claims area restrictions “further isolates sex workers and forces them to work in unsafe areas and under riskier circumstances” (Stepping Stone Mar. 3, 2009; similarly in Fagan Mar. 16, 2010). Sex workers move “out of areas where they normally work and have buddy systems” in order to avoid being breached (McKinnon Apr. 15, 2010). An officer quoted in a media article disagreed with this point, stating that “the very nature of that type of behaviour is dangerous in itself, whether it’s a well lit area or whether it’s a dark area. There’s people that are getting into vehicles with complete strangers so that no matter where it happens I think it’s a high risk activity” (Fagan Mar. 16, 2010). In one article, a sex worker explained that she lived “right in the middle of her restricted zone” (McKinnon Apr. 15, 2010). The area restriction motivated her to stop sex working *in her neighbourhood* and she began travelling to another part of town to work; it did not stop her from working in the sex trade.

(3) The other potential impact to street sex work that participants identified was displacement or dispersal of the trade into other parts of the city, whether on an individual and temporary basis or a mass movement of sex workers. Little to no displacement or dispersal was reported by the Saint John and Kamloops contacts. In these cities participants expressed that “things had calmed down” in the areas common for sex work, except for the

occasional individual who would move to a different area to work to avoid a breach of conditions. In Saint John “[t]hey’re still all centred in that [STAC] Area” and “as far as this theory of displacement, that you’re just going to move it down street, we haven’t seen that. We’ve actually seen it kind of calm down and not be as big an issue” (SJPF Participant, 2012). The agency worker suggested that displacement does happen on a temporary and individual basis. Individual sex workers were seen to work in different neighbourhoods while on their area restriction.

Similarly, in Kamloops the trade is “still in the same area [...] this has been the area. And it has been for many years [...] I haven’t really seen that move around” (Kamloops Community Agency Participant, 2012). However, the agency worker did say that area restrictions might make individuals work outside of the city more “but they did that before anyways. [...] they work the street, they jump in [a vehicle], drive out of town.”

For most cities, movement of a broader scale occurred. The “overall impact” of area restrictions in Saskatoon was “that it dispersed prostitution throughout the Westside of the city” (Saskatoon Community Agency email correspondence, 2012). In the HRM, Sudbury and Calgary participants identified both mass displacement and dispersal of sex workers and in the latter two cities new strolls developed in areas not previously accustomed to the sex trade. Prior to boundary restrictions in Sudbury there was only one area for the street sex trade but the restrictions caused mass displacement and led to the development of a second common area for the street sex trade. Sex workers also dispersed into residential areas that did not previously have a prostitution problem. In Calgary area restrictions “simply expanded the stroll” and generated larger policing problems by moving the trade into a different area of

town (CPS personal communication, 2012). These consequences significantly contributed to decisions by these police services to stop using area restrictions on sex workers.

In Kelowna the immediate impact was that individuals would continuously move “just outside” of their area restriction until the zone was eventually expanded. Sources for Nanaimo did not specifically address impacts on the street sex trade but the area restriction strategy received much criticism for dispersing problems of illicit street-level behaviours into other neighbourhoods “instead of solving the drug problem” (Tropea Apr. 13, 2007). The HRM’s strategy similarly received widespread criticism for pushing sex workers into different areas without addressing the problems associated with the trade (HRP Non-Participant, 2012).

Agency workers in Montreal and Ottawa only reported large-scale displacement and/or dispersal during early use of their area restriction strategies. The Montreal agency worker identified mass displacement and dispersal from red zoning during gentrification projects in certain neighbourhoods. The initial use of red zones in the area historically called the red light district caused street based populations, including sex workers, to move “farther and farther east.” This process similarly erupted in another area, which “moved the sex workers farther east again [...]. And now a lot of the street based sex work is scattered across the city” (Montreal Community Agency Participant, 2011). Although there has “always been a little bit of sex work in many different places” it seems that prior to *quadrilatères* the sex trade was “extremely centralized downtown and it no longer is.”

Although seemingly less drastic, a similar account was given for Ottawa, where area restrictions displaced much of the sex trade from a downtown “touristy” area to other parts of the city, some of which already had street sex trade. Since these times, displacement reported

for Montreal and Ottawa was more temporary, immediately following an undercover operation, and according to an individual's area restrictions. For example, the Montreal officer identified that after receiving a red zone, some sex workers remained close to their normal sex working area so they "still have potential to find the client [and] they won't be in their quadrant but they'll be very close" (SPVM Participant, 2011). Other sex workers would go to a different neighbourhood to work until they were able to return to the area they were restricted from.

In general, there was consensus that the sex trade was impacted in some way by the use of area restrictions and changes were similar across most research sites. As one agency worker appropriately summarized:

The micro [level] is complicated because sometimes it changes where people go and sometimes it doesn't [...] and that's why they constantly get arrested. But the macro picture is yes, it does displace people. Does it displace people towards pre-existing strolls in other parts of the city? Maybe sometimes. Or small [...] areas where maybe a few people work? Maybe. Now, does it displace a lot of women who *can* [are able] to work from home on the internet alone? It can. But what it does is it displaces people to *somewhere else*. (Montreal Community Agency Participant, 2011)

Whether sex workers are increasingly moving off-street to evade law enforcement or remain on the street and receive area restrictions as conditions of release, most participants supported that area restrictions have had some sort of impact on the street sex trade.

#### *Impact on the Level of Discontent with Street Sex Trade*

This thesis was not able to collect appropriate data to determine whether area restriction strategies impacted the volume of complaints about the street sex trade received by police. However, it was reported that the HRP, SPVM, and OPS continued to receive a high volume of complaint calls while SJPF and Kamloops sources indicated a significant decrease in complaint calls.

### *Strategies to Deal with Area Restrictions*

All of the contacted community agency workers were critical of their city's area restriction strategy and some communicated tactics they used to try and deal with area restrictions and their impacts on people's lives. Informing and educating groups relevant to the issue was a major effort across research sites, using media (HRM, Montreal), community meetings (Ottawa), or meetings among relevant services (Saint John, Kamloops) as forums. Participating in research initiatives, such as this thesis and other recent projects, was another process used to raise better awareness "about what's effective and what isn't" (Ottawa Community Agency Participant 1, 2011).

Another strategy was to make efforts to strengthen information sharing with police services to build partnerships. "I think that that's really key, and working together and trying to find shared opportunities to address things that we're both concerned about, like safety and violence and those issues" (Ottawa Community Agency Participant 1, 2011). As mentioned elsewhere, this process seemed successful for Saint John, Sudbury, and Kamloops, where area restrictions are either no longer used on sex trade workers or are not used punitively. Agencies in Montreal and Ottawa also seemed to work at educating sex workers on the terms and process of area restrictions. This would ensure sex workers understood the importance of informing an arresting officer prior to being issued an area restriction if they needed to be within the area for any particular reason, or contact their lawyer immediately after receiving an area restriction so that they can get the terms modified as soon as possible.

Although the effectiveness of any of these strategies would depend on the dynamics and variables at play within each city, there was evidence that such processes have worked in some cities. Based on collected data, the most significant factor for whether or not police

services identified successes with the street sex trade alongside the use of area restrictions, or whether or not the strategy was used on sex workers at all, seemed to be the willingness to collaborate and share information between interest groups. This includes community agencies, the police service, other community members and consideration/ inclusion of street sex workers themselves.

### **The Assumptions or Attitudes Behind Area Restrictions**

The final Level 3 Research Question addressed in this chapter is *What is the philosophy or logic behind area restrictions and whose interests do they serve?* The researcher derived seven distinct attitudes or assumptions that guide the use of area restrictions on the street sex trade. It is not the intent to evaluate whether or not these ideas are accurate or represent the intentions of the police services, but to critically outline them. Where this project is largely exploratory I am merely trying to identify the logic, or underlying set of principles, at the core of this strategy so that future research efforts may evaluate it.

Before outlining the conveyed attitudes and assumptions, it is important to consider the roles of the most significant sources for this research: *police officers* and *community agency workers*. Interviewees can very easily indicate a variety of reasons for doing what they are doing in relation to the use of area restrictions. As a researcher, I may be able to identify different logics behind those efforts, but ultimately what is happening around the use of area restrictions is that individuals are acting on the objectives of their job. For police officers this means arresting. There is a clear, objective, punitive aspect at the basis of this intervention. Whether arrests are made to establish peace, safety, or to curb nuisance, police services are acting within their mandate. That is not to say that police services and officers

cannot have other objectives, some of which have been identified in this chapter, but those are more complicated. For the sex trade, the provision of aid to sex workers requires specific strategies or programs in addition to enforcement efforts, and without those a police service has little grounds to claim their services are helping sex workers. This is especially the case when the individuals and groups (and their advocates) that a police services claims to be helping are directly opposed to the implemented efforts. The logic behind using area restrictions as “help” becomes very weak.

For community agency workers, the primary objective *is* to help sex workers. That is the rationale behind their job, which is not at all about punishment. Thus, criticizing police use of area restrictions is directly in line with the mandate of community agency workers for all of the reasons identified earlier in this chapter. This discussion is not to say that police officers are not being honest when they say they want to help sex workers, but rather that they have been hired and trained to maintain public order and safety through the application of laws. Their use of area restrictions does exactly that, and it may help sex workers but it seems more likely that it does not. One police contact communicated the complexity of this situation, “I am a police officer, I do uphold the law, but they are people. These girls are people, these women, and they need help. They need help” (SPVM Participant, 2011). I now discuss the attitudes and assumptions that are at play within this context.

1. The parts of the city where street sex work must not be are decided by the level of complaint from residential and business community members. In my sample, these areas were nearly all located in or near the downtown core. This point is supported by the evidence that area restrictions continue to be used even though they do not seem to impact the amount of street sex trade activity and instead displace and disperse it. It is important to acknowledge that police services do not select which places to keep sex workers out of. They are instead mandated by public complaints about the trade.
2. The “prostitution problem” is defined as a nuisance problem and a threat to the vitality of the community and is treated as such. Data linked a number of problematic

issues to the street sex trade: drug addiction, mental health disorders, increases in vehicular traffic, noise and littering in an area, among others. These issues are said to make a community less desirable, or deter other community members from using that space. There was a notion conveyed that the removal of sex workers, the supply side of the trade, from an area will eliminate the “prostitution problem” in the area. For example, a media article quoted a sergeant in charge of “special enforcements” as saying “If a certain area gets known as an area where a john can go and pick up a prostitute [...] then if you take the girl out of the area, it’ll eliminate the problem” (Dault Aug. 20, 2009). The “prostitution problem” can be defined in many different ways; there is always a moral evaluation of the sex trade and its related activities but area restriction strategies treat the issue as a nuisance and a threat to be removed.

3. Involvement in street sex work is framed as an anti-social behaviour with many criminalized activities associated with it that are understood to go against the community. As such, the needs of the non-sex working community, typically complainants, are prioritized over the needs of street sex workers. One officer outlined this logic particularly well:

If they’ve been banned from an area it’s the community who’s got the priority [...] When they’re [sex workers] breaking the law they’ve gone outside of the community. [...] they’re my clients but in a criminal matter. My clients are the community. When you’ve displayed antisocial behaviour you’re outside of the community. That’s where laws come in. You’re no longer my community member, you’re my police client. So yeah, absolutely, I enforce those rules. I’m not concerned about their desire to go see their client or their desire to go see their social workers. I’m concerned about the community. That’s who I serve. [...] When they’re out prostituting they’re my clients, as in, ‘I’m going to be arresting you because the community doesn’t endorse that’ and it never has, or else they would remove the law. (OPS Participant, 2011)

Of note, it is not only that sex work is painted as anti-social, but that it is criminalized in some ways. If it were only defined as anti-social the police would not be able to interfere with the trade as much as they do and municipalities would have to deal with concerns and problems linked to the sex trade in other ways.

4. Generally, street sex work is perceived as being inherently destructive by police services and other criminal justice agents. This understanding secures drug addiction and the victimization of sex workers as a part of the sex trade and particularly a part of street sex workers’ lives. For example, the Ottawa police officer identified that incarceration was seen by many officers as an opportunity for a sex worker to “dry up” and address their drug addiction while they are off the street so they can “start over” without involvement in the street sex trade upon their eventual release (OPS Participant, 2011). Similar ideas were communicated by police sources in the HRM,

Saint John and Montreal as well. Another excerpt from the Ottawa police officer helps to elaborate on this point. When a sex worker is caught breaching, officers often use this opportunity to force them into accessing help:

The vast majority of officers' attitude is "she's breaching. I think I can get her off the road for a couple of weeks. She's being breached." [...] three or four weeks of drying up is way more effective than three or four weeks on the street and being told "just use four packs a day, or just do this ... we're going to let you help yourself." Well, somebody's self destructive behaviour is not turned on/ off like that. It's making that choice. [...] It doesn't always work, [...] there's no cure for this self destructive behaviour. They have to choose to. (OPS Participant, 2011)

This assumption positions street sex workers as not having the means or the know-how to help themselves and so the law must be used to address their needs. Area restrictions are framed as a supportive outreach effort and are thus very much in line with the concept of therapeutic jurisprudence.<sup>54</sup> Removing and legally keeping a sex worker out of an area known for street sex trade is considered the therapeutic element. A media article quoted a Crown attorney stating that "The most difficult challenge that we face as prosecutors is trying to help people who cannot or will not help themselves" (Hayes Dec. 10, 2007). An agency worker described:

A train of thinking among [Crown attorneys and defence] lawyers [...] that release conditions are about preventing future criminal activity. So they're put in place to support the individual from reoffending or from getting into a scenario where they would reoffend. So the idea is that red zones are [...] being used to protect or to support or assist those that are charged. (Ottawa Community Agency Participant 1, 2011)

5. However paradoxical, there is a belief that an individual's involvement in street sex work is anchored to, or dependent on, the area within the area restrictions. An individual caught committing a crime is expected to return to that same area to reoffend unless something is put in place to prevent them from going there. Area restrictions work to prevent individuals from sex working in areas where sex trade is common. If an individual does return to the restricted area they are doing so to commit a crime. An agency worker outlined this logic: area restrictions are about "preventing crime, so [...] if you were caught and arrested for communicating for the purposes of prostitution, then in order to prevent you from recommitting that crime they want to ensure that you won't be in the areas where that crime is often committed" (Montreal Community Agency Participant, 2011). In effect, this

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<sup>54</sup> Therapeutic jurisprudence is a controversial concept that considers the law as a therapeutic agent and claims to be concerned with offender rights and autonomy, not punishment.

assumption is opposed by the reported outcomes of displacement and dispersal of the sex trade to other areas of a city.

This assumption may be outdated but it was conveyed by multiple data sources. At the same time, police services know that if sex work is taken out of an area the result is typically more peace and less complaint. In practice, police services are not claiming that area restrictions will keep sex workers from sex working, but that it can keep them from doing it in areas where it normally happens. Although police services are clearly aware that area restrictions are effective to remove individuals from such an area, it must also be recognized that they are not preventing sex work from happening elsewhere in the city. Perhaps this attitude is linked to the belief that traditional areas of street sex trade are where clients go to find sex workers and so by moving the trade elsewhere the demand side of the trade will not be able to find the supply; continuously keeping sex workers out of common sex trade areas will slowly destruct the trade. However, this idea was also disproved by accounts that refused to credit area restrictions as having any impact on the level of sex trade activity.

6. Sources expressed the conviction that deterrence through punishment or threat of law is effective. This assumption represents the notion that area restrictions will (at least in part) function to deter people from a bounded area because the law tells them to, and is further supported by the threat of a breach charge. Although this assumption was conveyed by a number of sources, it seems more like a response according to official discourse rather than personal experiences rooted in reality. It is also possible that this notion was more hopeful than anything, that area restrictions *might* work to deter at least *some*, because it is widely recognized that deterrence is often ineffective.
7. Access to public city spaces is not a right. If an individual is viewed as abusing their privilege to be within a community, they lose it. Involvement in street-based behaviours, particularly illicit activity such as communicating to offer sexual services, is abuse of privilege.

Some of these points were more directly communicated than others. It is not necessary to single out which cities adopted which philosophies, rather the importance is realizing that these are the assumptions that support the area restriction strategy in general. Considered as a whole, these attitudes and assumptions do not fit well together and suggest that the implementation and use of area restriction is based on logical inconsistencies. Numbers one, two, three, five and seven alienate sex workers from the community by

promoting their removal from city spaces where they were identified as “unwanted.” Number four is interventionist in nature on behalf of sex workers and identifies a desire to help them out of a destructive lifestyle and support them in their efforts to not reoffend. Numbers one and three are interventionist as well, but on behalf of non-sex working community members. Numbers six and seven are blatantly rooted in punishment.

## **CHAPTER 7- DISCUSSION AND CONCLUSION**

This chapter has a dual purpose. The first is to provide an interpretive critique and discussion of the results of this thesis on the use of arrest-and-release area restrictions on street sex workers in Canada. The second purpose is to draw conclusions from the analysis of the last chapter while placing this research within the greater body of scholarship that it contributes to. As much as possible this chapter responds to the Level 4 and Level 5 research questions of the case study protocol (outlined in Chapter 4) which were:

### Level 4 Research Questions

1. In Canada, what are arrest-and-release area restrictions and how have they been used to control the street sex trade?
2. How can area restrictions be associated with the mapping of the city and the exclusion of “undesirable” populations, in this case street sex workers, from public spaces?

### Level 5 Research Questions

1. What overall conclusions can be drawn from this thesis, considering the area restrictions strategies used in Canada, their impacts on the street sex trade, and what seems successful and unsuccessful? What inferences can be made?
2. What does this thesis contribute to the body of scholarship on spatial regulation of street sex work? Who can benefit from or make use of these contributions?
3. What future research is necessary on area restriction strategies and their use on street sex work?
4. What recommendations can be made to regulation efforts for the street sex trade?

The previous two chapters identified several findings at both local and national levels that pertain to area restriction strategies and trends in their use across research sites. This chapter revisits the literature review and theoretical framework presented in earlier chapters to guide discussion of the most significant findings. This chapter also briefly reiterates limitations

encountered by this study and identifies future avenues for research. To conclude, key recommendations are made for changes to area restrictions strategies based on the findings.

## **Discussion**

### ***Theoretical Implications: Area Restrictions and Citizenship***

The theoretical framework presented in Chapter 3 helps to draw important implications for citizenship based on the findings of this thesis. Concepts were borrowed from human geography, sociology and criminology to produce an analytical framework that could consider multiple elements of the spatial regulation of sex work in the city. Data on area restrictions and related issues was collected from multiple sources, including formal interviews and/or other correspondence with police officers and community agency workers, media articles, advocacy websites and publications, scholarship and police release forms and reports. This allowed for an interpretation of the development and use of area restriction strategies on the street sex trade and provides some insight as to their impacts on the level of sex trade activity in a city, to sex workers' lives and work, and the social position of street sex workers.

Through the sex work as work perspective taken by this thesis, it is clear that arrest-and-release area restrictions strategies attack the *work* aspect of sex workers' lives. However, the terms of the restrictions carry implications for all other facets of life by limiting access to particular city spaces and the things that are located within those spaces. This research has identified that strolls or areas common for the sex trade are typically in or near the downtown of a city where there is a mixture of businesses and residences. Area restriction strategies encompass these spaces in an attempt to respond to the complaints about the sex trade; area restrictions aim to keep sex work and individuals acting in their role as sex workers *out* to

relieve the concerns of the complaining community members. However, this thesis also shows that support services and sex workers' residences and social networks tend to be located in those same downtown areas. Although street sex workers are among a marginalized group of people with specialized health and social aid needs, many of the area restriction strategies included in this thesis did not take such matters into consideration.

Going back to Lefebvre's notion of the city as an *oeuvre*, the exclusion of sex workers from public space perpetuates their continued exclusion because they are repeatedly redefined as being different from "normal" citizens. This only solidifies their position as lesser citizens in comparison to the complainants and reduces the possibility of "rehabilitating" them into more appropriate lifestyles or making space for their current lifestyles. Through constant exclusion from major public areas, including the communities in which they live and work, sex workers are prevented from participating in the development of those spaces. Thus, their marginalization is regularly reasserted to both them and the wider community while their opportunities to influence change in understandings of the sex trade are eliminated.

As Lefebvre claimed, people have a right to the *oeuvre* that is related to the objective needs that cities should be structured toward meeting. The right to the city, to citizenship, is the right "to urban life, to renewed centrality, to places of encounter and exchange, to life rhythms and time uses" and full usage of moments and places (Lefebvre 1996 [1968], 179 in Mitchell 2003, 19). The right to the city falls among the "right to freedom, to individualization in socialization, to habitat and to inhabit [...] to the *oeuvre*, to participation and appropriation" (Lefebvre 1996 [1968], 174 in Mitchell 2003, 18). Area restriction

strategies oppose many of these principles and by doing so they embody the differential citizenship status attached to street sex workers.

Although some research sites communicated the desire to provide aid to both sex workers *and* complaining community members, area restrictions place emphasis on the removal or exclusion of sex workers from an area. This was clearly identified in the data and by agency workers and some police contacts as being problematic for effectively providing aid to sex workers.

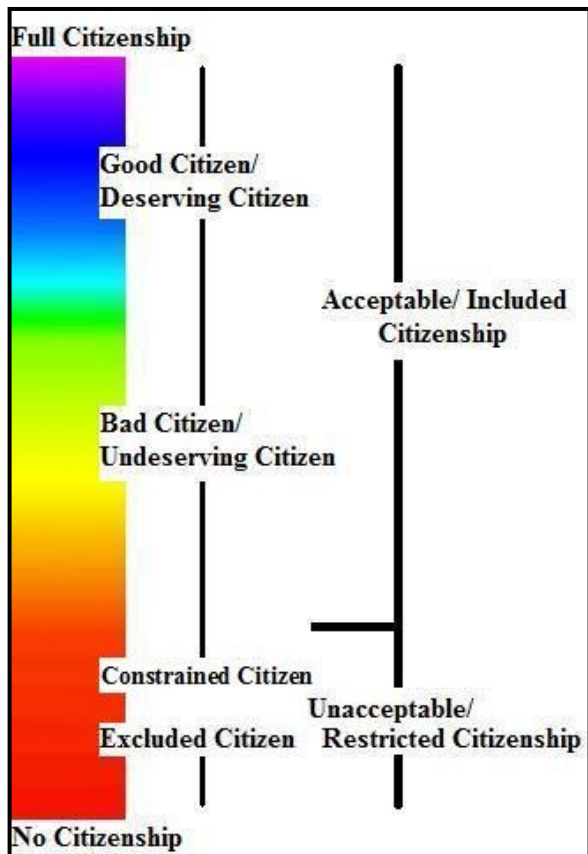
At this point it is helpful to revisit the concept of structural stigma. Structural stigma is the adoption of stereotypes and moral regulation into official policy and practice (discussed in Bruckert, forthcoming). This happens “when stigmatized attributes [such as involvement in the street sex trade] become linked to notions of ‘risk’ which in turn justify intrusive interventions to reduce said risk” (Bruckert and Hannem forthcoming). As this thesis identifies, street sex workers are constructed as both a *victimizer* of the greater community (troublesome, disruptive, dirty, drug addicts who bring traffic, noise, drugs and other crime to a community) and as a *victim* of violence and/or exploitation (by “pimps,” drug dealers, clients). These stigmatic assumptions about sex workers construct them as simultaneously a risk and at-risk (Bruckert and Hannem forthcoming). Bruckert and Hannem (forthcoming) argue that this at-risk/ risky paradigm persists under the guise of risk management and legitimates the legal moralism that has legally attacked the sex trade since the pre-Confederation period in Canada. In this way, however, “the two seemingly bifurcated positions are simply different sides of the same regulatory coin” (Bruckert and Hannem forthcoming).

Findings by this thesis fit well into this argument. As we saw in the previous chapter, sources support either side of the at-risk/ risky regulatory coin when citing reasons for using area restrictions on the street sex trade. The eight observed reasons for using area restrictions on the sex trade deviated into two categories, one linked to notions of helping sex workers and the other relating to police services responding to community complaint and concerns about the street sex trade (discussed from page 127 to 137). Regardless of whether or not these objectives are achieved, the associated stereotypes have become part of the justifications for area restrictions policies and practices. Further, although some supporters or users of area restrictions may believe the strategies work to “save” victims caught up in the sex trade, sex workers (as victimizers) are also delivered punishment through the imposed condition (various aspects of this point are discussed throughout the findings chapters).

Regardless of the intentions of criminal justice agents, area restrictions in practice function to protect the acceptable non-sex worker public *from* sex workers and do not serve sex workers or work towards their treatment as equal citizens. In cities where the terms of the condition completely excluded sex workers from a space, like in Ottawa, sex workers are driven out of their areas of work and large portions of the city where they interact with the city and its inhabitants in a number of other ways. Area restrictions have also been applied in collaboration with community agencies, like in Saint John, which seems to alleviate the impact but still limits sex workers’ ability to interact with the city in the same way that *acceptable citizens* do. In either instance, the theoretical framework used for this thesis understands that sex workers legally become *unacceptable* members of the public through area restrictions.

Lefebvre's *production of space*, and especially the concept of *spaces of representation*, explains that access to city space is indicative of how well an individual or group measure up to mainstream values. This in turn helped to distinguish stratified categories of citizenship. Within the hegemonically-ordered city only those sufficiently demonstrating heteronormative values, interests and behaviours are able to fully and legally access and use public space, and may thus be considered acceptable citizens. Individuals who are recognized and stigmatized as "prostitutes" and remain within the larger category of acceptable citizenship because they can still legally access public city spaces but are demoted to being *undeserving* of the right. However, area restrictions legally limit or completely restrict the (re)entry of street sex workers into particular city spaces. Street sex workers who have been arrested, charged, and issued area restrictions are labelled as too different from the heteronormative standard to deserve full access to public space and thus occupy the *unacceptable citizenship* category.

The researcher expected to find only one type of *unacceptable citizenship* but findings were more complex than anticipated. Based on the different kinds of area restriction strategies observed by this thesis, namely punitive versus problem-solving, terms that consisted of comprehensive exclusions versus terms including exceptions to the restriction, two such statuses emerged: 1) a *constrained citizenship*, and 2) an *excluded citizenship*. Both of these are lesser citizenships than *good citizens/ deserving citizens* or *bad citizens/ undeserving citizens* (see Figure 2 below).



**Figure 2 Citizenship statuses observed by this thesis.**

Simmel's description of boundaries is useful to define the two subcategories of *unacceptable citizenship*. Since the sex trade cannot be eradicated, whether or not it is the intent of the law and state, its mobility can be controlled through the use of boundaries. Although these boundaries are not physical, they are made real by the threat of breach charges and are realized when a sex worker is caught in an area that was restricted. Fixation

to that space also gives the *unacceptable citizenship status* stability by indicating the level of access held by an individual. The kind of *unacceptable citizenship status* that a sex worker receives depends on the terms of their condition, and thus largely on the kind of arrest-and-release area restriction strategy used in a particular city. Strategies where terms allow for exceptions to the area restriction apply a *constrained citizenship* to street sex workers, meaning they legally limit but do not completely restrict an individual's access to city spaces. Although a sex worker is able to legally access the space for particular and important reasons, those reason(s) are decided by police services, judges, and in some cases individual officers, but not the individual sex worker. This is significant because it is very unlikely that the full range of social, medical and even financial causes for an individual to access an area are included and/or considered. It is possible that police officers may not know all of the relevant services, but it is also likely that they would not fully understand the range of needs

of each individual sex worker. Police officers could additionally disregard aspects of an individual's daily or weekly routine that would normally take place within the restricted area as "unimportant," when they may be important to the sex worker (for example, attending a social service might be deemed legitimate but support lent by social networks of friends and family may not be recognized). The discretion of criminal justice actors decide what are or are not acceptable reasons to be in the restricted zone. These subjective decisions are likely influenced by moral and gendered assumptions about appropriate use of time and space.

Area restriction strategies that completely legally restrict an individual from entering a "public" space apply an *excluded citizenship status* to street sex workers. An individual cannot enter the area for any social, medical or financial reason according to the arrest and release condition. This status is the most disruptive to sex workers' lives because it is unrealistic to expect individuals with needs such as those exhibited by many street sex workers to stay out of areas where housing, services and social networks are. Additionally, for street sex workers with an addiction—a supporting reason identified by some sources for using area restrictions—it is unlikely that they could simply refrain from returning to their dealer because they were suddenly released on an area restriction. Rehabilitation processes for addictions do not work that way and should not be expected to.<sup>55</sup> Area restriction strategies with this approach should be eliminated or modified because they are unrealistic and, as findings imply, perpetuate the revolving door of criminality by effectively setting individuals up for failure via a breach charge (for examples, Ottawa Community Agency Participants 1 & 2, 2011; GSPS personal communication, 2012; Jeffrey and MacDonald

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<sup>55</sup> Forcing an individual into treatment and only treating the addiction through detoxification, without meeting other needs of the individual, are typically ineffective methods of rehabilitation (see, for example, Canada Addictions Treatment 2010).

2006). Of note, all of the strategies were seen to have this result but those that applied comprehensive exclusions were the most drastic.

Much of this discussion is relevant to the Level 4 Research Question that asked, *How can area restrictions be associated with the mapping of the city and the exclusion of “undesirable” populations, in this case sex workers, from public space?* As we can see by considering the different kinds of citizenship outlined above, geographies of inclusion and exclusion are socially and legally mapped onto city spaces to communicate who can and cannot be where. This is decided by how closely an individual or group compares to mainstream, heteronormative standards of citizenship, where the degrees of difference correlate to the range of city spaces that an individual can access and interact with(in). Further, an individual’s map is not stagnant. This is evident with the movement of individuals from one citizenship category or subcategory to another. Designations given to spaces, or the *kinds* of spaces that communities are constructed as are not permanent either. For example, gentrification efforts were noted by multiple sources to transform a community from an area where sex workers *could* be to one in which street-based populations were actively excluded from. Both the map and a space’s classification as public (accessible to all) or “public” (accessible to only *acceptable citizens*) are regulated by law enforcement and mandated by the portion of the public considered *acceptable citizens*, or the homogeneous (fake) public who police services are actually protecting through the use of area restrictions.

#### *Spatial Regulation: Comparing the Past and the Present*

The literature review helps to contextualize this thesis within a broader research area: regulation of street sex work. This part of the discussion also helps to address the Level 3 Research Question that asked, *What can the use of AR tell us about current common*

*practices for dealing with the street sex trade in Canada?* Although a more thorough comparison is possible, the following highlights the more important ways that the area restrictions studied by this thesis compare to other spatial regulation strategies for the sex trade.

This research on police-imposed area restrictions identifies that regulation tactics are increasingly trying to target the geographical aspect of the sex trade by creating parameters around individual sex workers' behaviour in areas frequented for street sex trade. However, the current practice is in many ways evocative of earlier regulatory efforts. Dating back to the 1800s, "prostitutes" found in many public places could be arrested and detained for not being able to give a "satisfactory account" of themselves (CACSW 1984, 7). Similarly, pre-Confederation legislation and enforcement largely treated "prostitution" as a status offence through vagrancy statutes (CACSW 1984; Shaver 1994). Even though "prostitution" ceased to be a status offence in legislation in 1972, enforcement in the 1800s is comparable to current area restriction strategies in many cities. Upon being caught sex working, a sex worker will be restricted from a portion of the city unless able to immediately prove the need to be in that area- a satisfactory account of their presence in that area. Further, sex workers with an area restriction are susceptible to police detention if found in that area, regardless of whether or not there is evidence that proves they are sex working. Police officers need only to recognize an individual's status as "prostitute."

In most research sites area restrictions were not implemented as a strategy to solve problems linked to the sex trade in the long-term, rather they are a temporary relief measure for complainants. This is reminiscent of the implementation of Bill C-49, discussed in the Literature Review. Research showed that one mandate adopted by local criminal justice

systems was that street sex trade could not be completely eradicated and that laws and their enforcement should be used to reduce the nuisance affects by containment or regulation strategies (Dept. of Justice Canada 1989, 7). In both the late 1980s (see Larsen 1999, 70) and now, strategies for responding to the street sex trade are used as crisis management tools with short-term goals. Canada's earlier area restriction mechanisms for the sex trade, like civil nuisance injunctions, district restrictions, and mapping restrictions, seem to have functioned in the same way as the current version, although police officers could only enforce but not issue them. These earlier localized strategies were used for the same reasons as those identified in the findings of this thesis. These tactics were initially imposed only by judges but the area restrictions enabled by Form 11.1 are convenient for police use, which distinguishes it from other strategies and facilitates its popularity in cities across Canada.

Throughout history, street sex work regulation in Canada was fuelled by concern and complaint from community members and typically disregards consequences for sex workers (see McLaren 1986; Shaver 1994; Jeffrey and MacDonald 2006). Although this was not the case for all research sites included in this thesis (to varying extents, Saint John and Kamloops are exceptions, and upon ceasing to use area restrictions on sex workers HRM, Sudbury, and Calgary are also exceptions), many police services did not seem to consider the impacts of their area restriction strategies for sex workers' lives (and certainly not their work). The use of area restrictions gives complaining citizens priority. As such, sex workers were typically defined as being external to the public who police need to protect. This was not necessarily the intent but it was effectively the outcome.

At the same time, police services did not seem to respond to complaints about area restrictions strategies as effectively as they did to complaints about the sex trade, despite

both instances identifying “victims.” This has serious implications for street sex workers. As identified by research contacts, technological advancements (such as cellular telephones and the internet and online social networking) have allowed many sex workers to move off-street and those who remain on the street are likely the most in need of support. At the same time, it should be recognized that some sex workers *choose* the street for several reasons, such as the thrill or community life that it offers (Jeffrey and MacDonald 2006). Regardless, the exclusion of street sex workers from consideration of social and legal processes severs their ability to benefit from available supports and only perpetuates and heightens the problems that they face.

The Literature Review identified three major consequences of spatial regulatory strategies on street sex workers, all of which were also concerns raised by data sources. The first was that spatial strategies interrupt the organization of the street trade which further reduces sex worker safety (Sanders 2009; Matthews 2008; Jeffrey and MacDonald 2006; Hubbard and Sanders 2003; Kerkin 2003). The use of area restrictions are believed to motivate sex workers to rush their selection process to avoid police detection and to further isolate sex workers so that they work in increasingly risky circumstances.

The second consequence of spatial regulatory strategies was that sex workers are punished with little effort to address or resolve problems associated with the trade, except for its visibility (Sanders 2009; Jeffrey and MacDonald 2006). This point combines some of the identified reasons for police use of area restrictions strategies, while sources in five cities overtly criticized area restrictions for this reason. At the same time, this suggestion was not supported by the research sites that used a problem solving approach to area restrictions, where the strategy was considered an outreach measure and not a punishment. Relevant to

the next point, the cities that adopted a problem solving approach to using area restrictions on street sex workers did not report any mass displacement and only rare occasions of individual displacement.

The third consequence of spatial regulatory strategies was geographic displacement and dispersal of sex work(ers) (Sanders 2009; Larsen 1999; 1996a; 1996b; Lowman 1992). Area restrictions were credited with this outcome in most research sites. Data sources communicated mass displacement and dispersal of the trade as well as individual displacement. As the literature identified, however, these outcomes did not seem unavoidable. Research sites that took a collaborative approach to their area restriction strategy did not report significant displacement or dispersal but did report constructive changes to the areas of concern and relations within the community.

Placing this research project within a larger scholarship reveals that area restrictions have not truly developed as a *new* approach to regulation efforts for the street trade, but emerge as updated versions of a very old process: exclusion. However, area restrictions do enable police use of the breach charge, which allows for extended legal removal from the entire city, not just the part included in the area restriction. Where police services have historically been prevented from using detention as a control measure for the sex trade (Dept. of Justice 1989; also *R. V Pithart* 1987), breach charges are a justified reason for detention. Breach charges are enforceable at any point in time and remove the need for an undercover operation to charge someone believed to be engaging in prostitution. Although it was evident that most police services strongly rely on discretion before laying a breach charge, an officer merely needs to catch an individual within the restricted area when they are not supposed to be there (according to terms that vary by research site and sometimes by individual). At that

point, sex workers can be and are justifiably detained because they will not (or cannot) respect the terms of their release conditions.

The Literature Review also outlined the use of different types of area restrictions on the street sex trades in cities in the United States and United Kingdom. Strategies and their consequences for both of these nations were comparable to the area restrictions implemented in Canada, from the kinds of behaviours they target to the processes involved in issuing them. The strategies have earned favour within the criminal justice system while being highly criticized by non-criminal justice groups, their effectiveness is highly contestable, and strategies used in all three nations have had limited evaluation. Although this thesis initially intended to compare the development and use of area restrictions in these three nations, the researcher instead worked to cultivate a thorough understanding of the strategy within a Canadian context. However, area restrictions at the local and international levels are clearly an issue requiring more academic attention.

## **Conclusion**

### **Significance of Findings**

After conducting an extensive literature review, this thesis is the first academic study to provide comparative analysis across Canadian cities on the use of area restrictions as arrest-and-release conditions for street sex workers. Comparison of multiple research sites made it evident that there are significant differences in how area restriction strategies are implemented across the country. Although there is not a common arrest-and-release area restriction strategy, there are certainly similarities across cities and strategies.

Where there was previously little accessible information on area restriction policies and their implementation, this thesis provides important insight as to where area restrictions are located in the *Criminal Code*, when they became a police power, and when and why police services began using them on the street sex trade. This information provides an important first step for comparative research in this area and identifies a number of important components for future academic study. This thesis also offers practical understanding as to how area restriction strategies for the street sex trade function and perspective of whether or not they have achieved desired results.

Since this project was exploratory, many identified issues require additional research but such endeavours are (at least somewhat) facilitated by the foundation established by this thesis. Further, a number of criteria for evaluating area restrictions strategies were identified, which is particularly relevant because most police services do not seem to have done so themselves. Additionally, police services did not show intent to make such an assessment because they did not have records of when they created or implemented area restrictions as common practice for the sex trade, nor do they keep statistics on the frequencies at which they issue area restrictions or breach charges for individual crimes.

The implications of this research can be used to inform and influence policy decision-making on regulatory strategies for the street sex trade because it offers insight into what is and is not working in terms of area restrictions. While the scope of this research focused on arrest-and-release strategies only, it is likely that the identified impacts are common to area restrictions issued by the courts as well. Also, sex workers were the population considered here but it was clear that these release conditions are commonly used on illicit street-level behaviours more generally. Thus, findings could plausibly be useful for considering other

targeted groups as well. This research can also function as an informative and useful tool for non-criminal justice groups who require a better understanding of area restriction strategies used in their city.

### *Points to Build On & Avenues for Future Research*

While researching this project a number of related issues were identified that either could not be fully captured by the data set or which require greater consideration than what could be done within the current project. First, additional sources that could contribute to this area of research were identified. The courthouse and court records could offer data on the frequency of use of area restrictions since police officers do not keep that data. This source could also offer information on when each site actually implemented area restrictions strategies for sex workers. Annual police statistics and reports could be another helpful source for future research considering processes around breach charges and frequency of use. However, contacts for this project clearly communicated that police do not separate breach charges according to which release condition was breached. A few sources used by this thesis also recommended that speaking with judges and lawyers (both Crown and defence) could prove fruitful for understanding the acclaimed favour of area restriction strategies and the steps taken during implementation. Specifically for Montreal, the agency worker suggested looking at the *Quebec Human Rights Commission's* judgements on social profiling by police and any potential impact to their use of *quadrilatères*.

A deeper understanding of the House of Commons Debates might provide a better understanding of the ideas behind the introduction of police-imposed area restrictions. This thesis did not go beyond the date of the actual passing of Bill C-42. It would be useful to compare the rationale behind the implementation of Form 11.1 and its release condition

options with the circumstances surrounding street sex trade upheaval and regulation at the time. This thesis initiated such a discussion but could not fully consider the actual intentions of Form 11.1 or the debates surrounding its introduction.

This study made inferences and drew implications without being able to establish causation and many areas of concern were identified for further analysis. A study that evaluated impacts of area restrictions on the level of street sex work and the extent of impact to sex workers' lives and work by tracing their routines and activities before and after being issued an area restriction would be valuable. This would also contribute to debates about the effectiveness of area restrictions. Further, consideration of whether or not area restrictions have short- and long-term impacts on the level of complaint about the street sex trade might be useful.

The issue of the constitutionality of area restrictions strategies was peripheral to this thesis but was certainly identified by a number of sources as a concern. A legal reading of the strategies contrasted with the *Canadian Charter of Human Rights and Freedoms* would help to provide better insight on this issue while identifying practices included in some of the strategies that are legally problematic.

There were two other issues that could not be adequately considered by this thesis but were identified by literature, data sources, or both. The creation of tolerance zones by area restriction strategies and gender discrimination were included in research questions, however, the collected data did not provide sufficient details. Projects focusing on these areas would greatly contribute to mapping exclusion in the city. This thesis could not detect the development of tolerance zones as a result of area restrictions, however, gender discrimination could not be ruled out as a problem for research sites. Using data that

compared the frequencies of area restrictions issued to sex workers versus their clients would be useful.

Where this thesis was conducted more as an exploratory survey, a more complete understanding of the area restriction strategies implemented at each research site could be achieved by conducting in-depth projects on city's and their area restrictions on an individual basis. Since this thesis identified that police services tended to have a modified strategy for street sex workers, future projects could consider the range of criminal activities that area restrictions are used on and compare them to the strategy used on the sex trade. This would contribute to the discussion of citizenship and whether or not the framework used for this thesis can be expanded to other criminalized populations.

Based on the findings of this thesis, the researcher recommends that two particularly important areas be given further attention. A useful project could conduct a more in-depth comparison between research sites that do and do not have collaboration between criminal justice and non-criminal justice agencies for responding to the street sex trade, and the use of area restrictions. The findings of this thesis indicate that collaboration is a significant factor for determining success and constructive change but further research is necessary to support it. Another project could take a more extensive look at cities where police services have stopped using area restriction on the street sex trade. It would be helpful to know how they were used, more concrete reasons as to why police services stopped using them, and any changes to the street sex trade since. Such a project would contribute more compelling evidence to debates around the use of area restrictions on the street sex trade, whether as arrest and release conditions or as conditions imposed by judges. Such a project could

potentially identify more effective and constructive alternatives to area restrictions by considering the strategies employed by police services after they stopped using them.

While researching this thesis, customer-targeting emerged as a developing trend in current policing efforts around the street sex trade. A number of police officers from various cities commented that there is an emerging trend across Canada that police services were shifting the focus of their regulation of the street sex trade to target the customer side instead of sex workers themselves. At the time of data collection, three police contacts expressed that enforcement efforts intentionally target the customer side of the trade with area restrictions and enforcement efforts more-so or instead of sex workers.<sup>56</sup> During the period of data collection the Halifax Regional Police was discussing switching attention and efforts from sex workers to more pointed enforcement of the communicating law on street sex trade customers. This approach is seen to cut down on the traffic that inspires much of the complaint about the trade. However, customer-targeting does not take into consideration that sex workers' involvement in the trade is fuelled by their need to earn money. The impact of this strategy on the level of sex trade activity was outside the scope of this thesis but it seems as though this effort would not achieve the results that police and complaining community members desire. This topic is a research project in and of itself.

### *Recommendations to Policy*

Although there are a number of issues of concern pertaining to the use of arrest-and-release area restrictions on street sex workers, I will identify the six most pressing issues that

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<sup>56</sup> Edmonton, Alberta was not included in this study because it could not be confirmed that area restrictions were used as release conditions on the street sex trade. The contacted police officer communicated that since mid-2010 they have been targeting the “demand side” of the trade. Sex workers are only targeted with “operations” to “get them into programming, unless someone is really causing a problem in a certain area” (personal communication 2012).

I can offer recommendations on as a result of having conducted this research. I believe that area restrictions should not be an active regulatory practice because they are insensitive to the special needs of street sex workers (and other street-based populations), treat them as lesser citizens that should be kept separate from their community, and do not appear to produce any constructive change to the “prostitution problem.” However, it is unrealistic to think that decision-makers will read this thesis and be swayed to stop using their area restriction strategy. That said,

1. Area restriction strategies should not have comprehensive exclusions. The problems wrought by these terms have repeatedly been identified throughout this thesis.
2. At point of application of the area restriction, a thorough check should be conducted to make sure individuals do not need to access anything within the restricted zone and do not live there. Relevant agencies and shelters should be contacted and allowed to provide input about the individuals needs. If police services are not willing to expend the resources to conduct such a check, police officers should be allowed to make changes to the issued area restrictions upon receiving proof from a sex worker, a relevant agency, or other party that provides reason for an individual to be in that area.
3. Sex workers, or other street-based individuals, should not be restricted from their own community. This severs them from their support networks.
4. Police services should begin keeping records of the frequencies at which they issue area restrictions and breach charges according to criminal offence. This information would be useful for evaluating area restriction strategies, which is another recommendation. Police services should be able to identify why they are using the practice in the first place so they can determine whether or not it is effectively meeting those goals.

5. Collaboration among relevant criminal justice and non-criminal justice service providers should be recruited to review local area restriction policies and reconsider how they were implemented. Further, collaborative efforts should be ongoing so that area restriction strategies include the involvement of a support network that can work with those who are issued area restrictions. Enforcement should not be the first and/or only response to the sex trade. Of the research sites, Saint John and Kamloops seem to be working according to this attitude, even though participants identified barriers to their current strategies.
6. Although it was only recently implemented, Sudbury's loitering restrictions strategy (see Appendix J for Sudbury's report), a product of collaboration between criminal justice and non-criminal justice parties, may prove a more successful and less harmful approach to regulating the street sex trade than many of the area restriction strategies observed by this thesis. Police services should consider such alternatives when revisiting the use and function of their own strategies.

Since the intent of area restrictions is not to *eradicate* the trade and is instead simply to temporarily alleviate concerns and disturbances linked to the trade, it is unclear what area restrictions accomplish. It is also unclear why the apparent disruption to sex worker's lives and work and resulting displacement of the trade is a valued or acceptable outcome of this venture when experts are so lucid that area restrictions do not impact the level of sex trade activity and only lessen the abilities of sex workers to access help, support and gain or maintain stability. This point certainly applies less to research sites where the terms of the release conditions include exceptions. However, a few issues highlighted by this thesis are relevant here.

Enforcement alone was not effective for regulating the street sex trade. Cities where combined efforts between criminal justice and non-criminal justice agencies were included in area restriction strategies reported some successes on a numbers of fronts. Further, a

significant part of those collaborative strategies is the provision of sex workers with a network of support. Such an approach at least includes consideration of sex workers' needs and lives in the process, instead of merely treating them as "disposable people" who need to be removed from problematic areas. On this note, the most significant recommendation supported by this thesis is the necessity of open-minded *inclusive collaboration efforts*, which include the range of interest groups involved in the "prostitution problem" so that local solutions can be determined that reflect and respect the needs and lives of all those involved. Even if a police service is not willing to stop using area restrictions, the strategy can be modified so the impacts are not so severe and are even more supportive of street sex workers. Further, services that can respond to sex workers in their moments of crisis could likely have very positive effects on "the prostitution problem," and keep law enforcement from being a primary response to the trade.

In sum, the findings of this thesis are valuable to cities currently using area restrictions because it presents a range of area restriction strategies that cities not included in this study would likely fit into and identifies many implications for the elements they built into their strategies. Furthermore, criteria for evaluating area restriction strategies were presented with detailed examples so that it may be applied to those other cities. For researchers, a number of contradictions in logic were identified that would be very worthwhile endeavours for future investigations. Finally, a range of debates and concerns pertaining to the use of area restrictions strategies have been identified and critically discussed, drawing theoretical implications that could be applied to the use of the strategy on other criminalized populations.

### *Closing Statement*

As a final note, I would like to acknowledge that area restriction strategies (including breach charges) are one tool among many in the campaign to control, regulate, and/or manage the street sex trade and other illicit activities. As this thesis repeatedly illustrated, they have their downfalls and limitations. Sources often identified enforcement as a method that should be only one component among many for responding to the street sex trade. However, area restrictions are a tool that is over-emphasized in many Canadian cities. This route was taken by most research sites instead of opting to work at developing more comprehensive and effective responses driven by problem solving attitudes and attention to the full scope of issues linked to the street sex trade.

Although some area restrictions strategies were less punitive or strict than others, no policing tactic of this nature is a good solution for sex workers because they do not acknowledge the work aspect of the trade. To place this issue within a broader picture, in light of the recent constitutional challenge (*Bedford v. Canada*), decriminalization would provide better options and more possibilities for sex workers who could at last be legally recognized as workers instead of only criminals.

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## **APPENDIX A- Interview Guide**

### **Introduction**

I am conducting a research study that aims to collect and understand information about the use of area restrictions across Canada that are designed to help police manage the street sex trade. This information will contribute to understanding recent trends in regulation of the sex trade and will hopefully contribute to future research endeavours.

Where there is little documentation about the arrest-and-release procedure, this interview is designed strictly to acquire concrete details about how the procedure works, when it was introduced as a policing tool for regulating sex work, and any other important details about the use of area restrictions themselves. Please try to be as accurate as possible with the information that we will discuss.

Before we begin the interview itself, do you have any questions about my project or the consent form?

I also want to inform you that some of the interview questions may seem to overlap, but it is because I am trying to make sure my understanding of \_\_\_\_\_ [*name of area restriction*] is as clear as possible.

### **Questions**

1. To begin, could you speak generally on your role with \_\_\_\_\_ [*the police department or organization*] and why you are in a knowledgeable position to discuss the details of the \_\_\_\_\_ [*name of area restrictions used in particular city*]?
  - a. [*I am trying to get at information on why this individual is who I must speak with to get at information about the area restrictions; why they know the sought-after information*]
2. Can you describe how [*the area restrictions*] used in this city were designed to function?
  - a. Were they specifically created to deal with sex work or are they used for other crimes too?  
[*I am trying to get information about i) when they are applied, ii) what the terms are (24/7?, what happens if breached?), iii) what geographic areas they encompass. Some further probing might be necessary to make sure I uncover these details*].
3. Can you walk me through a hypothetical scenario of what the process looks like when a sex worker is put on [*the area restrictions*]? Considering the moment a sex worker is picked up by police, is put on [*area restrictions*] and then proceeds through the CJS?

4. When were the *[area restrictions]* introduced as a tool for police and what was happening at the time that required this sort of tool?
  - a. *[make sure to get at when, why and by whom they were created]*
5. How often are sex workers picked up by police and put on *[area restrictions]*?
  - a. *[trying to get at frequency of use]; If necessary: Can you give me any figures or details about how many [area restrictions] are issued annually?*
  - b. How often are sex workers caught and charged for breaching their *[area restrictions]*?
    - i. What happens then?
6. Where, exactly, are the zones?
  - a. Why were these areas chosen?
  - b. Are there other strolls in the city that are not within the designated boundaries?
    - i. If so, why were they not included in the *[area restrictions]*?
  - c. What is within the boundary zones, considering services, housing, clinics, etc?
7. To your knowledge, is there much sex trade activity happening outside of the zones?
  - a. How do policing efforts within the zone compare to police efforts of sex work happening outside of the zone?
 

*[trying to get at police tolerance levels of sex work outside of zones versus inside. Have policing efforts created a tolerance zone?]*
8. Have the conditions/ terms of the *[area restrictions]* been modified or changed at all since they were first introduced?
  - a. Have the boundaries of the zones changed since they were first mapped out for the *[area restrictions]*?
9. Are there known strolls for male sex workers within the boundary zones?
  - a. How many men have been put on *[area restrictions]*?
10. Do the police receive a high volume of public complaints about sex work happening within the boundary zones? Can you give me any records of this (annual numbers)?
  - a. What are levels of complaints like from the public outside of the boundary zones? Can you give me any records of this (annual numbers)?
11. For the last question, are there any other details that you think it would be important for me know about how the *[area restrictions]* work, or the objectives of this arrest as release procedure?

*\*\*If area restrictions are not currently used, find out why police stopped using them.*

*\*\*If other questions come up during the interview, ask them. Might be something unique to site.*

*Can I get a copy of the release document(s) used to issue the area restriction?*

## **APPENDIX B- Survey Email to Detect Potential Research Sites**

Hello,

I am a Master's student at the University of Ottawa under the supervision of Dr. Colette Parent and am currently doing research on the spatial regulation of street sex work in Canada. More specifically, I am looking at police use of area restrictions which work to exclude street sex work (and sex workers) from particular areas within cities. I am hoping that you can offer information on the use of this policing strategy within your city. At this point my focus is on i) surveying where in Canada area restrictions are being used, ii) what they are called in different cities, and iii) which organizations (or individuals) would be the best to contact for further information. Any help would be very much appreciated.

These police strategies are sometimes called no-go zones, red zones, zones of exclusion, area restrictions, boundary release conditions, among others. Although there are variations in the way that they are used, these strategies all target individual behaviour, are handed out at the time of release from police custody, and restrict entry into pre-designated zones of the city for periods of time determined by a judge. A breach of these conditions also often results in jail time, where a prostitution charge normally would not.

Existing research on this topic is marginal, despite that the practice receives a lot of criticism from sex worker advocates. I hope to collect enough information to produce a pan-Canada report on details surrounding the introduction of area restrictions, the details and functions of their use in discourse and practice, and the impact that they have had on street sex work in their respective urban area. I will later be recruiting participants from organizations who work closely with sex workers and police departments in Canadian cities to discuss how and why area restrictions have been or are currently being used.

Area restrictions are an under-studied area in Canadian street sex work research. If you are able to offer any information that could contribute to this project, or direct me towards any sources of such information, it would be very helpful.

Thank you very much for your time.

--Adrienne MacDonald

MA Student, Dept. Of Criminology, University of Ottawa

[Telephone and e-mail contact information was provided]

## **APPENDIX C- Participant Recruitment/ Information Sheet**



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### **PARTICIPANT RECRUITMENT/ INFORMATION SHEET RESEARCH STUDY**

**Title of the study:** Excluding Sex Workers from Select Urban Spaces: The conditions of area restrictions in Canada

#### **Invitation**

You are invited to participate in a research study about the use of area restrictions by police to regulate street sex work in Canadian cities. The study is being conducted by Master's student Adrienne MacDonald and is supervised by Dr. Colette Parent, both of the Department of Criminology in the Faculty of Social Sciences at the University of Ottawa.

#### **What is the purpose of this study?**

The purpose of this study is to collect information on the terms and use of area restrictions in cities across Canada in the hopes of addressing an existing gap in public knowledge and scholarship. These policing strategies work to remove sex work(ers) from specific zones within urban areas by attempting to regulate a sex worker's individual behavior with the application of arrest-and-release conditions. This strategy is used in many cities across Canada yet it has largely remained understudied by researchers, despite the fact that area restrictions have often been openly opposed by sex worker support agencies, as well as in scholarship on the strategy in other nations. With the participation of individuals who are knowledgeable about the terms and use of area restrictions, as well as the city zones that they encompass, I hope to produce a report that offers information about, and an understanding of, this policing strategy so that future research is more feasible.

#### **Why have I been invited to participate in this study?**

You have been invited to participate in this study because you have been identified as a knowledgeable source of information about the use and terms of area restrictions in your city.

#### **What does this study involve?**

Your participation in this study means that you are willing to take part in a single telephone interview that will last between 40 minutes and one hour. The interview is strictly meant to derive information as close to the facts as possible about area restrictions, such as: who created them, when and why they were implemented, how they function in both discourse and practice, how they have been modified since they were implemented, the boundaries of the restriction zones, trends in frequency of use (if available), use for female versus male sex workers, community response, and police-sex worker interaction frequencies inside versus outside of restriction zones. The interviews will be conducted in English only, therefore participants must be fluent in English as a prerequisite to taking part in this study.

[Contact information  
for the Criminology  
Dept. was included  
here.]



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It is important that you understand that your involvement in this study is voluntary. While we would be pleased to have you participate, we respect your right to decline. There will be no consequences to you if you decide not to participate. If you decide to discontinue participation at any time, you may do so without providing an explanation. All information will be treated in a confidential manner, and your name will not be used in any draft or publication of the research project. All collected data will be kept in a locked cabinet in the residence of the researcher, Adrienne MacDonald.

#### **What are the benefits from participation in this study?**

Your participation in this study will contribute to the advancement of knowledge and understanding about a currently understudied area of social science research. The information that will be presented in the final research project, as well as future research that this project will hopefully contribute to, could be very useful to those who regularly interact with street sex workers, like police jurisdictions and support organizations, and also for policy makers when developing new or modifying existing strategies for managing the street sex trade.

#### **Contact Information**

There are no specific risks anticipated with participation in this study, however, if you would like to discuss any aspect of this study please feel free to contact

[Telephone and email contact information was provided for the researcher and supervisor. Individuals were encouraged to contact either of the two to discuss the research project and were offered an electronic copy of the final thesis. Telephone and email contact information as well as the mailing address of the Ottawa Research Ethics Board were included for individuals with questions about the ethical conduct of the research project. ]

[Contact information for the Criminology Dept. was included here.]

## **APPENDIX D- Telephone Interview Data Collection Document**

### **Telephone Interview Data Collection**

Adrienne MacDonald  
MA Student, Dept. of Criminology, University of Ottawa

[The telephone and email contact of the researcher was provided.]

1. What qualifies the research participant to inform my research project on area restrictions at this research site?
2. How were area restrictions at each research site designed to function?
  - a. When are they applied?
  - b. What are their terms?
  - c. What geographic areas do they encompass?
  - d. Were they specifically created to deal with sex work or are they used by police to manage other deviant public activity too?
    - i. If so, which deviant behaviours are area restrictions most often used for?
3. How does the process of receiving an area restriction work at each research site, from the moment a sex worker is picked up by police to the time that they are processed by the CJS and then released?
4. When were area restrictions introduced at each research site and what was happening at the time that required this sort of policing tool?
  - a. When, why and by whom were they created?
5. What is the frequency of use of area restrictions on street sex workers at each research site? Try to get figures and as many details as possible.
  - a. How often are sex workers arrested for breaching the conditions of their area restrictions?
    - i. What happens then?
6. Where are the zone(s) of the area restriction(s) located at each research site?
  - a. Why were these areas chosen?
  - b. Are there other known strolls in the city that are not within the designated boundaries?
    - i. If so, why were they not included in the area restrictions?
  - c. What is found within the boundary zones, considering services, housing, clinics, etc?
7. How much sex trade activity happens outside of the zones?
  - a. Is there a noticeable displacement of street sex work since the implementation of area restrictions?
8. Is police tolerance of street sex work outside of the area restriction zones different than police tolerance of street sex work occurring within the zones?
9. Have the conditions/ terms of area restrictions been modified or changed since they were first introduced?
  - a. Have the boundaries of the zones changed since they were first mapped out for the area restrictions?
10. Are there known strolls for male sex workers within the boundary zones?

### Telephone Interview Data Collection

Adrienne MacDonald  
MA Student, Dept. of Criminology, University of Ottawa

|                                                                   |
|-------------------------------------------------------------------|
| [The telephone and email contact of the researcher was provided.] |
|-------------------------------------------------------------------|

- a. What about strolls for male sex workers outside of the boundary zones?
- b. How many male street sex workers have been put on area restrictions?
- 11. What is the level of public complaint about street sex work like within the zones versus outside of the zones of area restrictions (available records/ annual numbers)?
- 12. If area restrictions were used in the city at one time but are no longer in use, find out why police stopped using them.

## APPENDIX E- Consent Form in English & Consent Form in French



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### Consent Form for Participation in Research Study

Title of the study: Excluding Sex Workers from Select Urban Spaces: The conditions of area restrictions in Canada

Adrienne MacDonald, Researcher

Dr. Colette Parent, Supervisor

[For the researcher and supervisor, a mailing address, telephone numbers, a fax number and email addresses were provided.]

**Invitation to Participate:** I am invited to participate in the abovementioned research study conducted by Adrienne MacDonald and supervised by Dr. Colette Parent.

**Purpose of the Study:** The object of the study is to collect information on the use of area restrictions by police jurisdictions across Canada with the purpose of regulating and/ or eliminating local street sex work (also called street prostitution). The objectives of this study are 1) to create a data source that offers an understanding of *what* "area restrictions" are juxtaposed with their use for prostitution regulation within a Canadian context, as well as information pertaining to *where* they are used, *how* and *how much* they are used, *why* and *when* they were implemented, and the restriction zones themselves; and 2) to map trends and patterns of their use across Canadian cities and critically and comparatively analyze these trends. Where there is currently little information available about the use of area restrictions for regulating the sex trade in Canada, this study aims to offer a starting point for future research in this area.

**Participation:** My participation will consist essentially of a single telephone interview between myself and the researcher, Adrienne MacDonald, which will take between 40 minutes and one hour. During this interview I will be asked to answer a series of questions about the terms and use of area restrictions by police to deal with the local street sex trade. The telephone interview will be conducted in English only. The telephone interview has been scheduled for \_\_\_\_\_ (date and time). I will also be asked if the telephone interview can be audio recorded for future transcription by the researcher, Adrienne MacDonald; I understand that I can refuse audio recording.

**Risks:** My participation in this study requires that I volunteer information that is strictly focused on the terms and use of area restrictions within the city in which I reside. I will not be asked about personal information or experiences except to explain my expertise or state of knowledge about the local area restrictions. I have received assurance from the researcher that every effort will be made to minimize any possible risks associated with my participation in this study and that the researcher does not foresee any such risks.

[Contact information for the Criminology Dept. was included here.]



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**Benefits:** My participation in this study will contribute to the advancement of knowledge and understanding about a currently understudied area of social science research. The information that will be presented in the final research project, as well as future research that this project will hopefully contribute to, could be very useful to those who regularly interact with street sex workers, like police and support organizations, and also for policy makers when developing new or modifying existing strategies for managing the street sex trade.

**Confidentiality and anonymity:** I have received assurance from the researcher that the information I will share will remain strictly confidential. I understand that the contents will be used only for the researcher's Criminology Master's thesis and that my confidentiality will be protected. Confidentiality, aside from the awareness of the researcher and her supervisor, will be protected through strict care that nobody other than the two aforementioned individuals will have access to the collected data. **Anonymity** will be protected, aside from the awareness of the researcher and her supervisor, by the use of pseudonyms for all subsequent stages of the study. Following the interviews participants will be given pseudonyms and will be introduced in the final thesis as "a representative of [the city and organization name/ or police department]".

**Conservation of data:** The data collected during the interview, including consent forms, written notes, audio recordings and transcripts, will be kept in a secure manner within a locked filing cabinet in the office of Dr. Colette Parent at the University of Ottawa for five years following the interview. Only the researcher and her supervisor will have access to it.

**Voluntary Participation:** I am under no obligation to participate and if I choose to participate, I can withdraw from the study at any time and/or refuse to answer any questions, without suffering any negative consequences. If I choose to withdraw, all data gathered until the time of withdrawal will be valid for use in the study unless I provide sound reason for it to be omitted.

**Acceptance:** I, \_\_\_\_\_, agree to participate in the above research study conducted by Adrienne MacDonald of the Department of Criminology within the Faculty of Social Sciences at the University of Ottawa, under the supervision of Dr. Colette Parent. I understand that the interview will be conducted in English.

If I have any questions about the study, I may contact the researcher or her supervisor. If I have any questions regarding the ethical conduct of this study, I may contact the Protocol Officer for Ethics in Research, University of Ottawa, Tabaret Hall, 550 Cumberland Street, Room 159, Ottawa, ON K1N 6N5  
Tel.: (613) 562-5841  
Email: [ethics@uottawa.ca](mailto:ethics@uottawa.ca)

There are two copies of the consent form, one of which is mine to keep.

I consent to the audio recording of the interview between myself and the researcher.

Yes \_\_\_\_\_

No \_\_\_\_\_

[Contact information for  
the Criminology Dept.  
was included here.]



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In order to participate in this study I must return a written copy of my consent to the researcher/ interviewer. A signed copy of this consent form will be returned to the researcher/ interviewer via fax, mail, or electronic scan prior to the interview session.

**Participant's signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

*Witness (needed in the case where a participant is illiterate, blind, etc.):*

\_\_\_\_\_ **Date:** \_\_\_\_\_

**Researcher's signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

[Contact information for  
the Criminology Dept.  
was included here.]



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## Formulaire de consentement éclairé

**Titre du projet de recherche:** L'exclusion des travailleuses du sexe de certains territoires urbains: les règlements de zonage au Canada

Adrienne MacDonald, chercheure

Dr. Colette Parent, superviseure

[For the researcher and supervisor, a mailing address, telephone numbers, a fax number and email addresses were provided.]

**Invitation à participer:** Je suis invité(e) à participer à la recherche nommée ci haut qui est menée par Adrienne MacDonald et supervisée par Dr. Colette Parent.

**But de l'étude:** Cette étude porte sur les modalités et les différents usages des règlements de zonage sur la prostitution par les autorités policières au Canada. Ces stratégies de gestion de populations jugées problématiques ont pour objectif de contrôler, voir d'éliminer la prostitution de rue dans des espaces publics spécifiques.

**Cette recherche a pour objectifs:** 1) de cerner ce que sont les zones d'exclusion, d'en exposer les modalités d'usage, en précisant où elles sont mises en œuvre, quand, comment et jusqu'où elles sont mobilisées; 2) de dresser un portrait d'ensemble des orientations et des modèles de règlements de zonage en vigueur dans les villes canadiennes et d'en faire une analyse critique comparative. Comme les connaissances sur ces politiques de contrôle sont peu développées à l'heure actuelle au pays, notre étude pourra offrir un point d'appui pour les recherches futures dans ce domaine.

**Participation:** Il est bien entendu que ma participation est volontaire et que je peux me retirer ou refuser de prendre part à l'entrevue en tout temps. Je serai invité à participer à une entrevue téléphonique avec l'intervieweuse, Adrienne MacDonald, d'une durée d'environ 40 à 60 minutes.

Pendant cet entretien, je serai invité à répondre à des questions concernant les modalités et l'utilisation des règlements de zonage dans le contexte de la prostitution de rue. L'entretien téléphonique sera conduit en anglais et se déroulera le \_\_\_\_\_ (date et temps). Pour les fins de la recherche, l'intervieweuse enregistrera l'entretien. Cependant, je comprends que je peux refuser, à tout moment, l'enregistrement audio de l'entretien.

**Risques:** Tout d'abord, la durée de l'entrevue peut amener un certain inconfort. Celle-ci devrait durer environ 40 à 60 minutes. L'intervieweuse fera son possible pour m'accorder des pauses lorsque je le désirerai. Lors de l'entretien, les sujets abordés seront concentrés sur l'utilisation des règlements de zonage dans la ville où je réside. L'intervieweuse s'intéresse à mon expérience professionnelle ou encore à ma connaissance générale des règlements de zonage. Si je me sens parfois mal-à-

[Contact information for the Criminology Dept. was included here.]



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l'aise, je pourrai choisir de ne pas répondre à la question ou si je ressens des inquiétudes après l'entrevue sur un ou des point(s) abordé(s), la chercheuse pourra me rassurer aussitôt et éliminer/modifier les extraits que je juge problématiques.

**Bienfaits:** Ma participation à ce projet de recherche contribuera à l'avancement des connaissances sur un sujet encore peu développé en sciences sociales. L'information recueillie dans le cadre d'une étude sur la prostitution de rue et ses enjeux, pourra servir tant aux chercheurs futurs qu'aux acteurs sociaux directement impliqués auprès des travailleuses du sexe de rue.

**Confidentialité et anonymat:** Je suis informé que les renseignements obtenus lors de cette enquête sont **confidentiels et anonymes**, qu'ils ne seront connus que de la chercheuse et de la responsable mentionnées ci-haut, que mon nom sera remplacé par un nom fictif, qu'aucun passage ne sera retranscrit s'il peut mener à mon identification et qu'aucune publication ne sera faite sur mon entretien au complet.

**Conservation des données:** Toutes informations recueillies (dossiers, bandes audio, etc.) seront placées sous verrou dans le bureau de ma superviseure de thèse. Les données électroniques (anonymes) seront placées dans l'ordinateur personnel de la chercheuse principale (et l'intervieweuse, Adrienne McDonald), qui est verrouillé par un mot de passe. Les documents de l'étude seront détruits cinq ans après la publication du projet de maîtrise.

**Participation volontaire:** Je reconnais en outre, la possibilité de me retirer de l'étude en tout temps pour des motifs dont je serai le seul juge ou encore de ne pas répondre à certaines questions posées sans conséquence aucune pour moi.

**Acceptation:** Je, \_\_\_\_\_, accepte de participer à cette recherche menée par Adrienne MacDonald du Département de criminologie, à la Faculté des Sciences de l'Université d'Ottawa, supervisée par Dr. Colette Parent. Je comprends que l'entrevue sera réalisée en anglais.

Pour de plus amples informations à propos de cette étude ou de mes droits en tant que participant à la recherche, je peux contacter Adrienne McDonald, l'intervieweuse, à l'adresse courriel ou au numéro de téléphone mentionnés plus haut. Pour tout renseignement sur les aspects éthiques de cette recherche, je peux m'adresser au Responsable de l'éthique en recherche, Université d'Ottawa.

[The mailing address, telephone number and email of the Research Ethics Board were provided.]

En signant ci-dessous, j'accepte de participer à ce projet de recherche. Il est important de m'assurer que toutes mes questions ont reçu une réponse satisfaisante et que je comprends très bien l'étude. Une copie de ce document me sera également fourni par la chercheuse/l'intervieweuse.

Je consens à l'enregistrement audio de l'entrevue avec l'intervieweuse, Adrienne MacDonald.

Oui \_\_\_\_\_

Non \_\_\_\_\_

[Contact information for the Criminology Dept. was included here.]



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Afin de participer à cette recherche, je dois compléter, signer et retourner le formulaire de consentement au chercheur avant la séance d'entrevue. Je dois l'envoyer par fax, courrier, ou par courriel (copie électronique du formulaire signé).

**Signature du participant:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Témoin (nécessaire dans le cas où le participant serait illettré, aveugle, etc.):  
\_\_\_\_\_ **Date:** \_\_\_\_\_

**Signature de l'intervieweur:** \_\_\_\_\_ **Date:** \_\_\_\_\_

[Contact information for  
the Criminology Dept.  
was included here.]

## **APPENDIX F- Report on Halifax Regional Municipality, Nova Scotia and Boundary Release Conditions**

Halifax Regional Municipality (HRM) is the capital of Nova Scotia and has a population of approximately 403 200. It has its own municipal police agency, the Halifax Regional Police (HRP). Arrest and release area restriction are commonly referred to as “boundary release conditions” (BRC) and are applied using the Province of Nova Scotia’s Form 11.1, *Undertaking Given to a Peace Officer or an Officer in Charge*, section H (HRP Non-Participant, 2012; see form at end of report). Boundary release conditions were used specifically for prostitution and no other illicit street activity.

Data sources that provided data on boundary release conditions included: one formal interview and follow-up communications with a community agency and an HRP officer; informal telephone conversations and email correspondence with other HRP officers; release documents used by the HRP; Stepping Stone’s website and pamphlets and documents handed out at advocacy events; media articles; and Jeffrey and MacDonald (2006).

### **Current Status of Boundary Release Conditions**

At the time of interview (May 2011), the HRP participant explained that the HRP had not arrested any sex workers for prostitution-related offences and had thus not used BRC since the *Bedford v. Canada* decision in September of 2010. Further, around the time of interview the HRP were actively discussing- but had not yet implemented- an alternative approach to deal with the street trade that would target clients/customers instead of sex workers themselves. The community agency participant, also interviewed in May of 2011, did not notice a pause in use of BRC and was not aware of the HRP’s change in target.

During follow-up conversations in January and February of 2012, the contacted officers<sup>57</sup> were asked to clarify the current status of use of BRC. An officer explained that “generally,” boundary release conditions were not a current practice and that the HRP had not used them within the last year, if not longer (HRP Non-Participant, 2012). The researcher was told that over the past two years the HRP’s Vice Unit had developed the practice of not issuing boundaries for street prostitutes (HRP Non-Participant, 2012).

Even though BRC were not currently widely used by the HRP, the formal interviews discussed how the conditions had been used on street sex workers of the HRM as a management strategy for the street trade.

### **Creation and Implementation**

There does not appear to be records of when the HRP started using boundary release conditions on street sex workers as a condition of their release. No accessible source, including the HRP and the community agency, could confirm exactly when BRC were implemented by the HRP but it seems that 1997 or 1998 is the most likely timeframe. Several sources suggested that BRC were introduced in the early 2000s. However, an HRP contact was able to confirm that the strategy dated back to 1997 or 1998 after consulting with fellow officers, some of whom were policing during the period of implementation.

Some sources identified reasons *why* BRC were implemented. One police contact explained that prior to BRC there was no way for the HRP to effectively regulate or penalize the accused for returning to work on the street shortly after having been charged (HRP personal communication, 2010). The court purportedly gave boundary release conditions to

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<sup>57</sup> For the follow-up communications the HRP participant was no longer working in a division with current knowledge of policing the street sex trade. Although some follow-up questions could be addressed by the original interview participant, the researcher was also put in contact with an individual who did have current experience with the issues studied by this thesis. The contact who was not formally interviewed is referred to as “non-participant.”

the HRP as a tool to deal with the vast number of reoffenders. An excerpt from Jeffrey and MacDonald (2006, 115) details the extent of the issues that BRC were meant to overcome,

Officer: Before [...] you charge her and release her and ten or fifteen minutes after you released her, she'd be back out on the street again.

Interviewer: A revolving door.

Officer: So what we came up with, was release them on conditions. So I pick you up tonight, on let's say G Street, and I charge you. Then when I release you, part of your conditions for being released is that you can't be on G Street. If I drive down G Street fifteen minutes later and you're there on the street corner, then I pick you up and arrest you again and hold you until morning for court. So with the fact that we've used boundaries as conditions has sort of made it more difficult for that girl for at least six months to be in that area again. [...] (Halifax Regional Police, 26 March 2003)

This strategy was developed as a tool to keep sex workers off the street immediately after receiving their communications charge, to be a more direct legal response instead of waiting until trial. The agency worker added that *visibility* in certain areas was an issue: "I know it probably started because prostitution was, like, a big thing. At one point there was lots and lots of street workers that were visible to the public" (HRP Participant, 2011). From these accounts it is apparent that BRC were implemented specifically to keep sex workers from recidivating in "problem areas."

From the collected data it was unclear *who* created or developed the BRC. The interviewed officer identified the Halifax Regional Municipality as having created them, but two other officers said it was the courts that created this tool (HRP personal communication, 2010; HRP Non-Participant, 2012). During data collection it became obvious that specific details about the development and implementation of boundary release conditions were unknown and were unavailable to participants and contacts. One officer suggested that the courts would likely have more information on the creation and implementation of the BRC.

Regardless of who developed the BRC, or when the strategy was implemented, it became the “typical protocol” for the HRP when a woman was arrested for prostitution-related charges (HRP Interview in Jeffrey and MacDonald 2006, 116). This was despite HRP recognition that additional problems were being created by restricting people from large city areas (see HRP interview in Jeffrey and MacDonald 2006, 116).

### **Issuing a Boundary Release Condition: Policy and Practice**

Sources identified that BRC specifically targeted female street-based sex workers (HRM Community Agency Participant, 2011), and were “not [issued] to male sex workers and not to drug dealers” (Dault Aug. 20, 2009). This was echoed by discussion with two of the three contacted police officers. The agency worker explained that male street work is “in a non-residential area and has less complaint from the public,” which is why there is no boundary for the male stroll (HRM Community Agency Participant, 2011). The interviewed officer outlined that the HRP receive a lot of complaints about female sex work because they are in more visible areas, where “the guys’ strolls are off in secluded areas, nobody ever calls the police [complaining about them ...] so we’re not really enforcing out there” (HRP Participant, 2011). However, one of the contacted officers communicated that a few months prior to our conversation a male sex worker was picked up in Dartmouth and put on BRC (HRP personal communication, 2010). No other contacts were aware of any male sex worker receiving a BRC. Further, although Nova Scotia’s Form 11.1 is gender-neutral, the attached *Appendix “A”* documents appear to limit their application to women only (see forms at the end of this report). The agency worker explained that few transsexual sex workers are on the street in the HRM and have not been impacted by BRC.

Prior to and during the period of data collection area restrictions were not used on clients/customers, “because they’re not the repeat offenders” and it was a tool implemented to deal with recidivism in the sex trade (HRP personal communication, 2010). While BRC were actively used, “the average john picked up by the police [...] merely pays a fine and is sent to ‘john school’” (Dault Aug. 20, 2009). However, it seems that the HRP are considering a more punitive response to the clients/customers by making them the new target for BRCs: “the new kind of idea is to move away from putting those girls on the conditions and putting the johns [on them...] the thought is to put them on the conditions so that they’re not allowed in that area. But, like I said, it hasn’t occurred yet” (HRP Participant, 2011).

One officer implied that a sex worker arrested for her first communicating offence would “be sent to the adult diversion program” instead of being criminally charged (HRP personal communication, 2010). None of the other sources mentioned this diversion program, nor did they identify that a prior record for prostitution-related charges was necessary to receive a BRC. Officers outlined that most women arrested for communicating for the purposes of prostitution in the HRM have a previous history of prostitution-related charges and would usually receive BRC (HRP personal communication, 2010).

Upon being arrested, sex workers would usually be brought to the HRP’s “booking area” at the station where they have their photograph and fingerprints taken (HRP Non-Participant, 2012). An officer could release the accused on an appearance notice at the scene “but as there is the issue of preventing the continuation of the offence and issues of ensuring identification she would be normally returned and processed” at the station (HRP Non-Participant email correspondence, 2012). After that they were given the option of being

released from police custody without needing to see a judge if they would accept the BRC as an undertaking (HRP Participant, 2011; also discussed in Chapin Oct. 23, 2008).

If an individual accepted the police release conditions, they would be released by the arresting officer or an officer at the police station with a Form 10, Form 11.1 and the *Appendix “A”* document (HRP Participant, 2011). The officer would use section (h) of the Province of Nova Scotia’s Form 11.1 to apply the area restriction and both the accused and the officer in charge would sign the attached appendix of the map of their boundary restriction (HRP Non-Participant, 2012).

### **Terms of the Boundary Release Conditions & Exceptions**

The boundary restriction that the sex worker received was dependent on which of the two zones they were arrested in (HRP Participant, 2011). If caught prostituting in each zone on separate occasions, an individual could hold a boundary restriction for both at the same time (HRP personal communication, 2010).

The police expected the terms of the BRC to be respected “24/7,” which essentially required that an individual not return to the identified area to sex work. Women could be restricted from the area in which they live, however exceptions were included in the BRC to address that. The *Appendix “A”* release document has a map of the restricted zone and is attached to the Form 11.1. It states that

You are to abstain from going to; \_\_\_\_\_[the streets bounding the area are named]\_\_\_\_ *Except for the purpose of returning to or leaving her residence for a employment, treatment programs, medical appointments or emergencies or for obtaining life’s necessities (ie, food, clothing, prescriptions). (see end of report for document; emphasis added)*

In policy, *female* sex workers who lived within their boundary restriction were permitted exceptions, but it is not clear whether those who do not live within their restriction could access services, resources or networks within the bounded area.

These distinctions also seem to be blurred in practice. The interviewed officer explained that prostitutes on BRC were “not to be basically in the box of conditions” but could walk to the store or go to and from an appointment (HRP Participant, 2011) without normally being picked up for a breach. Another officer was quoted in a news piece insisting that “women under boundary conditions are free to come and go in a bounded area as long as they aren’t working. ‘Most of them get charged with violating the conditions when they’re back on the corner waving at cars’” (Dault Aug. 20, 2009). If a sex worker on BRC was “picked up prostituting in that area after release on conditions, then they would be charged with a breach” (HRP Participant, 2011; also in Chapin Oct. 23, 2008).

### **Breaching a Boundary Release Condition**

Since the terms of the conditions state that a female cannot be sex working within their BRC, it would seem police would need to prove that a woman was communicating for the purposes of prostitution in order to charge her with breaching. The interviewed officer explained that catching someone breaching their conditions was not easy because “you actually have to catch them in the act”:

To be able to breach somebody on that condition [...] you actually have to catch them in the act [...] just because somebody’s walking in their conditions that’s not necessarily a breach because part of that is that they can come and go for workplaces, doctors, which would require them sometimes walking through that area. (HRP Participant follow-up, 2012)

Conversely, other sources identified that women were regularly breached when they were clearly not sex working. Another officer acknowledged that patrols can get overzealous with

enforcing the boundary restriction and that prostitutes could be accused of breaching their conditions when there was no intent pertaining to prostitution (HRP personal communication, 2010). Information circulated by Stepping Stone agreed that women sex workers were often mistakenly charged with breaching their BRC.

When a sex worker was arrested for attempting to engage in prostitution while under a BRC, they would be charged with breaching their conditions of release and jailed until court (HRP personal communication, 2010). The breach charge would “usually [...] give you 30 days [in jail]. That tends to be it. And it’s a criminal charge, so it would be on your criminal record” (HRP Participant, 2011). The breach is a more serious charge than the initial prostitution-related offence because “they’re saying, ‘Well, you’re not abiding by the conditions of your release, so we’re going to sentence you now’ [...] I mean, she’s going to be found guilty of the offence, the original offence of communication. And then she’s sentenced on that plus with the undertaking charges, and it gets more severe each time” (HRP interview in Jeffrey and MacDonald 2006, 116).

### **The Zones for Boundary Release Conditions**

In the HRM the zones included in a sex worker’s boundary release condition were pre-determined, depending only on whether or not an individual was picked up in the major Dartmouth or Halifax stroll. The boundaries of the conditions did not otherwise vary. Both interview participants communicated that the zones of the BRC were chosen based on the locations of major female strolls. As the interviewed officer explained, “there are certain strolls in Halifax [Regional Municipality] that the girls that are prostituting [...] use. There’s one [major stroll] in Halifax and one in Dartmouth” (HRP Participant, 2011). The officer explained that the major stroll in Halifax was mostly “on Agricola Street, so it’s not

downtown but it's not far from downtown. It's a main road" (HRP Participant, 2011). The Dartmouth stroll is more "like a box area that they use" located around "Windmill Road and Albro Lake Road, because that's one of the main roads in Dartmouth" (HRP Participant, 2011).

The designation of the zones was complaint-driven and fueled by community concern over safety and property values, among other things, linked to the locations of the sex trade strolls (HRP personal communication, 2010). The zones were created by consideration of the level of visibility of prostitution and the fact that some strolls are in areas that are also thoroughfares, which was seen to infringe on daily conduct of other residents (HRP personal communication, 2010).

Although both zones are "in residential areas" with a range of services and resources (HRM Community Agency Participant, 2011), the Dartmouth zone is more residential and tends to receive more complaints, where the one in Halifax is more business-oriented (HRP Participant, 2011). The agency worker emphasized that the zones have "the majority" of social services offered to street-involved people (HRM Community Agency Participant, 2011), such as child care, food banks, the North End Health Clinic, the methadone clinic, probation offices, Stepping Stone, Direction 180 (Dault Aug. 20, 2009). A document circulated by Stepping Stone additionally identified that some sex workers live within the boundaries (Stepping Stone June 26, 2009).

The HRP participant was not aware of much street sex work activity happening outside of the BRC areas, but the agency worker pointed out that the busiest male stroll was outside of the BRC zone. The officer made it clear that policing efforts would be the same as they are within the zones provided they received complaints about it. However, the HRP do

not typically get calls about street-level trade activity from outside of those boundary areas, although they do for activity linked to the indoor sex trade (HRP Participant, 2011).

### **Frequency of Use: Boundary Release Conditions and Breaching Charges**

Statistical data could not be collected on how often boundary release conditions were used by police in the HRM. During the interview the officer stated that “zero” sex workers were currently being given BRC, but while the conditions were actively used “on average in the past it was probably four a month” with many repeat offences (HRP Participant, 2011).

To offer an example of how many sex workers *could have been* issued BRC, the officer contacted in March 2010 explained that in 2008 the HRP charged approximately 36 “prostitutes” with prostitution-related offences. Up to 36 sex workers could have received BRC but it is difficult to know more precisely because the HRP did not keep track of the number of area restrictions issued. The interviewed officer implied that not all sex workers arrested with a prior charge are given boundary release conditions (HRP Participant, 2011). That decision was based on a set of variables, including police discretion, which could not be captured by this thesis. The frequency at which BRC are issued “really varies. I mean, we have some that have been picked up [by police] like 10 times and some that have only been picked up a couple [before they received boundary conditions]. So it really varies, it depends” (HRM Community Agency Participant, 2011).

Information concerning the frequency of sex workers being charged for breaching their boundary release conditions was also unavailable. The interviewed officer did not know how often sex workers were charged with breaching their BRC but stated “it did happen but not *a lot*” (HRP Participant, 2011). A media release by Stepping Stone (Mar. 3, 2009) had some statistics around BRC. Based on information collected by their court and legal support

program from sex workers, “statistics for 2008 show that of the 28 sex workers who were arrested on solicitation charges, there were 75 instances where release conditions and court orders were breached, due to the unrealistic nature of ordering a person not to be in a certain part of the HRM.” It is clear that many individuals received multiple breach charges but it was not identified whether all of these breaches were related to BRC or if statistics included breach of other release conditions as well.

## Form 11.1 Undertaking Used by the Halifax Regional Police

Canada  
Province of Nova Scotia  
Province De Nouvelle-Écosse

**UNDERTAKING GIVEN TO A PEACE  
OFFICER  
OR AN OFFICER IN CHARGE  
PROMESSE REMISE À UN AGENT DE  
LA PAIX OU À UN FONCTIONNAIRE  
RESPONSABLE**  
(Secs/Art. 483, 499, 503)

NS Form 50/11.1 /  
N.E. Formule 50/11.1  
R.S.T. Form 104/  
N.E. Formule 104  
Revised 02/03 / Révisé 02/03

I, \_\_\_\_\_ accused \_\_\_\_\_ of \_\_\_\_\_  
Je \_\_\_\_\_ de \_\_\_\_\_

(date of birth/date de naissance)

understand that it is alleged that I have committed the following offence(s):  
comprends qu'il est allégué que j'ai commis (les) l'infraction(s) suivante(s):

| Brief Description of Offence(s)<br>Brève Description (des) de l'infraction(s) | Section<br>Article | Date | Place |
|-------------------------------------------------------------------------------|--------------------|------|-------|
| communication for the purpose of<br>prostitution                              | 213(1)(c) CCC      |      |       |
|                                                                               |                    |      |       |
|                                                                               |                    |      |       |
|                                                                               |                    |      |       |
|                                                                               |                    |      |       |

In order that I may be released from custody by way of ☒ a Promise to Appear or ☐ a Recognizance  
Afin de pouvoir être mis(e) en liberté par ☐ une promesse de comparaitre ou ☐ un engagement

entered into before an officer in charge, I undertake to:  
contracté devant un fonctionnaire responsable, je promets de:

(A) ☐ remain within the Province of Nova Scotia;  
rester dans les limites de la province de la Nouvelle-Écosse;

(B) ☐ notify \_\_\_\_\_  
(designated person/address / personne désignée/adresse)  
of any change in my address, employment or occupation;  
tout changement d'adresse, d'emploi ou d'occupation;

(C) ☐ abstain from any communication with \_\_\_\_\_  
(name of witness or other person / nom du témoin ou autre personne)  
or from going to \_\_\_\_\_  
or from going to \_\_\_\_\_  
(name or description of place / nom ou désignation du lieu)  
except \_\_\_\_\_  
sauf \_\_\_\_\_

(D) ☐ deposit my passport with \_\_\_\_\_  
déposer mon passeport avec \_\_\_\_\_  
(name of peace officer or other person designated)  
(nom de l'agent de la paix ou autre personne désignée)

(E) ☐ to abstain from possessing a firearm and to surrender to \_\_\_\_\_ (name of peace  
officer or other person designated) any firearm in my possession and any authorization, licence or registration  
certificate or other document enabling the acquisition or possession of a firearm;  
à m'abstenir de posséder des armes à feu et à remettre à \_\_\_\_\_ (nom de  
l'agent de la paix ou autre personne désignée) mes armes à feu et les autorisations, permis et certificats  
d'enregistrement dont je suis titulaire ou tout autre document me permettant d'acquies ou de posséder des  
armes à feu.

- (F) ☐ report at \_\_\_\_\_ (state times) to \_\_\_\_\_  
(name of peace officer or other person designated)  
à me présenter à \_\_\_\_\_ (indiquer à quels moments) à \_\_\_\_\_  
(nom de l'agent de la paix ou autre personne désignée)
- (G) ☐ to abstain from  
(i) the consumption of alcohol or other intoxicating substances, or  
(ii) the consumption of drugs except in accordance with a medical prescription; and  
à m'abstenir de consommer :  
(i) de l'alcool ou d'autres substances intoxicantes;  
(ii) des drogues, sauf sur ordonnance médicale;
- (H) ☒ (comply with any other conditions that the peace officer or officer in charge considers necessary to ensure the safety and security of any victim of or witness to the offence.) (Attach schedule.)  
(autres conditions que l'agent de la paix ou le fonctionnaire responsable estime nécessaires pour assurer la sécurité des victimes ou des témoins de l'infraction). (Attachez annexe.)

I understand that I am not required to give an undertaking to abide by the conditions specified above, but that if I do not, I may be kept in custody and brought before a justice so that the prosecutor may be given a reasonable opportunity to show cause why I should not be released on giving an undertaking without conditions.

Je comprends que je ne suis pas obligé(e) de remettre une promesse, mais qu'à défaut de le faire, je peux être détenu(e) sous garde et amené(e) devant un juge de paix de façon à donner au poursuivant l'occasion de démontrer pourquoi je ne devrais pas être mis(e) en liberté sur simple promesse, sans autre condition.

I understand that I may apply, at any time before a justice to have this undertaking vacated or varied.

Je comprends que je peux, n'importe quand devant un juge, demander l'annulation ou la modification de cette promesse.

I also understand that this undertaking remains in effect until it is vacated or varied.

Je comprends de plus que cette promesse m'est opposable jusqu'à ce qu'elle soit annulée ou modifiée.

Dated at \_\_\_\_\_, Nova Scotia, on \_\_\_\_\_ 20\_\_\_\_

Fait à \_\_\_\_\_ Nouvelle-Écosse le \_\_\_\_\_

\_\_\_\_\_  
Officer in Charge  
Fonctionnaire Responsable

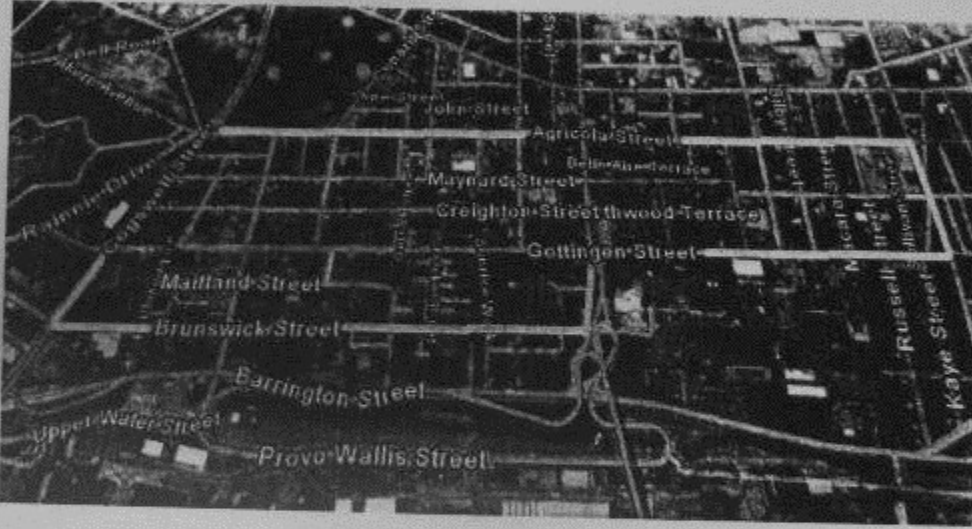
\_\_\_\_\_  
accused  
Accusé / Accusée  
Young Person / Adolescente

\_\_\_\_\_  
Police Department / Poste de police

**Halifax Regional Police Appendix "A" Documents that Illustrate the Boundary Zones for the HRM, One for Halifax and One for Dartmouth**

Appendix "A"

You are to abstain from going to the area bounded by and including, Cogswell Street, east to Brunswick Street, north on Brunswick Street, to North Street, west on North Street to Gottingen Street, north on Gottingen Street to Young Street, west on Young Street to Agricola Street, south on Agricola Street to North Park Street, south on North Park Street to Cogswell Street, Halifax, Except for the purpose of returning to or leaving her residence for a employment, treatment



programs, medical appointments or emergencies or for obtaining life's necessities ( ie, food, clothing, prescriptions )

Accused: \_\_\_\_\_ Date: \_\_\_\_\_

Officer in Charge \_\_\_\_\_

Appendix "A"

You are to abstain from going to; The area bounded by and including Windmill Road, to Victoria Road extension, south on Victoria Road extension to Victoria Road, south on Victoria Road to Portland Street, west on Portland Street to Alderney Drive, north on Alderney Drive to Windmill Road, Dartmouth, Halifax Regional Municipality.  
Except for the purpose of returning to or leaving her residence for a employment, treatment programs, medical appointments or emergencies or for obtaining life's necessities ( ie, food, clothing, prescriptions )



Accused: [REDACTED] Date: [REDACTED]

Officer in Charge [REDACTED]

## **APPENDIX G- Report on Saint John, New Brunswick and 11.1s**

Saint John has a population of approximately 128 600 and has its own municipal police agency, the Saint John Police Force (SJPF). The arrest and release area restriction does not seem to have a common name separating it from any other condition of release and is simply referred to as “a Form 11.1” or “11.1s.” The police-imposed area restrictions are applied using the Province of New Brunswick’s Form 11.1, *Undertaking Given to a Peace Officer or an Officer in Charge*, as well as the attached *Appendix “A”* that is written up by the officer at point of release (see end of report for forms). SJPF use area restriction release conditions on a variety of illicit behaviour, one of which is street sex work.

The Saint John Police Force collaborates with many social service agencies in the city to effectively manage street based populations and related disturbances or issues.<sup>58</sup> Both participants made it clear that community agencies and the police service have a good working relationship. The SJPF have taken a more open-minded and collaborative approach than other jurisdictions to using area restrictions to address sex trade.

### **Creation and Implementation**

The street sex trade became a priority for the SJPF roughly ten years ago (in the early-to-mid 2000s) because of an increase in complaint calls from citizens. Also at this time, the SJPF “were just sort of on the edge of intelligence-led policing [...] and there was obviously, just from the data, [...] an increase in street level disorder” (SJPF Participant, 2012). Up to this point the SJPF had relied on arrests to manage street-level disorder- “previously all we had done was arrest. That’s all we did [...] that was all we knew how to

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<sup>58</sup> In Saint John, police services, community agencies, and residents have formed the Sex Trade Action Committee (STAC). While working towards the development of more effective responses to community concerns, STAC’s collaboration efforts are inclusive of all facets of the community and work to educate the public about the sex trade, provide support and services to sex workers, and to address issues by taking all affected parties into account.

do!”- but it had become clear that more effective responses were needed (SJPF Participant, 2012).

There do not seem to be records of when area restrictions as release conditions for street sex workers became common practice for the SJPF, however the officer communicated that it was likely around 2004-2005 (SJPF Participant, 2012).<sup>59</sup> Although area restrictions have never been solely used on the street trade by SJPF, they have become the standard police response to the sex trade as part of a larger problem-solving effort by SJPF to diminish the level of illicit activity and disorder in the STAC Area.

Researcher: [Along] with that problem-solving effort, was it a police-created tool that drew on existing information and then kind of proposed “this will be the area that the restriction encompasses, and this will be how we go about this?”

Participant: Yeah, yeah it’s more, I mean, [...] again, it’s not specific to the sex trade. So you know, “let’s give it a try, is this going to work as opposed to keeping these girls in jail?” It just goes along with a lot more people are released now [...] pending their trials and stuff. And that’s for all offences, really. And it was a tool that was there, so “let’s give it a try and see if it works” you know? (SJPF Participant, 2012)

The officer inferred that until seven or eight years ago 11.1s were not common practice and the SJPF would leave decisions of release (and release conditions) up to the judge at the accused’s bail hearing. Prior to the implementation of 11.1s, officers would

just arrest them and hold them and take them in front of a judge. And if the judge put them on release- I mean, they didn’t release many back then. I’d say it’s been most active in the last seven or eight years that we’ve actually kind of understood and got a relationship [and...] an understanding with the Crown. ‘Ok, we’ll use this and then you take it and turn it into a probation or what have you.’ (SJPF Participant, 2012)

The various stages of the criminal justice system work together to impose and maintain an individual’s area restriction; this is an effort to encourage disengagement from the

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<sup>59</sup> The officer explained that the widespread use of 11.1 as a list of options for release conditions was rooted in “the bail reform,” presumably the *Criminal Law Amendment Act* (1994), as part of a general change in policing practices (SJPF Participant, 2012).

problematic behaviour. As stated by the officer, “Form 12[release conditions issued by a judge]/ 11.1 is typically only used in circumstances when a Subject is on a downward spiral, one might consider that ‘they need help to help themselves’ [...] the alternative is jail” (SJPF Participant email correspondence, 2011).

Both participants communicated that the street sex trade in Saint John is very much drug-based. The officer commented that “you may hear that the s[e]x trade in Saint John is a ‘choice’... unfortunately those who promote that view do not deal with the reality on the streets at 2AM. Perhaps other places, but not in SJ. Our s[e]x trade (street level) is as close to 100% addictions based as you could get” (SJPF Participant email correspondence, 2011). During the interview the officer further explained that the street trade in Saint John is “primarily women, but there are some males too, that are driven to the street to do whatever they can do to get money to buy drugs” (SJPF Participant, 2012). The area restrictions are used on individuals that police officers “think are the most trouble” in terms of causing disturbances in an area (SJ Community Agency Participant, 2011) or are “the most vulnerable” or “out of control” because of their drug addictions (SJPF Participant, 2012). Both participants also identified that the SJPF are sensitive to the drug-related issues of the street sex trade and that police and court regulation of the street trade does reflect that (discussed in more detail later).

### **Issuing an Area Restriction: Policy and Practice**

In terms of the street sex trade, it appears that area restrictions are used on anyone caught engaging in street sex work within the STAC Area, including both sex workers and their clients. However, it seems that only female sex workers have really been impacted by area restrictions because there are very few male or transsexual sex workers on the street, and

so they do not typically come into contact with law enforcement. The agency worker noted that “we never had an issue with male sex workers being involved with the drug trade in the same way” as female street sex work has been (SJ Community Agency Participant, 2011). The officer could not remember “ever seeing [a male street sex worker] in the STAC Area- I’ve heard stories from the girls and stuff, and from some of the social workers, but I’ve never actually had a complaint or dealt with a male up there” (SJPF Participant, 2012).

The officer explained that sex trade clients/customers will receive area restrictions if police “think that they’re going up there just for that purpose [to engage in street sex trade], if they’re just cutting through- one of the things about the street level sex trade is that a lot of these people, these guys when you pick them up, it’s pretty obvious when you interview them, and we interview everybody, that [...] they’re kind of going there out of curiosity and then they make contact with the female and off they go” (SJPF Participant, 2012). The officer emphasized that issuing an area restriction to a client/customer is more circumstantial and difficult because of their mobility but that “typically we’ll put them on something not to be back up there” (SJPF Participant, 2012).

When asked if the drug dealing pimp-type figure would receive an area restriction, the officer explained that such individuals would typically be arrested for a disturbance, drug-related offence, breach of court order or an assault charge on a female, but *not* living on the avails. “Pimps” typically would not qualify for release and so would not receive a Form 11.1 (SJPF Participant, 2012).

Arrested sex workers are brought into the police station, where the officer explained “we always have a little conference, ‘ok what did you get? What’s the arrest? What’s this and that?’” (SJPF Participant, 2012). It seems that police videotape the “conference” among

the accused and the officer(s) at the police station, where they decide whether or not the sex worker qualifies for release. If the individual can be released, and agrees to the release conditions, the SJPF “type it out, give it to them, get them to sign it, explain it to them- on camera, so everybody understands what it is- and then you, that goes in your file and it also goes on CPIC so if another cop happens to stop [the charged individual ...] he goes ‘Oh, oh look at that’ and it’s all in the Canadian Police Information Centre” (SJPF Participant, 2012). The release documents include a Form 10 (Promise to Appear), the Form 11.1, *Appendix “A,”* and officers will often attach a map.<sup>60</sup> Since there is limited space on the Form 11.1, *Appendix “A”* details the borders of the restriction and any included exceptions to its terms. The map is meant “to show them [the area they are restricted from ...] We have it made up [...] staple it right on” (SJPF Participant, 2012; see end of report for *Appendix “A”* document and a sample map outlining a restriction). This process is “pretty standard now, and where we see the sex trade operating, everybody kind of understands the area that we’re talking about” (SJPF Participant, 2012).

If an individual did not qualify for release from police custody, “if we think it’s someone that’s going to reoffend, you know, they’re totally out of control [or “she happens to have a history of not complying”], then we hold them for” bail hearing the following morning (SJPF Participant, 2012). The officer estimated that they hold “maybe 30% of the people” they arrest and leave the issue of release up to the judge, emphasizing that it is their duty as police officers to hold anyone they believe will reoffend until they can be brought before a judge.

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<sup>60</sup> It is not unusual for a sex worker to receive other conditions in addition to the area restriction, as the officer explained “if we thought that your behaviour was specifically related to the sex trade then we would most likely use the same restrictions [from the STAC Area, but] there might be some more on there too, right? There might be one to have no contact with a certain person, or not to use drugs or what have you” (SJPF Participant, 2012).

Unfortunately it's not proper for the police to just keep releasing them [...] You cannot release somebody to reoffend. [...] That's your duty. That's not optional. If you have reasonable grounds to believe [an individual is ...] going to continue that offence, it's right in the *Criminal Code*, you will not release that person. Take them in front of a judge. (SJPF Participant, 2012)

Once a sex worker goes "to court [either for their bail hearing or first appearance] the judge will say 'on recommendation of the police I want them kept out of these areas'" and issue a Form 12 (SJ Community Agency Worker, 2011). Whether a sex worker is released by a police officer or by a judge, common practice sees them issued an area restriction from the STAC Area.

The SJPF does not aggressively enforce area restrictions in the STAC Area but there is usually police presence in the community. If the SJPF "happen to have their picture," photos of sex workers and their clients/customers on area restrictions are posted in the squad room at the police station.

But there's really nobody running around at night looking to see if so-and-so is in the area. Like, if we happen to see them and we know they're on the conditions, then that's fine and we'll arrest them. But it's not as though we have people up there all the time looking [for people breaching their conditions]. (SJPF Participant, 2012)

In Saint John there are no diversion programs for clients/customers or sex workers, although there have been in the past. Sex workers typically would not qualify for alternative measures because diversion is only an option for "a first or very low offender [...]" and unfortunately a lot of the women just keep coming back [...] they've got a lot of criminal charges [...] so a lot of them don't usually qualify for alternative measures" (SJPF Participant, 2012). Roughly five years ago "the judges stopped using diversion for the men" because "there was some criticism [...] about diversion being used for men and not the

women” since the customers were able to pay a fine to make the charge go away, while the sex workers did not have that option (SJPF Participant, 2012).

### **Terms of the Area Restriction & Exceptions**

Sex workers, or any other individual issued an 11.1 area restriction, will not be restricted from where they live. If an individual informs the releasing officer that they reside in the STAC Area, the officer will verify that this is true before issuing the area restriction.<sup>61</sup> If an individual does live in that community police “don’t put them on 11.1 not to be in the area. We might put them on an 11.1 not to be out after dark, or 9:00 rather” or the officer might “carve that piece [street] out [from the area restriction] and would say ‘you can’t be on these other streets’” (SJPF Participant, 2012).

Both participants explained that modifications to a person’s area restriction will also be made if an individual has specific services or legitimate reasons to be in the area. Since there are a number of important services in the STAC Area, the 11.1 is “never like ‘you’re not allowed in the area.’ You can go from point A to point B, and don’t be lollygagging, [...] it’s always like ‘you can go to the needle exchange, you can go to the Sophia Recovery Centre, just don’t be sex working along the way’” (SJ Community Agency Participant, 2011). The officer echoed this point, stating that exceptions are often made to allow sex workers to continue their daily lives. For example, if they “have a social service, or a kid that goes to school and they want to walk their kid to school in the morning ‘Ok, well that makes sense, you know? But again, that doesn’t mean that you’re standing on the street corner waving at guys’” (SJPF Participant, 2012; see *Appendix “A”* at end of report).

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<sup>61</sup> The officer noted that if an individual was found to be lying about living in the STAC Area, which was “the flavour of the day for a while,” an individual would likely no longer qualify for release; “if right off you’re lying, it means you’re probably not going to be released” because the accused would already be showing signs that they will likely reoffend (SJPF Participant, 2012).

Both participants made clear that there is some leeway with the terms of the 11.1 area restriction. Police *will* take relevant factors into consideration when issuing an 11.1 in an attempt to avoid an unwarranted breach of conditions charge. Officers “always ask the women [sex workers] ‘is there a reason you have to be [in the area], say, the needle exchange, or do you have to go to Coverdale Centre,’ which is the women’s shelter and an outreach centre, ‘do you have to go to an appointment at the community health centre, do you have to, you know, tell us these things.’ And that’s always built into the 11.1” (SJPF Participant, 2012). The officer elaborated on making exceptions to the area restriction for sex workers: when a street sex worker is

released on her 11.1 and she may say ‘well I have to go to the needle exchange.’ ‘Ok, so we can put in the conditions that you can go to the needle exchange, but [that ...] means that you go directly to the needle exchange and then you leave the area. It doesn’t mean that you hang around in front of the hospital, it doesn’t mean that you hang in front of the cathedral, it doesn’t mean that on Sunday morning when the men are all parking their cars and their wives are at the cathedral that you’re out back soliciting them. That’s not what it means.’ And that’s exactly how we do explain it to them. (SJPF Participant, 2012)

Although there is an option written into the Form 11.1 that an individual can apply to have their release conditions changed or removed by a judge, it seems this opportunity is rarely pursued and the officer had “never seen it done” (SJPF Participant, 2012). It is possible that individuals have not needed to pursue variances to their conditions because police efforts allow their access to necessary services, however further research would be necessary to support such a finding.

After an individual has been on a police-imposed area restriction, an SJPF officer will ask the Crown at the court appearance to request that the judge maintain it as a probation order. This ensures that the problematic behaviour continues to have legal parameters that are considered to have been effective up to that point.

We're going to ask the judge when you're sentenced at the end of the day to put you on a probation not to be there for six months, or three months, or whatever. [...] In fact, lately down here what they've been doing is that the judges have been taking the actual document, the Form 11.1, and just stamping it and signing it so it's exactly the same [...] document as the police officer wrote up [but the Judge has turned it ...] into a Form 12 [...] it just cuts down on the paperwork and also [ensures that] there's no misunderstanding [...] it's kind of streamlined. (SJPF Participant, 2012)

The judge's perspective was also identified in this process: “‘here's what worked, [...] so you plead guilty or you want to have trial, or we need a pre-sentence report or what have you, and I'm going to continue this 11.1 as a Form 12’” (SJPF Participant, 2012). In most cases an individual will be on an area restriction for a period of time that extends beyond their court appearances.

### **Breaching an Area Restriction**

If an individual is caught breaching their release conditions they are held for court. The accused is brought to court for the charge under *Criminal Code* section 145 instead of the original communications charge and if the accused pleads not guilty, “the judge might say ‘well I'm going to hold her [...] until her trial’” (SJPF Participant, 2012). However, most street sex workers choose to plead guilty to the prostitution-related charge and the breach charge to “get it over with,” and the judge will then,

Put them in jail for a week, or put them in jail for a month, or [more] if they're repeat offenders and they've got a whole bunch of CDSA charges [...] robbery, assaults, disturbances, threats [...] Sometimes [their sentence is ...] just probation, and a probation typically will be ‘don't go there’ or they'll put them under the control of a probation office. (SJPF Participant, 2012)

It is clear that a breach of release conditions usually results in jail time, especially if a sex worker has a number of previous arrests and/or breach charges. During the interview the agency worker conveyed that an individual had recently received 30 days of incarceration for a Form 12 breach.

### **The Zones for a Sex Trade-Related Area Restriction**

In Saint John the street sex trade is largely collected within the central core of the city, referred to as the “STAC Area” or “The Village” (SJPF Participant, 2012). The area that a sex worker would be restricted from is pre-determined to encompass this community, and the boundaries of the 11.1 tend not to vary unless a sex worker lives within the STAC Area (SJPF Participant, 2012).

When designating the boundaries for area restrictions, the SJPF first identified the places and establishments within the neighbourhood that had been “problematic” in terms of sex trade activity. The officer explained this complicated process:

Saint John is made up of three cities [...] that are divided by a harbour [...] so it’s kind of a mish-mash. And as the community grew away from the harbour 200 years ago, there was no such thing as urban planning. So you’ve got little squares and corners, and little triangular shaped blocks [that made it difficult to define a boundary]. (SJPF Participant, 2012)

Within the area common for street sex trade and other illicit street-level activity there were a number of establishments that the police decided, for a variety of reasons, should be within the area restriction.

There was two bars that were really problematic with the sex trade workers going in there, [...] and] shooting up, they were kind of grungy bars [...] and it was just a real problem, so that had to be in there. There’s a mall, the downtown urban mall [...] kind-of lower-end urbany. [...] and] they were having a lot of trouble with girls bringing guys into the washrooms, so that had to be in there. The cathedral had to be in there, the hospital had to be in there because they were using the pay telephones in the lobby to set up their clients and [...] make] calls to their pimps [...] There is a couple of corner stores, there’s a Tim Horton’s, you know, one of their staff got stabbed with a needle one night, so that all had to be in there. So we had picked it out and, ‘ok, it doesn’t fit.’ So we just went around those streets and that’s the area. [...] I mean, one of the things in there now is this new teen resource centre for the kids, the Boys and Girls Club is there. [...] it’s just not compatible to have the girls [sex workers] in, and a lot of them will just go around the corner and do their thing, or just use the washrooms and that, but it’s just not compatible to have that in the Boys and Girls Club. (SJPF Participant, 2012)

It was clear that the SJPF were careful and logical when choosing the area.

The officer described that this community does not “fit well” together, stating that “everything is dumped in one little spot and [...] they don’t all, unfortunately, get along. [...] they’re just not compatible” (SJPF Participant, 2012). The STAC Area was described as “probably the most diverse [and “complex”] community in the province” (SJPF Participant, 2012) with “a very good mix between institutions and residences” (SJ Community Agency Participant, 2011). The agency worker said it was roughly ten blocks in size while the police officer identified it as only four or five city blocks, noting “it’s such a hard shape [...] it’s really hard to lay out” (SJPF Participant, 2012).

The participants identified a number of services found within the STAC Area, including AIDS Saint John, a methadone treatment clinic, the outpatient and emergency departments of St. Joseph’s Hospital, the women’s centre, the community health centre (with an assortment of programs), and a number of businesses and “professional offices” (SJPF Participant, 2012). The community also has a variety of residences, ranging from rental properties to property owners who live in some of the oldest homes in Saint John. The officer explained,

It’s primarily rental housing. Flats and apartments. [...] There is a fairly large public housing, or public housing projects, like row houses and town houses and high-rise. But most of the occupancy is rental. And in the census there’s actually, there’s been five [of] what they call ‘priority neighbourhoods’ that they identify in the city, and the Village and the STAC Area represents one of them. And they say it’s at risk because of the educational rates, employment rates, single parents, all that kind of stuff. (SJPF Participant, 2012)

There are also “nicer areas” of this community with “a lot of property owners that actually have their own homes that still live there are all [...] older people, old money, old buildings,

nice old buildings” (SJPF Participant, 2012). The officer believed most sex workers would not live in the STAC Area but the agency worker confirmed that some do.

In Saint John there does not appear to be much street sex trade activity outside of the STAC Area. The agency worker identified that “the odd time we’ll hear about ‘well, there’s a sex worker or two over in the North End working’ but that would be very odd” (SJ Community Agency Participant, 2011). Street sex work is also rarely reported outside of the STAC Area.

### **Frequency of Use: Area Restriction and Breach of Release Conditions Charges**

The officer recognized that the SJPF have not documented statistics for their efforts in the STAC Area: “because there’s been so many people involved in these projects, we haven’t kept really good stats” (SJPF Participant, 2012). Although the agency worker had the impression that area restrictions were being used less on the sex trade than they have been in the past, the police officer inferred that anyone arrested for prostitution-related offences would typically receive an area restriction, whether imposed through a Form 11.1 or 12. In general, the officer commented that the SJPF are “really starting to use 11.1 a lot more than we used to” (SJPF Participant, 2012).

The police officer explained that “the response to it [an area restriction] is, you know, problem A to Z. A, some people you never see them again. And Z being that they walk out the door and right back up the hill [to the sex trade], which I’ve seen” (SJPF Participant, 2012). The officer explained that many of the sex workers they arrest “have been through the [criminal justice] system and really don’t care” about getting another charge (SJPF Participant, 2012). The officer estimated that “about half” of sex workers given area restrictions tend to reoffend and receive a breach charge.

[illegible]

**Saint John Police Force Appendix "A" Document that Defines the Terms  
and Exceptions of an Area Restriction**

FILE # 2012-2596

Appendix "A"

Form 11.1 Release Conditions

Not to be within the area bordered by Union St., Crown St., Paul Harris St., Brunswick Dr., Waterloo St., Golding St., Bayard Dr., Hazen St., Garden St., Dorchester St., Carleton St. and Wellington Row.

EXCEPTION

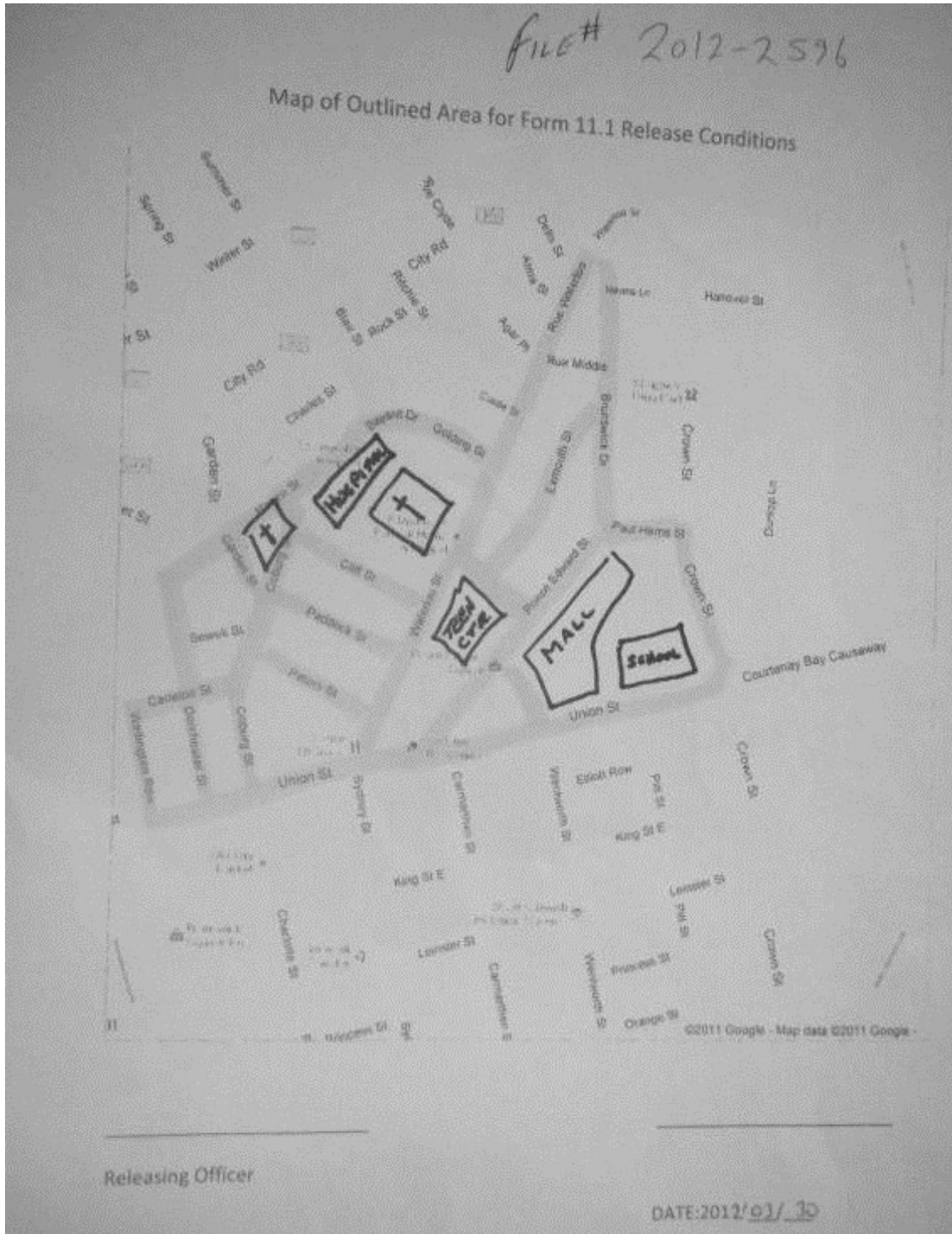
I may attend any medical or legal appointment(s) with in this area. This includes Methadone treatment, needle exchange (Aids Saint John) or counseling. I will take the most direct route to and from the appointment with no loitering at any time.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

DATE: 2012 02 / 30

## Saint John Police Force Sample Map Outlining an Area Restriction



## **APPENDIX H- Report on Montréal, Quebec and Red Zones or** **Quadrilatères**

The Greater Montréal Area is the largest city in the province of Quebec and the second largest city in Canada with a population of approximately 3 859 300. The island of Montréal has a population of roughly 1 650 000 and its own municipal police agency, the Service de Police de la Ville de Montréal (SPVM).<sup>62</sup> The arrest and release area restriction is commonly referred to as “*quadrilatères*” by police but other sources have also referred to them as “red zones” or “no-go zones.” They are applied using the SPVM’s *Undertaking to a Peace Officer or an Officer in Charge/ Promesse Remise à un Agent de la Paix ou à un Fonctionnaire Responsable* (see form at end of report). Sources informing this report include: formal interviews and follow-up communications with each a community agency worker and an SPVM officer; the undertaking release document used by SPVM; and publications by Stella.

In Montréal *quadrilatères* are not solely used on the street sex trade, although it seems to be one of the most commonly targeted activities for this condition. Both participants communicated that *quadrilatères* have regularly been used for people charged with drug-related offences and the community agency worker noted they are mainly used for “anyone that’s street-involved [...] people who use drugs, people who deal drugs, for homeless people [...] homeless youth” (Montréal Community Agency Participant, 2011). The agency worker had also seen a *quadrilatère* used on a sex worker who was not street-based. However, the interviewed police officer stated that of the criminalized activity that *quadrilatères* are used on, “the majority is on women in prostitution” (SPVM Participant,

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<sup>62</sup> Statistics Canada collects its census data for the Greater Montreal Area, however this thesis focuses on the island of Montreal, the same area served by SPVM.

2011). The officer identified that many street-based sex workers in Montréal engage in “narco-prostitution,” meaning “they basically prostitute and solicit to buy drugs” (SPVM Participant, 2011).

### **Creation and Implementation**

There do not appear to be records of when SPVM started using area restrictions as a condition of release. The officer explained,

I tried to find that out, on the creation of it [...] unfortunately there’s nobody who can answer me on that [...] it’s just a general thing that happened, it just came, the condition, it seems that they can impose conditions and one way to try and control the problem would be to give a red zone. That’s how it started. And I don’t know when it started [...] and] nobody can answer me that.” (SPVM Participant, 2011)

There are a couple of ideas on when the SPVM started imposing *quadrilatères* and who might have created them. The community agency worker had information about what might have been the beginning of police-imposed *quadrilatères* from a member of the Merchants’ Association in the area historically known as Montréal’s “red light district.” In the mid-to-late 1990s the Merchants’ Association had complained to the police about “a problem with ‘drunk natives and prostitutes’ in the area.” Apparently they were advised by the police to write a petition identifying the problem; “don’t call them ‘drunk Indians and hookers,’ talk about problems of public drunkenness and prostitution in the neighbourhood, and drugs [...] and how you have a problem and you need the police to be mandated to crack down” (Montréal Community Agency Participant, 2011). The police had suggested that once such a complaint was received, they would be able to used conditions to keep problematic people out of the area for two years, “and if they break the conditions, then they’ll get more conditions and this will allow us to clear people out of the neighbourhood” (Montréal Community Agency Participant, 2011).

That account positions the police as initiating police-imposed *quadrilatères* in Montréal. However, the community agency did not know *when* police started using *quadrilatères*. Both the interview participants said that police have been issuing *quadrilatères* for 15 years, if not longer. Prior to police-imposed *quadrilatères*, judges would typically impose them according to recommendations from police officers (SPVM Participant, 2012).<sup>63</sup> Based on this information, it seems that the SPVM have always been very much involved with using *quadrilatères* on sex workers.

A memoir prepared by Stella (2007, 7) links the widespread use of *quadrilatères* on street sex workers to a 2001 court case against police repression of the sex trade and other street-based populations “via fines for breaking municipal regulations, such as jaywalking and loitering.” Stella (2007, 7) wrote that “in October 2001 [...] the judge, instead of creating a legal precedent, mandated the morality squad in Montréal to make arrests in relation to the Criminal Code, communicating for the purposes of prostitution (213 *Canadian Criminal Code*), to be followed up by municipalities giving sex workers’ zoning restrictions (*quadrilatères*).”

Aside from these sources, accessible knowledge on the creation and implementation of *quadrilatères* as arrest-and-release conditions is very limited. Based on the collected information, it seems *quadrilatères* have been used by SPVM since the late 1990s and are a collaborative effort by the courts, municipalities, SPVM and certain sectors of the community.

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<sup>63</sup> This information was conveyed during follow-up communications, hence the reference for 2012 instead of 2011).

### **Issuing an Area Restriction: Policy and Practice**

Although it has been noted that female sex workers are a major target for *quadrilatères*, male and transsexual sex workers are also subject to receiving them. The officer explained that the male trade is not as widespread as the female trade but that *quadrilatères* work “exactly the same way” for male sex workers, who receive conditions on a fairly regular basis (SPVM Participant, 2011). Transsexual sex workers, particularly in the Red Light District and Centre-Sud, have also been targeted by *quadrilatères*, however, their experience has been somewhat different. There are three “trans bars” in Montréal where transsexual sex workers often “hang out” between clients. These bars have somewhat anchored the transsexual workers to the area (Montréal Community Agency Participant, 2011). While non-trans sex workers can work elsewhere if restricted from this area, the trans workers are less likely to move because of the safety and familiarity they have with these locations.

Although the range of street workers is targeted by *quadrilatères*, they are not used on the client side of the trade. The officer explained “no it’s not used on the clients, no. They’ll negotiate [their charge] and they’ll get a fine and that’s it. I’ve never seen it on a client” (SPVM Participant, 2011).

The “morality squad” (MAN) conduct the undercover operations and are typically the only officers that impose *quadrilatères* for soliciting charges.<sup>64</sup> Upon arresting a sex worker under section 213(1)(c), police check if the individual is breaching any prior conditions. The police participant made it clear that an individual charged with prostitution-related charges during an undercover operation would only be held if the sex worker was breaching previous

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<sup>64</sup> Community police officers have the ability to impose *quadrilatères*, however, they typically will not issue *quadrilatères* to sex workers (SPVM Participant, 2011). The researcher believes that the interviewed officer’s use of the term “morality squad” refers to the Morality, Alcohol and Narcotics (*Moralité, alcool, stupéfiants*) section, also called MAN (or *MAS*).

conditions. The SPVM do not like to detain sex workers and look to release them “right away” under a “promise to appear with conditions,” where the conditions are usually a *quadrilatère* of some sort (SPVM Participant, 2012). Police have the option to release an accused at the scene but common practice is to bring sex workers into the police station to be identified before releasing them from custody (SPVM Participant, 2011). Once MAN releases a sex worker with a *quadrilatère*, the relevant PDQ receives a “CIRC confirmation response” that details the charges and conditions handed out to the accused individual (SPVM Participant, 2011; see CIRC print out at end of report).<sup>65</sup>

If an individual was caught breaching conditions during an undercover operation, meaning that s/he was sex working within their *quadrilatère*, they would be held in police custody until they could go before a judge instead of being released by police with conditions (SPVM Participant, 2012). It is “usually a few days” until the sex worker can go before a judge (SPVM Participant, 2012).

The undercover operations conducted by MAN are largely fuelled by complaint calls from community members and pressures from local politicians (SPVM Participant, 2011). However, the high volume and visibility of street sex trade in some areas validate police observation and knowledge of the level of sex trade activity in an area as enough to initiate MAN operations and complaint calls are not always necessary (SPVM Participant, 2012). This seems to be the case for areas where “narco-prostitution” is common (SPVM Participant, 2011). Once every week or two MAN will “come and they do projects, [...] they’ll take the day and dedicate it to our station [...] it’s a random day and they’ll come in and [...] sometimes they work the girls and sometimes they work the client” (SPVM

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<sup>65</sup> Community police stations are also referred to as “PDQ,” which stands for *poste de quartier*. Montreal has used the “neighbourhood police model” since 1997.

Participant, 2011). Sex workers receive *quadrilatères* in numbers when they are the target of MAN's operations.

Based on interview discussion, having a previous criminal record for prostitution-related charges is not a pre-requisite to receiving a *quadrilatère* (SPVM Participant, 2012). Further, an individual can hold multiple *quadrilatères* from different prostitution-related charges for a number of areas in Montréal at one time (SPVM Participant, 2011). "The majority of time it [a person's *quadrilatère*] is in the PDQ community station where the prostitute was picked up" but since some sex workers move around to different neighbourhoods, the officer has seen conditions that span multiple station areas (SPVM Participant, 2011; further discussed below).

### **Terms of the Area Restriction & Exceptions**

The terms of an individual's *quadrilatère* will be outlined by the SPVM's release documents, *Promesse remise à un agent de la paix ou à un fonctionnaire responsable*, where the police officer will name the street or streets that border the area that an individual is being restricted from re-entering (SPVM Participant, 2011).

Certain conditions are that they cannot be within those streets, and sometimes it's they cannot be *on* the street. Like [... in Hochelaga-Maisonneuve] two big streets [...] are [rue] Sainte-Catherine and [rue] Ontario, and like they might have a condition [that] they actually cannot be found on Ontario Street or on Sainte-Catherine Street. [...] so that's the condition [that] the vice squad would put on them until their court date." (SPVM Participant, 2011)

As the officer identified, conditions issued by MAN are valid until the accused has their first appearance before a judge, "so if the court date is in six months, seven months [after the initial arrest], it will apply 24/7 within that time period. And afterwards, once it goes to court, if they're found guilty, then they will be applied [by the judge] as well for a time period,

maybe a year or two, and it will be constant, 24/7” (SPVM Participant, 2011). The officer explains that a judge will typically keep a *quadrilatère* in place during trial or as a sentence “and it will be on recommendation by the arresting officer and or morality on the police squad. [During court] they’ll recommend it to the prosecutor who will then [...] recommend it to the judge” (SPVM Participant, 2011). This example illustrates how the initial *quadrilatère* given by a police officer will be upheld as the sex worker continues through the criminal justice system, meaning that an individual could be made to live on area restrictions for multiple years.

When MAN officers issue *quadrilatères* they cannot make exceptions to the terms of the condition, like allowing a sex worker to attend an appointment or access a service within the area of their *quadrilatère* (SPVM Participant, 2012). Exceptions to conditions can only be made by judges. For this reason, police sometimes issue a street or a curfew-*quadrilatère* to sex workers instead of being comprehensively restricted from an entire area (SPVM Participant, 2012). The interviewed officer explained that MAN are known to “only give streets and not the area [or community] completely” when sex workers live in the area (SPVM Participant, 2012). There is also some discretion in enforcement of area restriction conditions when a sex worker lives in or near their *quadrilatère*, for example, to allow for transit through the zone (SPVM Participant, 2011).

Sex workers *can*, however, find themselves restricted from where they live for a length of time as a result of a police-imposed *quadrilatère* (SPVM Participant, 2011). This outcome is not necessarily intentional and MAN officers typically make sure that the person does not live in the area before issuing a *quadrilatère* (SPVM Participant, 2012). The interviewed officer gave a common example of how a sex worker might be unintentionally

restricted from where she lived. In the Hochelaga-Maisonneuve area, a MAN officer would probably try to give a sex worker a *quadrilatère* for the entire PDQ 23 area. If the sex worker informed the officer that s/he lived within that area, the officer may or may not believe the accused and may or may not double check the sex worker's address. MAN officers often require proof of address to give a *quadrilatère* smaller than the entire PDQ area "because sometimes people will give an address that doesn't exist" (SPVM Participant, 2012). The participant explained that if a MAN officer discovered a sex worker was lying about their address, the officer would most likely give the entire PDQ area as the *quadrilatère*. The responsibility then lies with the sex worker to get it modified by a judge through her lawyer if s/he does in fact live there.

The interviewed officer confirmed that judges do not restrict people from where they live and will modify a sex worker's police-issued *quadrilatère* that does so upon notification in court by the sex worker's lawyer (SPVM Participant, 2011). Although there is a general policy that people not be restricted from where they live as long as they can provide proof of their residence, in practice it can still happen in error. A MAN officer would not intentionally restrict a sex worker from where they live, but an officer could restrict a person from their own street or neighbourhood if they had reason to doubt the sex worker's residence was within that area.

Although unaware of how difficult it is to get a *quadrilatère* modified by a judge, the interviewed officer identified a sex worker's defence lawyer as the crucial factor. The defence lawyer would have to make the application for a modification to a judge, which could take anywhere from hours to months. The community agency participant explained that getting *quadrilatère* conditions modified or dropped entirely is not an easy process.

“Fighting the conditions has been very, very difficult [because the *quadrilatère* are placed at the police station, without a person’s lawyer present]. Even when the women do inform their lawyers right away, the best we’ve been able to get is modified conditions” from a judge, after the condition has already been imposed for some time (Montréal Community Agency Participant, 2011).

The agency worker explained that a modification to a sex worker’s *quadrilatère* is possible but getting the condition dropped entirely was very rare. It is more likely for a judge to modify the conditions to a curfew restriction upon hearing reason to be within the red zone. Lawyers will speak for the accused to communicate that they “need to go to X, Y, Z services” and for those reasons “need to be downtown,” however,

It’s very rare that they’ll [the judge] say “Oh, ok, we won’t give you a red zone. You live there, and your services are there.” What they’ll often do is turn it into a curfew, so they’ll say “Ok, well if you live there and your services are there, you’re children are there, your mother is there, then from 7:00 to 7:00 you can be there, but we better not catch you after 7:00pm.” (Montréal Community Agency Participant, 2011)

Essentially, a sex worker, equipped with a lawyer, must be able to provide the judge with proof of exactly *what* they are being restricted from by their *quadrilatère*- their home, their services, their familiar and friends- in order to have it changed. The modification will still typically restrict the sex worker from an area, but they may be able to enter it during certain times of the day or for certain purposes.

### **Breaching an Area Restriction**

In policy, a breach of *quadrilatère* conditions means being in the area or on the street outlined by the *Promesse remise à un agent de la paix ou à un fonctionnaire responsable* document, or being in those places at certain times of the day. The police participant implied

that police discretion often comes into play if an individual is in transit through their *quadrilatère* and is not “hanging around” or “waving to people, cars” (SPVM Participant, 2012). Unless an individual is overtly sex working within their *quadrilatère*, it seems that community station officers would not usually charge a sex worker for breaching, at least within the PDQ 23 area. This community was identified by the police participant as being somewhat tolerant of the sex trade.

The interviewed officer acknowledged that breaching a *quadrilatère* condition is typically treated more seriously than breaching other kinds of conditions: “Usually with conditions we’ll give them a court date and then we’ll let them go” but “red zone conditions is one of the conditions where we will detain them until they pass in front of a judge” (SPVM Participant, 2011). If a sex worker is caught breaching their conditions it is common practice for police to detain them until their court date. The police participant offered an example to explain how a station’s patrol officers would deal with a sex worker breaching their conditions:

If they have a curfew between 9:00pm and 6:00am and we see them out [...] we’ll enforce it, we’ll bring them in and they will be detained until the next day when they go see a judge. So that’s something that’s very rare, that is really particular to a prostitute in the red zone that we will detain them, whereas certain crimes [...] we’ll give them a court date [and release them] and they’ll show up in court [...] but [...] it has been in the jurisprudence, it has been accepted that there is a risk of them continuing the infraction [to sex work in their *quadrilatère*], so we will hold them. (SPVM Participant, 2011)

When a sex worker sees a judge, the charges for both the initial prostitution-related offence and breach are dealt with. “And if they do it [breach] regularly, the judge will hold them. They’ll [...] keep them inside until they pass their court date. Whereas there’s some crimes where we won’t detain them and we’ll let them [go until trial]” (SPVM Participant, 2011).

### **Determining an Individual's *Quadrilatère***

In Montréal, *quadrilatère* zones and their boundaries are not pre-determined for street sex workers in the sense that there is not a pre-designated zone that a sex worker would automatically receive if picked up by police in a certain area. An individual's *quadrilatère* is more-so applied after considering a number of factors relevant to the individual and the illicit behaviour. That being said, there are certainly common patterns with the areas that sex workers typically get a *quadrilatère* for.

Researcher: The size of them [the *quadrilatère*] and where exactly they are located is relevant to where the individual is picked up, so it's not like a pre-determined area that, you know, if a woman is picked up on this street they automatically get this [...] predetermined space? It totally varies by the individual and by where they were picked up, is that...?

Participant: I would say it varies to the problem of the area. [...] If a girl is picked up on a certain street yes, I have to say it is kind-of predetermined in the sense that because you'll find the girls in this area [Hochelaga-Maisonneuve], in this quadrant, anywhere within these streets [...] you'll find a woman, you'll find a girl, so it will be, it is kind of predetermined, the streets [of the *quadrilatère*], but it's actually getting to the root of the problem where you will find the girl. So yes, it is predetermined in a sense, but it actually, the way you extend it, it will correspond to where the girl is. They will not give a street that doesn't have problems [...] over here [in Hochelaga-Maisonneuve the] major boulevards that run east-west are [rue] Sainte Catherine, [rue] Ontario, [rue] Hochelaga, we have no problem on Hochelaga so they won't give them until Hochelaga, they'll give them between Ontario and Sainte Catherine.

Researcher: And so the areas are chosen based on knowledge of a problem with the street trade?

Participant: Yes, yes, exactly. (SPVM Participant, 2011)

*Quadrilatère* conditions must be relevant to the location where the accused was caught sex working, but also to the extent of the "prostitution problem" of the area. Police officers choose the size and boundaries of an individual's *quadrilatère* based on prior knowledge and observation of the area in which a sex worker was picked up (SPVM Participant, 2012). There are certain areas and streets where the SPVM know prostitution is common. To determine a sex worker's *quadrilatère* a MAN officer will start with a certain

street or area in mind for the boundaries of the restriction, based on the level of trade activity in the area, and then additionally consider an individual's past criminal history. If the person has been picked up a number of times in that area they will often receive the whole borough as their *quadrilatère* (SPVM Participant, 2012). An officer can technically issue a *quadrilatère* large enough to span multiple police station communities as long as it is justified (SPVM Participant, 2011 and 2012). For example, if a sex worker is picked up in PDQ 23, MAN will typically use that community as the *quadrilatère*, but if the sex trade is a major problem or if the individual has a long record of prostitution-related offences, then police are justified to give a larger area (SPVM Participant, 2012).

Sometimes an individual must live with a very large area restriction because they hold multiple *quadrilatères* at one time, from different run-ins with the police. If a sex worker is

picked up [by police] in the South Central [...] they won't give her conditions in the north and same thing [*vice versa*]. So [then she'll move to another area because she knows she cannot work in her *quadrilatère*] and if she gets picked up, well then they'll give them conditions. So they won't impose other quadrants, other red zones, even if the person is problematic they won't impose [...] a red zone [that is irrelevant to the specific crime she is currently arrested for] if she gets picked up in another zone. (SPVM Participant, 2011)

By moving to areas outside of their *quadrilatère* to keep working without risking a breach charge, sex workers qualify themselves for area restrictions from more areas. Thus, a sex worker with numerous *quadrilatères* can be restricted from very large portions of the island of Montréal. The community agency worker was aware of sex workers having conditions “that include the island of Montréal. So, literally, women have a complete interdiction of being on the island” (Montréal Community Agency Participant, 2011).

### Common *Quadrilatère* Areas

Participants identified a number of areas in Montréal as common for street sex work activity. However, the neighbourhoods named by the two participants differed somewhat, indicating the police may not receive as many complaints about some areas, or that the level of activity is just too low or out of the way to incite police attention.<sup>66</sup> The community agency participant identified five common areas for street sex work:

The [area historically known as the] Red Light District, there's Centre-Sud, but there's always been a number of neighbourhoods that have [street sex work] because it's a big city. So there's always been a little bit of prostitution in Saint Henri, and in Verdun or Pointe Saint Charles. And there's always been a little bit of street prostitution up north of the city. (Montréal Community Agency Participant, 2011)

The interviewed police officer identified four Montréal areas as common for street sex work

Station 23 Hochelaga-Maisonneuve [which is identified as having “the most” street sex trade activity and 60-70 sex workers], then there's Station 21 [serving Centre-ville, île Notre-Dame, île Sainte-Hélène, and Vieux-Montréal] and Station 22 [Centre-Sud] is [...] more central, it's more downtown. And station 22 is where you'll have some male prostitutes, and Station 21 you'll have some prostitution as well, but more, it's more indigenous [... there is a higher population of Aboriginal people in that area]. And then in the north of the area you have Station 33 [Parc-Extension], it's very small [...] You'll have some prostitution, it'll be minor, like two or three women. That's about it. (SPVM Participant, 2011)

From these accounts it is clear that street sex work in Montréal regularly occurs in multiple neighbourhoods, however *quadrilatères* are more often used in Hochelaga-Maisonneuve, Centre-Sud and Centre-Ville.

Hochelaga-Maisonneuve in particular has a reputation for prostitution “and a lot of prostitution on the street” (SPVM Participant, 2011). It seems to be the most actively enforced sex work area and “is residential, and [...has] a lot of children and a lot of schools”

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<sup>66</sup> The researcher has tried to match up the areas discussed by the participants, however, it is possible that there is variation in what each participant considers the neighbourhood boundaries to be. Since I am not familiar enough with Montréal's neighbourhoods, I have presented the two lists instead of only the areas presumed to be the same.

(SPVM Participant, 2011). The police station in Hochelaga-Maisonneuve receives a high volume of calls. The interviewed officer explained:

The conditions [are] a consequence of the pressure that the police have to go and clean it up [...] and so if we see that one particular area is, one particular corner is really problematic, we'll transfer that information to vice squad, they'll work it, and then the conditions will be imposed following that [undercover operation]. There are a high number of calls, I don't think it affects the red zone, it doesn't affect the condition but due to those complaints [they are imposed]. (SPVM Participant, 2011)

Within the common *quadrilatère* areas are “almost all of the health and social services resources” on the island of Montréal and are communities identified as largely “working class and poor residential areas” (Montréal Community Agency Participant, 2011). Although “there are services in other parts of the island,” the larger or more wide-ranging services are typically within *quadrilatères* (Montréal Community Agency Participant, 2011). Also, many sex workers live within the common *quadrilatère* areas, as “there are large social housing projects that are in the red zones. So if somebody's in social housing they're not automatically within their red zones, but there's a decent chance because there are very many large social housing projects in the Centre-Ville and Centre-Sud, which are all of the red zones” (Montréal Community Agency Participant, 2011).

After comparing accounts from the two participants, there are some areas outside of the common red zones where street sex work is largely not targeted by *quadrilatères*. “I can say Pointe-Saint Charles for example is not in most people's red zones, but there has been some sex work in Pointe-Saint Charles probably for the past 100 years,” although the amount of sex trade activity has remained small (Montréal Community Agency Participant, 2011). This potentially identifies these neighbourhoods as tolerance zones for the sex trade. However, the agency worker added that “the minute that there's neighbourhood uprising

against sex work or drug use, the repression begins in earnest” (Montréal Community Agency Participant, 2011).

### **Frequency of Use: *Quadrilatères* and Breaching**

Both participants communicated that there are regular seasonal patterns for when prostitution-related laws are enforced via undercover operations. At these times, *quadrilatères* are issued to sex workers. Statistics pertaining to how many area restriction conditions or breaches are issued to sex workers were not available but participants could provide some information.

*Quadrilatères* appear to be *the* tool used in Montréal to manage the street sex trade. When asked how often people charged with prostitution-related offences receive these conditions, the officer stated “Every time they’re picked up they’ll be given a condition. They’ll either be given a quadrant, or, they’ll be given a quadrant and [a curfew ...] like, they can’t be on the street during an hour [a certain timeframe]” (SPVM Participant, 2011). Further, the agency worker explained that if, for whatever reason, a sex worker did not receive a *quadrilatère* directly from the police, they would receive one at some point as their case moved through the criminal justice system.

If they’re picked up [...] it’s almost automatic that they’re red zoned. It’s that common. But, at one of those four stages [by the police, by judge pre-trial, by judge at sentencing, and release from prison] right? So it may not be automatic that they’ll get one from the police, but chances are that they’ll get one from the judge. (Montréal Community Agency Participant, 2011)

Discretion around enforcing the breach of *quadrilatère* conditions seems to vary by individual police officer, time of year, and mandates according to developments or events happening within an area.

It’s difficult for us to know [how often sex workers get charged with breaching their *quadrilatère*]. What we can say anecdotally is that breach conditions have

been a very common reason for repressing people, but as I've said before, it's not automatic. It depends on the police [officer], or their under pressure from the municipal government to clear out a neighbourhood for X, Y, Z. Or due to X or Y political things. It can be automatic. They can randomly decide that they're just going to do it because they've decided that that's what they're going to do every week and for X or Y weeks, but generally it's in conjunction with the pressures in the neighbourhood and the municipal government. (Montréal Community Agency Participant, 2011)

The interviewed officer explained, "I enforce a lot of conditions [...] but I have to admit, sometimes I do, I might look the other way, you know, it depends on the situation. But the girls know I have a job to do and I think there's some sort of, there's a mutual respect" (SPVM Participant, 2011). The community agency participant affirmed that "oftentimes [the police will...] be tolerant. Like, the cops won't necessarily pick up women on [conditions], they wait until it's strategic. So they won't constantly necessarily pick up women on conditions, unless they've decided that it's needed, unless they're mandated to do so" (Montréal Community Agency Participant, 2011).

Based on this information, it appears that the SPVM are less keen to charge a sex worker with a breach of conditions than they are to issue a *quadrilatère*. It is possible that this is because a different police group is typically involved with each of these processes, and are thus working according to different mandates. MAN will work in an area specifically to conduct an undercover operation and thus impose *quadrilatère*, while the police from the community station, who likely have more of a rapport with the sex workers in the area, must then enforce the *quadrilatère*. This is only speculation, however, and would require further inquiry.

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# UNDERTAKING TO A PEACE OFFICER OR AN OFFICER IN CHARGE

☐ Adult ☐ Young offender\*

OCCURRENCE NUMBER

SECTIONS 463, 468 AND 503 OF THE CRIMINAL CODE, CANADA, PROVINCE OF QUEBEC, Judicial District of Montréal

I, NAME OF ACCUSED FIRST NAME OF ACCUSED SEX OF ACCUSED  
OF ADDRESS POSTAL CODE PROFESSION  
DATE OF BIRTH YYYY MM DD UNDERSTAND THAT IT IS ALLEGED THAT I HAVE COMMITTED (set out substance of the offence)

In order that I may be released from custody by way of a promise to appear or a recognizance entered into before an officer in charge, I undertake to:

- ☐ a) remain within (designated territorial jurisdiction) \_\_\_\_\_
- ☐ b) notify (name of peace officer or other person designated) \_\_\_\_\_  
of any change in my address, employment or occupation;
- ☐ c) abstain from communicating, directly or indirectly, with (name of victim, witness or other person) \_\_\_\_\_
- ☐ or from going to (name or description of place) \_\_\_\_\_  
except in accordance with the following conditions: (as the peace officer or other person designated specifies) \_\_\_\_\_
- ☐ d) deposit my passport with (name of peace officer or other person designated) \_\_\_\_\_
- ☐ e) abstain from possessing a firearm and to surrender to (name of peace officer or other person designated) \_\_\_\_\_  
any firearm in my possession and any authorization, licence or registration certificate or other document enabling the acquisition or possession of a firearm;
- ☐ f) report at (state times) \_\_\_\_\_  
to (name of peace officer or other person designated) \_\_\_\_\_
- ☐ g) abstain from:  
i) the consumption of alcohol or other intoxicating substances, or  
ii) the consumption of drugs except in accordance with a medical prescription.
- ☐ h) (indicate any other conditions that the peace officer or officer in charge considers necessary to ensure the safety of any victim or witness of the offence) \_\_\_\_\_

I understand that I am not required to give an undertaking to abide by the conditions specified above, but that if I do not, I may be kept in custody and brought before a justice so that the prosecutor may be given a reasonable opportunity to show cause why I should not be released on giving an undertaking without conditions. I understand that if I give an undertaking to abide by the conditions specified above, then I may apply, at any time before I appear, or when I appear, before a justice pursuant to a promise to appear or a recognizance entered into before an officer in charge or another peace officer, to have this undertaking vacated or varied and that my application will be considered as if I were before a justice pursuant to section 516 of the Criminal Code. I also understand that this undertaking remains in effect until it is vacated or varied. I also understand that failure without lawful excuse to abide by any of the conditions specified above is an offence under subsection 145(5.1) of the Criminal Code. Subsection 145(5.1) of the Criminal Code states as follows:

«(5.1) Every person who, without lawful excuse, the proof of which lies on the person, fails to comply with any condition of an undertaking entered into pursuant to subsection 495(2) or 503(2.1)  
a) is guilty of an indictable offence and is liable to imprisonment for a term not exceeding two years; or  
b) is guilty of an offence punishable on summary conviction.»

Dated this \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_

at \_\_\_\_\_ hours, at \_\_\_\_\_

SIGNATURE - ACCUSED

SIGNATURE - RANK/RADGE NUMBER - UNIT  
(OFFICER IN CHARGE OR AUTHORIZED PEACE OFFICER)

\*NOTICE TO PARENT PURSUANT TO SECTION 9(2) OF THE YOUNG OFFENDERS ACT. Please take notice that it is alleged that

\_\_\_\_\_ has committed \_\_\_\_\_

and that he has promised to attend Court on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ at \_\_\_\_\_ hours, in courtroom number \_\_\_\_\_ at the Cour du Québec, Chambre de la jeunesse, 410, Bellechasse East, in Montréal.

He has the right to be represented by counsel at his appearance.

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VERSION FRANÇAISE →

Montréal

**Service de Police de la Ville de Montréal CIRC Print-Out (the  
Information Received by Community Police Stations when the Morality  
Squad Issues an Area Restriction**

PAGE 05

- 3) DEMEURER AU [REDACTED] MONTREAL.
- 4) NE PAS ALLER DANS QUADRILATERE PIE-IX, BERRI, SHERBROOKE, NOTRE-DAME.

DOS: 111-127-122

DETENTEUR DE LA FICHE

PQ30217 SPVM COUR MUNICIPALE 514-280-3019 2011-10-13 12:45

**\*\*ACCUSE\*\***

ATTENDRE DECISION EXP: 2013-10-13

INF (MN)

DINF

- 1) CC 213(1)C)

NDC: 111127114

DESCRIPTION DE LA CONDITION

- 1) EVE. 22-111007-028
- 2) GARDER LA PAIX & BONNE CONDUITE.
- 3) DEMEURER AU [REDACTED] MONTREAL.
- 4) NE PAS ALLER DANS QUADRILATERE PIE-IX, BERRI, SHERBROOKE, NOTRE-DAME.

Requête : 5229956

NOTE:

Date : 20111128 075703

Terminal : 2587

Identifiant : SP185

Impression : 2011-11-28 08:01:06

PAGE 06

DOS: 111-127-114

DETENTEUR DE LA FICHE

PQ30217 SPVM COUR MUNICIPALE 514-280-3019 2011-10-13 12:44

\*\*DECISION JUDICIAIRE\*\* PROBATION

DEV: 2011-08-05 EXP: 2013-08-22

INF (MN)

1) ART 733.1(1)B) C.CR

DESCRIPTION DE LA CONDITION

- 1) EVE 23-110419-029
- 2) GARDER LA PAIX ET AVOIR UNE BONNE CONDUITE.
- 3) AVISER LA COUR DE TOUT CHANGEMENT D'ADRESSE, NOM, EMPLOI OU OCCUPATION.
- 4) NE PAS CONSOMMER D'ALCOOL OU DE DROGUE SAUF SUR PRESCRIPTION MEDICALE.

DOS: 111-089-116

Requête : 5229956

Date : 20111128 075703

Terminal : 2587

Identifiant : SP185

Impression : 2011-11-28 07:58:15

NOTE:

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## **APPENDIX I- Report on Ottawa, Ontario and Red Zones**

Canada's capital has a population of approximately 1 239 100 and has its own municipal police agency, the Ottawa Police Service (OPS).<sup>67</sup> The arrest and release area restrictions are commonly referred to as "red zones" or "boundaries" and are applied using the Province of Ontario's Form 11.1, *Undertaking Given to a Peace Officer or an Officer in Charge*, section C (OPS Participant email correspondence 2011; see end of report for form). The interviewed police officer made it very clear that "red zones are not just for prostitution [...] A red zone is not a prostitution term" and identified "red zone" as the term used to clarify the conditions placed on an undertaking, which is attached to the release document (OPS Participant, 2011). Documents given at point of release outline an individual's court date ("summons for court"), "fingerprint dates" and the conditions of their release (the undertaking). In Ottawa, police use red zones on a variety of street-level or nuisance crimes, such as drug-related charges, mischief, break-and-enters or theft.

The sources informing this report include: formal interviews and follow-up communications with the two community agency worker participants and an officer with the Ottawa Police Service; publications by POWER; the Form 11.1 release document; and a few media articles.

### **Creation and Implementation**

There do not appear to be records of when OPS started using area restrictions as a condition of release. Although the police officer could not confirm when red zones were implemented, he could say that OPS have been using them for at least 15 to 20 years.

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<sup>67</sup> Statistics Canada collects its census data for the Ottawa-Gatineau metropolitan area, however this thesis only considers the city of Ottawa, the same area served by the Ottawa Police Service.

I didn't have the research capacity to find out when undertakings were created [...] so I talked to some of the guys who trained me and I asked them [...] "You guys were doing red zones as I was starting as an officer" [...] and they were like, "yeah, we've always done them." So you're looking at 20 years and I can almost guarantee you it's a minimum. (OPS Participant, 2011)

This includes police use of red zones on street sex work and any other illicit activity.

The community agency workers had the impression that red zones started being used on street sex workers as recently as 2008 or 2009. As one explained,

In 2006 [...] I didn't hear much about red zones [...] but] when I came back in February 2009 red zones were in play. They were problematic and it appeared to be new and I remember asking an officer at the time, "What's with these red zones?" and [the police officer] said "Oh, they're only for trafficking charges, they wouldn't come into play with sex work." And then very quickly I noticed, no, it was sex work. The women who had the red zones [...] they weren't traffickers or they weren't charged with trafficking. [...] So I think it was a technique that was used for trafficking and then in 2008 it became a strategy for sex work. (Ottawa Community Agency Participant 1, 2011)

The other participant agreed, stating that a long-time defence lawyer in Ottawa had explained that "the ability to have a red zone has been around for quite a while, but [...] it wasn't used for sex work very much. Like, it seems it's been the past five years that it's gotten really popular here in Ottawa, definitely more recently out of those past five years" (Ottawa Community Agency Participant 2, 2011).

There is clearly discrepancy over when OPS started using red zones on street sex workers. The interviewed officer acknowledged that Ottawa agencies have "accused" the OPS of recently implementing area restrictions and enforcing breaches. However, the officer emphasized that neither practice is new and further, that they are not red zoning or breaching any more than they ever have. "Whatever they think is a new push since any, sort of, relevant media has caused a light to shine on it is totally not accurate. It's been status quo. It always has been" (OPS Participant, 2011).

Both community agency participants believed that the implementation of police-imposed red zones in Ottawa was a collaborative effort between OPS, residential and business community groups and Crime Prevention Ottawa. The police representative expressed that it is a Federal document, found in the *Criminal Code*, available to police services across the country. Specific details about the implementation of red zones in Ottawa were not known to participants, however, both community agency workers offered theories for how they came to be used on street sex work. One agency worker explained:

It seems as though police have been experimenting at implementing the tools they have in terms of what's available to them in the criminal justice system to address the issue of street prostitution. And they're very clear that they're addressing street level prostitution [...] So they're just using what they have at hand. And I think they strategize, like they meet with Crime Prevention Ottawa and they meet with other police chiefs but I think they just learn and grow and try to address this issue as best they can with new tactics as to how they're going to do it. (Ottawa Community Agency Participant 1, 2011)

This implies that the red zone strategy was an idea learned from another police service. A lawyer had informed the other agency worker that “when it [red zones] started it was in the Market because it involves a lot of touristy things [...] and it was sort of used as a tool to ‘clean it up’ a little bit [...] that was the technique and then it’s being used now in other areas where this is happening. [...] The use of it spread” (Ottawa Community Agency Participant 2, 2011). The implementation of red zones in other Ottawa communities was linked to “the process of gentrification” where “there’s been a strong push from the community associations [...] to clean up the neighbourhood [...] to get rid of certain people and certain types of activity” (Ottawa Community Agency Participant 2, 2011).

### **Issuing a Red Zone: Policy and Practice**

All participants explained that there is no longer an active “male stroll” in Ottawa (or at least not active enough to incite complaints) where male street sex workers collect to work

and there seem to be very few transsexual sex workers on the street. Participants could not identify any male sex worker having been issued a red zone for sex working. The officer recalled having put two transsexual sex workers on red zones, both of which work in the same areas as female sex workers and self-identify as women. Based on this information, red zones target any sex workers in the areas common for female sex trade.

One of the interviewed community agency workers had the impression that police use red zones when a sex worker has a previous criminal record for a prostitution-related charge, “usually when it’s their, like, second time getting picked up.” This, however, is not necessarily the case. The police participant explained that officers will typically impose red zones when there is a repetition of that *crime* in an area, regardless of whether or not the accused has a previous prostitution-related conviction.

Usually we look at a red zone when there’s repetition. So, in order to prevent that repetition and, you know, the reoccurrence of it. That’s when we really start to look at the red zone at that location. [...] if it’s in a brand new neighbourhood [for street prostitution] then it may or may not be applied because usually when we’re applying the red zones in certain areas it’s because they’re identified as areas that have a problem-call ratio. We get a lot of calls for it, [...] it’s a huge issue for the community so then it becomes such a, like, if that prostitute is from Montréal [Quebec]. First time. Well, they’ll still get the red zone [...] it’s a reflection of that neighbourhood’s concerns [...] in that neighbourhood, people in the community have said “this is a huge problem for us.” It could be a first-timer from out of town, we’ll red zone them from that neighbourhood. (OPS Participant, 2011)

Upon charging a sex worker under *Criminal Code* section 213.(1)(c) for communicating for the purposes of prostitution in a public place, the arresting officer must determine whether or not the sex worker is eligible for release from custody.

The first thing we do when we’ve got the person is [establish] “are they even a candidate to be released at the scene?” Yes or no. And the vast majority are not. They’ve been re-offending for years. They’re crack-addicted people. These are people who’ve had issues for many, many years. [...] we have to check their mental health too. Are these people so high that they need medical assistance? We have to- we go through a very quick analysis. [...] The vast majority [...] are

going to be held [in police custody] for the morning show-cause. They're not going to get released, they just don't fit the criteria for release. (OPS Participant, 2011)

In Ottawa a sex worker will not be released at the scene if a police officer has reason to believe "that the person won't abide [by conditions of release], or the person will repeat the event because the conditions [available to police officers] aren't applicable," or that medical assistance is required (OPS Participant, 2011).

When a sex worker needs medical attention or is eligible for and agrees to take part in the STEP diversion program, they are brought to the central police station<sup>68</sup> and in the morning they go before a justice of the peace at show-cause court. An officer typically requests that the individual be held until trial if they are breaching other conditions, however "most of the time they're released" by the justice of the peace (OPS Participant, 2011).

If a sex worker does qualify for release after quick police assessment of their physical health, mental health, criminal record and whether or not they are breaching conditions, they are given the option to accept their conditions of release and the necessary paperwork. The police officer outlined the release process:

if they do fit the criteria, then we give them the paperwork. "Here's your Promise to Appear and here's your undertaking with your conditions." [...] If they're from out of town we'll give them [...] a Recognizance. It's [essentially] the same thing as a Promise to Appear. It's a release document. "This is when your court dates are, the other piece of paper is where your issues are." [...] we drop them off outside of their red zone. [...] We show them physically, we'll draw the map for them if we have to. "This is your red zone." [...] they have to agree to it, at the scene, if they want to be released. So I'm going to tell them, "this is not about pleading guilty, it's not about agreeing that you're being charged, but you have to agree to abide by these conditions and if you don't, if you object to them, which is fine, you go before a judge." [...] it's just saying "yeah, okay, I acknowledge

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<sup>68</sup> The police officer explained that before doing "sweeps," OPS usually coordinate with the Sex Trade Education Program, a diversion program for street sex workers: "we'll try to have a STEP representative here to speak to the girls about do they want to do Jane School, what's their issues, like addictions, and we'll get them some help" (OPS Participant, 2011).

that you've given me these papers and I acknowledge that I've read these things and that I am to abide by them until my court date." (OPS Participant, 2011)<sup>69</sup>

If a sex worker accepts the undertaking conditions they are released until their first court appearance. To release an individual on a red zone an Ottawa police officer fills out the latter portion of section (c) on the Province of Ontario's Form 11.1, which states "... or from going to" (see form at end of report) and the officer identifies four street names to define the boundaries of the red zone. Instructions for how to vacate or vary undertaking conditions are included on the Form 11.1, as well as a warning about the legal consequences of breaching their conditions.

### **Terms of a Red Zone Condition & Exceptions**

When police officers release an individual on a red zone, it is a comprehensive condition that the individual not re-enter the restricted area. "When it's a red zone condition, it is a 24/7 one" (Ottawa Community Agency Participant 2, 2011). Ottawa police officers either do or do not impose a red zone, they do not include exceptions with the issued red zone. "More than 99% of them are just, they're done. That's it. [...] There can be exceptions, though. For example, like, 'except to attend a' [...] but not on us. A judge will make the exceptions" (OPS Participant, 2011). The undertaking form appears to have a space for officers to include exceptions to the area restriction where the form says "except in accordance with the following conditions:" (see end of report). However, the police representative made clear that Ottawa officers "cannot change the undertaking" by including exceptions to the terms of the red zone (OPS Participant, 2011).

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<sup>69</sup> A Promise to Appear is Form 10 in the *Criminal Code* and a "Recognizance" is Form 11—Recognizance Entered Into Before an Officer in Charge or Other Peace Officer. Both are defined in section 493 of the *Criminal Code*.

It seems the OPS have the ability to make exceptions to an individual's red zone conditions but that they do not make use of this option because it renders the restriction too difficult to enforce. In Ottawa, an individual is not even allowed to go through their red zone while in transit:

You're not allowed to- no, you have to accommodate your plans [...] find alternative [bus] routes because [...] that's no exception to the rule. Because then you can't enforce it. They can say, 'Oh, well I just got on the bus' or 'I'm just waiting for a transfer.' There's too many ways to breach, and for me not to be able to enforce the exception of travelling through. (OPS Participant, 2011)

The officer recognized that individuals on red zones "still take their chances, though. They know their red zone but they'll still take a bus through. [...] they will breach" because the odds of being caught are low (OPS Participant, 2011).

While this condition seems harsh, Ottawa has a policy around court- and police-imposed red zones that individuals cannot be restricted from the area in which they live. As the police officer stated, "that applies to anybody. [...] prostitutes don't get red zoned from where they live. [...] nobody gets red zoned from where they live. That's impossible. That's just not a valid red zone" (OPS Participant, 2011). If a sex worker was picked up by police for sex working in the same neighbourhood as they live and qualified for release, the police officer would most likely give them a different undertaking condition since the red zone would be invalid, or would not stand in court. As the interviewee emphasized, "the undertaking is not just red zones. The undertaking is several types of conditions. We look at curfews, we look at non-associations if we can, weapons restrictions" (OPS Participant, 2011).

Even with that policy in place, the officer recognized that mistakes get made and that community agencies often identify red zoning sex workers from where they live as an issue.

POWER's *Challenges* Report (Bruckert and Chabot 2010) and a news article (Mckinnon Apr. 15, 2010) offered accounts of sex workers being red zoned from where they live. The officer explained that this is a rare occurrence because of the efforts typically made to ensure it does not happen. If and when it does happen, it is a mistake by the officer who issued the red zone.

Certain officers may have inexperience in how they've dealt with red zones. They may have done it inappropriately, but [...] that would be just out of misunderstanding. [...] there's experienced and there's inexperienced people, right, in any profession. And mistakes get made. The biggest one we get challenged on is [...] "you're red zoning girls from where they live." And again, that's total crap. We ask "what's your address?" And they'll say "it's here." So we red zone them from that area and then they turn around and say "nonono, I live here." We're like, "no, we know you live there. I dropped you off there, I confirmed you live there." They right away want to challenge the red zone [...] because it's such a desire to get back into the area. [...] They don't live there. I, we wouldn't- could it happen? Yes, but again, out of inexperience. [...] It's an invalid. If we did confirm they live there, they'd [the red zone would] be invalid. You just can't do it. Even a judge can't release you [on a red zone from where you live ...]. You just can't do it. [...] administratively it can happen, but it's an error. (OPS Participant, 2011)

### **Breaching a Red Zone**

As the officer identified, people do not or cannot always respect their red zone condition and will re-enter the area for a variety of reasons. "I'd like to credit the red zones for being effective and super awesome but they [sex workers] don't always abide. They're not a force field. So, it has to do with the girls" (OPS Participant, 2011). When a sex worker is charged with breaching their conditions they are detained until they can be seen by a judge. Sentences for breaches have been seen to range "anywhere from a couple days to [...] a couple years," and a previous record for breaching release conditions typically earns longer sentences, "the more you get, the more harsh they're going to be with you in court" (Ottawa Community Agency Participant 2, 2011).

### **Determining an Individual's Red Zone**

In Ottawa, red zones for street sex workers are not pre-determined and instead depend on a number of factors that a police officer considers on a case-by-case basis when choosing an individual's red zone. For one, the red zone has to be relevant to the location of the crime in order to be valid, meaning that "the criminal event has to have occurred in that area [...] I just can't red zone somebody from an area when the event didn't happen there" (OPS Participant, 2011). To decide the boundaries of a sex worker's red zone an officer also considers the geography of the location, the services used by an individual, where the sex worker lives, and the complaint structure around street sex trade in that community.

It's a community, right. [...] and we understand their need to be [in certain areas for] shopping or whatever, so we look at the geography. Sometimes we pin-point it to a small area, but sometime we try to encompass a greater area if we can. Like sometimes we'll try to encompass an entire neighbourhood, but that might not be applicable if the person lives there. So we'll restrict the movement, but in order to identify the community's need. [...] it's a case by case. And we have to dissect it like that. (OPS Participant, 2011)

Police officers are aware of the neighbourhoods and communities they receive complaint calls from. Specific details and the volume of these complaints are referred to as "complaint structures." Using a few Ottawa communities as examples, the officer explained how complaint structures factor into the size of a sex worker's red zone: If a sex worker is

picked up in Vanier, then Vanier's fair game for the entire Vanier area. [...] because prostitution occurs in all of that neighbourhood. [...] if they don't live there, that entire quadrant is fair game for banning them. Because [...] if I picked them up on the North side, the chances of them not working on the South side is slim. They do have some turf, but they are pretty mobile. They'll go anywhere in that area, [...] even if] they live in Hull, Gatineau [Quebec], and they come over and they're in Vanier. I'll ban them from all of Vanier [...] because [...] from North to South, east to West, that entire community complains about prostitution. So that's applicable. But I won't ban them from Orleans [...] because there's no one complaining in Orleans. If I caught them in an area of Orleans, which we don't, but let's say we did, then I would have to check the call patterns. "Are we getting complaints for this?" It has to be applicable. And I probably would apply

a certain zone, but it would have to be pretty specific because we don't have a stroll over there. (OPS Participant, 2011)

A community's complaint structures can limit or expand the size of an individual's red zone.

Ottawa's common red zone areas are recognized areas from which the police receive "definitive, quantitative amounts of complaints that result in us looking at that [neighbourhood or area] as a stroll. And from our own experience when we're doing our sweeps, it results in and yields more arrests. So it's all verifiable" (OPS Participant, 2011).

It is also possible for an individual to have multiple red zones at one time. "If an individual is charged in one area (and then given a 'red zone') and then is found committing another offence in a different area, then they can be given a different red zone. This is all assuming that the subject has been properly screened, after being caught" (OPS Participant email correspondence, 2011). As an agency worker explained, "people move around when they're banned from an area so I have had a significant number of clients who have been banned from all of" the three most common areas of red zones for sex workers.

### **Common Red Zone Areas in Ottawa**

In Ottawa there are three or four areas identified as common for street sex trade activity: the Byward Market, Vanier and Overbrook, Mechanicsville- Gladstone Avenue- Bell Street (referred to as the Centretown area by the community agency workers), and Merivale Road. These four strolls are the most common areas that police receive complaints from, and so officers are familiar with the extent of the complaint structures there. Those complaints are what police try to address through use of red zones. As mentioned above, red zones can be used outside of these areas but their boundaries must be more limited, or smaller, in order to be relevant to the complaint structure of the area.

The Byward Market is downtown, roughly from “Sussex [Drive] to Rideau [Street] to the [Rideau] River to St. Patrick [Street]” (Ottawa Community Agency Participant 2, 2011). This neighbourhood has “quite a bit” of street prostitution and is a high density area with a lot of traffic and entertainment businesses (OPS Participant, 2011). The police officer explains that it also has Ottawa’s “shelters, which is where prostitutes mostly come from, is from the women’s shelter at Murray [Street] and [...] King Edward [Avenue... and] there’s a big chunk of subsidized housing in Lowertown East, which is right next to the Market ” (OPS Participant, 2011). Although the Byward Market was previously a “high end stroll,” the police officer said that the prostitution in the area now is very much driven by drug addiction, and specifically crack (OPS Participant, 2011).

Vanier is from “the [Rideau] River, sort of along North River Road, sometimes they have Montréal [Road] as the boundary, sometimes they include both sides of Montréal Road and generally up until St. Laurent [Boulevard]” (Ottawa Community Agency Participant 2, 2011). The officer said there is “quite a bit” of street prostitution in Vanier, and the area was characterized as being “mostly a community” with some business, as having a high rate of absentee landlords, low property values, and Ottawa housing. These factors were seen as contributing to the amount of sex trade activity in the area (OPS Participant, 2011).

Interview participants identified two different red zone boundaries in the Mechanicsville- Gladstone Avenue- Bell Street area (Centretown). For the agency workers, the common red zone area was “sometimes as far up as Elgin [Street], but it’s usually Bank [Street], Gladstone [Avenue] to Parliament [on Wellington Street] and then out to like, Parkdale [Avenue]” (Ottawa Community Agency Participant 2, 2011). For the police officer the area was within “Somerset [Street West], Gladstone [Avenue], Bronson [Avenue] up to

Parkdale [Avenue], not quite that far (OPS Participant, 2011). The officer labelled this stroll “pretty light” and “almost completely dried up,” meaning that it does not have as much street sex work activity as the other locations, despite having “a lot of rooming houses [... and] crack in that area” (OPS Participant, 2011).

The Merivale Road area is “a big neighbourhood” with “a high density of Ottawa housing” and commerce on Merivale Road itself (OPS Participant, 2011). The police officer identified it as having socio-economic issues that contribute to the street sex trade.

There were some areas outside of the common red-zones where street sex trade has been collecting. At the time of interview the agency workers had not yet seen these areas included in red zones. One location had “a lot of sex work going on” (Ottawa Community Agency Participant 2, 2011). The officer identified another area from which complaint calls are received a few times annually. “East of Vanier, up and down Montréal Road” and into “the Gloucester District, or East Division [...] and those are probably girls that we’ve put on conditions so they just try and stay outside of it, a little bit” (OPS Participant, 2011). The OPS send officers to check the area but there is not enough activity or complaint to warrant an uncover operation. These areas seem like unintended tolerance zones, but as soon as there is enough complaint to put them on police radar they will become targeted by OPS intervention. The officer made it clear that there are no areas in Ottawa where police “turn a blind eye” to street sex work. Such an idea was dismissed as “a very destructive attitude to have because you lose that area” once you stop enforcing it (OPS Participant, 2011).

#### **Frequency of Use: Red Zones and Breaching**

The officer expressed that street sex workers are put on red zones “as often as possible. I can tell you that [...] As long as they meet [the criteria] for putting it on, we’re

putting it on. We should be putting it on” (OPS Participant, 2011). The officer situated this response within the level of complaint received from communities about street prostitution:

The complaint is from the community, [...] the community directs us. [...] We get tonnes of complaints, we’re driven by that. That’s our mandate [...] that’s how we serve the public. So, it’s a reflection of the community’s concern, they don’t want it there, it’s a very self-destructive and anti-social behaviour. They don’t want it there, it leads to all other facets of crime from robberies to, you know, thefts from vehicles, to cr- obviously starting from crack cocaine use and that’s why the community doesn’t want it there. It’s dangerous. (OPS Participant, 2011)

Although the officer could not offer statistical data it was made clear that red zones are *the* tool for policing the street sex trade right now in Ottawa. The officer gave the impression that it was rare for a sex worker to *not* receive a red zone. “If you’re suspicious that it’s a lot, it’s a fact. I can guarantee it [...] I’d be questioning if we didn’t put on a red zone. The first thing I’d say is ‘why?’ and [...] I would review the file if I saw that it didn’t have it on” (OPS Participant, 2011).

A high percentage of street sex workers get caught breaching their red zone, and the police officer seemed to be under the impression that only a small percentage of those who receive red zones do not breach. “They’re not breaching 24/7, but they’ll breach their red zone when they’re trying to get money, like, when they’re trying to turn tricks. The rest of the time they’re trying not to breach and they are cognisant of it” (OPS Participant, 2011). The police officer identified an individual’s drug addiction to be a strong motivating factor for breaching their red zone condition. “It’s the crack that fuels them, right. [...] that’s why we recommend that they not be released [at show cause] because they’re going to breach. [...] The addiction drives you, you don’t care about the criminal charge. You go for it [and enter your red zone, risking the breach]” (OPS Participant, 2011).

The community agency workers identified occasional police discretion to avoid charging sex workers for breaching red zone conditions, likely because an individual charged with a breach is kept in police custody until they can see a judge and typically receives jail time.

I guess there's a difference between getting caught by the police and getting breached. Sometimes when they're caught the police officers will give them a break and say [...] 'I'll give you 10 minutes to get out of your red zone and I'm going to follow you while you do that' or 'if you make it to the shelter over there and stay there the night we'll forget about this' or 'I'll drive you home and we won't think about this night ever again.' So there definitely is some of that [police discretion]. (Ottawa Community Agency Participant 2, 2011)

However, the community agency workers also identified that according to OPS statistics the rate of breaching has been increasing "and there was a statement made by Chief Vern White that that's because this is a new tool that they are using, so it's going up because they are doing it more. They're breaching more and using that discretion piece less" (Ottawa Community Agency Participant 2, 2011).

# **Form 11.1 Undertaking used by Ottawa Police Service (also used by Greater Sudbury Police Service)**

**UNDERTAKING GIVEN TO A PEACE OFFICER OR AN OFFICER IN CHARGE**  
**PROMESSE REMISE À UN AGENT DE LA PAIX OU À UN FONCTIONNAIRE RESPONSABLE**

CANADA  
PROVINCE OF ONTARIO  
PROVINCE DE L'ONTARIO

Form / Formulaire 11.1  
Sections / Articles 403, 492 and / et 503

(Region / Région) \_\_\_\_\_ Case/File No. / N° du dossier/casier \_\_\_\_\_

I / Je, moi, \_\_\_\_\_ (date of birth / date de naissance) \_\_\_\_\_

of / de \_\_\_\_\_

occupation / profession ou occupation \_\_\_\_\_

understand that it is alleged that I have committed (et/ou substance of the offence) / Je comprends qu'il est allégué que j'ai commis (Indiquer l'essentiel de l'infraction) \_\_\_\_\_

In order that I may be released from custody by way of (a promise to appear or a recognizance entered into before a peace officer or an officer in charge),  
Afin de pouvoir être mis en liberté, je m'engage, par (celle promesse de comparaitre ou cet engagement contracté devant un agent de la paix ou un  
I undertake to (insert any conditions that are directed) / fonctionnaire responsable) (référer toutes les conditions qui sont fixées) :

(a) remain within \_\_\_\_\_ (designated territorial jurisdiction / juridiction territoriale désignée)  
à rester dans les limites de \_\_\_\_\_

(b) notify \_\_\_\_\_ of any change in my address, employment or occupation;  
à notifier à \_\_\_\_\_ (name of peace officer or other person designated / nom de l'agent de la paix ou d'une autre personne désignée) tout changement d'adresse, d'emploi ou de profession;

(c) abstain from communicating directly or indirectly with \_\_\_\_\_ (name of victim, witness or other person / nom de la victime, du témoin ou autre personne)  
à m'abstenir de communiquer directement ou indirectement avec \_\_\_\_\_  
or from going to \_\_\_\_\_ (name or description of place / nom ou désignation du lieu)  
ou de me rendre à \_\_\_\_\_  
except in accordance with the following conditions: / si ce n'est en conformité avec les conditions suivantes : \_\_\_\_\_

(as the peace officer or other person designated specifies / celle que l'agent de la paix ou autre personne désignée spécifie) \_\_\_\_\_ and  
et \_\_\_\_\_

(d) deposit my passport with \_\_\_\_\_ (name of peace officer or other person designated / nom de l'agent de la paix ou autre personne désignée)  
à déposer mon passeport auprès de \_\_\_\_\_

(e) to abstain from possessing a firearm and to surrender to / à m'abstenir de posséder une arme à feu et à remettre à \_\_\_\_\_  
(name of peace officer or other person designated / nom de l'agent de la paix ou autre personne désignée)  
any firearm in my possession and any authorization, licence or registration certificate or other document enabling the acquisition or possession of a firearm;  
toute arme à feu et les autorisations, permis et certificats d'enregistrement dont je suis titulaire ou tout autre document me permettant d'acquies ou de  
posséder une arme à feu;

(f) report at \_\_\_\_\_ to \_\_\_\_\_ (name of peace officer or other person designated / nom de l'agent de la paix ou autre personne désignée) and  
à me présenter à \_\_\_\_\_ (state time / indiquer à quel moment) à \_\_\_\_\_ et \_\_\_\_\_

(g) to abstain from \_\_\_\_\_  
à m'abstenir de consommer : (i) the consumption of alcohol or other intoxicating substances, or  
(ii) de l'alcool ou d'autres substances intoxicantes,  
(iii) the consumption of drugs except in accordance with a medical prescription.  
(iv) des drogues, sauf sur ordonnance médicale.

(h) comply with any other conditions that the peace officer or the officer in charge considers necessary to ensure the safety and security of any victim of or  
à me conformer à toutes autres conditions que l'agent de la paix ou le fonctionnaire responsable juge nécessaires pour assurer la sécurité et la sécurité  
d'une victime ou d'un témoin à l'infraction, comme suit :

I understand that I am not required to give an undertaking to abide by the conditions specified above, but that if I do not, I may be kept in custody and brought before  
a justice so that the prosecutor may be given a reasonable opportunity to show cause why I should not be released on giving an undertaking without conditions.  
Je comprends que je ne suis pas obligé de remettre une promesse de respecter les conditions ci-dessus, mais qu'à défaut de le faire, je peux être détenu sous  
garde et amené devant un juge de paix afin de donner au poursuivant l'occasion de démontrer pourquoi je ne devrais pas être mis en liberté sur simple  
promesse, sans autre condition.

I understand that if I give an undertaking to abide by the conditions specified above, then I may apply, at any time before I appear, or when I appear, before a  
justice pursuant to (a promise to appear or a recognizance entered into before an officer in charge or another peace officer), to have this undertaking vacated or  
varied and that my application will be considered as if I were before a justice pursuant to section 515 of the Criminal Code.  
Je comprends que si je promets de me conformer aux conditions énoncées plus haut, je peux, avant de comparaitre ou lors de ma comparution devant un juge  
conformément à une promesse de comparaitre ou à un engagement contracté devant un fonctionnaire responsable ou un autre agent de la paix, demander  
l'annulation ou la modification de cette promesse, et que ma demande sera examinée comme si j'étais devant un juge conformément à l'article 515 du Code criminel.

I also understand that this undertaking remains in effect until it is vacated or varied.  
Je comprends que cette promesse m'est opposable jusqu'à ce qu'elle soit annulée ou modifiée.

I also understand that failure without lawful excuse to abide by any of the conditions specified above is an offence under subsection 145(5.1) of the Criminal Code.  
Je comprends que l'omission, sans excuse légitime, de me conformer à l'une des conditions énoncées plus haut constitue une infraction prévue au paragraphe  
145(5.1) du Code criminel.

Subsection 145(5.1) of the Criminal Code states as follows: "(5.1) Every person who, without lawful excuse, the proof for which lies on the person, fails to  
comply with any condition of an undertaking entered into pursuant to subsection 496(2) or 503(2.1)  
(Le paragraphe 145(5.1) du Code criminel énonce comme suit : «(5.1) Quiconque omet, sans excuse légitime, dont la preuve lui incombe, de se conformer à  
une condition d'une promesse remise aux termes des paragraphes 496(2) ou 503(2.1) est coupable :

(a) is guilty of an indictable offence and is liable to imprisonment for a term not exceeding two years; or  
a) soit d'un acte criminel et passible d'un emprisonnement maximal de deux ans;  
(b) is guilty of an offence punishable on summary conviction." b) soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.)

DATED this \_\_\_\_\_ day of \_\_\_\_\_ - yr \_\_\_\_\_ }  
FAIT le \_\_\_\_\_ jour de \_\_\_\_\_ an \_\_\_\_\_

Signature of Accused / Signature du prévenu \_\_\_\_\_

Signature of Peace Officer or Officer in Charge  
Signature du fonctionnaire responsable ou d'un autre agent de la paix \_\_\_\_\_

Station, etc. Poste de police, etc. \_\_\_\_\_

## **APPENDIX J-Report on Sudbury, Ontario and Geographic Boundary Restrictions**

Greater Sudbury has a population of 163 000 and its own municipal law enforcement, the Greater Sudbury Police Service (GSPS). Information was collected from telephone conversations and email correspondence with a Sudbury police officer who explained that the GSPS do not currently use “geographic boundary restrictions” on street sex workers. Within the past year the GSPS stopped using this strategy on sex workers because of the “very negative results” they caused (GSPS personal communication, 2012).

Although other forms of geographic restrictions are and were used by the GSPS for other illicit behaviours, like drug offences, sex offender and domestic violence investigations, the type used on the street sex trade was specific to communicating offences. When the GSPS were “releasing sex trade workers charged with ‘communicating for the purpose’ with geographic boundary restrictions” the intent was to “restrict their access to areas which were known to be frequented by individuals involved in the sex trade. (Janes and Johns)” (GSPS email correspondence, 2012). Upon release from custody individuals would receive a Promise to Appear and Form 11.1 detailing their release conditions (see page 281). The restrictions received by sex workers and their clients/customers were specific to two areas common for street trade activity and the boundaries were pre-determined. The issued restriction would depend on which area an individual was picked up in. The areas included in the boundary restrictions are “high crime, high risk” areas where most support services are located and where many sex workers live (GSPS personal communication, 2012). It seems the terms of the restriction did not let individuals into the area for any reason unless modified by a judge.

The GSPS stopped using boundary restrictions because they were “very unsuccessful” at reducing the level of street trade activity and instead of encouraging sex workers to leave the trade “a lot of breaches” were being issued (GSPS personal communication 2012). “The police service determined that while restricting access to areas known to be frequented by individuals involved in the sex trade (consumer and supplier) the boundary restrictions limited access of sex trade workers to vital outreach (food, shelter, counseling, medical) which were also located in the immediate area” (GSPS email correspondence, 2012). Further, prior to boundary restrictions there had only really been one area for the street sex trade in Sudbury, however the displacement caused by the restrictions led to the development of a second area. The street trade had also been displaced into new residential areas. As a result of these outcomes, the GSPS collaborated with other organizations to develop a more effective response to the street sex trade and its close ties with Sudbury’s drug trade.

The current regulatory strategy for the street sex trade is relevant to later portions of this thesis and so it is outlined here. In partnership with the Crown Attorney’s office and the Second Chance Committee, the GSPS developed

standardized release conditions which restricted activities associated with solicitation. Release conditions now restrict “loitering” which is defined as engaging in the following behavior:

- \* To stand by idly
- \* To linger aimlessly
- \* To move slowly around or stand especially in a public place without an obvious reason
- \* The offence of waiting in a place, looking as if you are going to do something illegal
- \* To hang around
- \* To delay or dawdle (GSPS email correspondence, 2012)

Consideration of the effects of having such guidelines around use of public space is for another project. Of note, however, is that this anti-loitering condition enforces that suspect

individuals must only be in public space for a specific, legitimate purpose; one must not simply “dawdle” in public space. This release condition establishes parameters around enjoyment of public space based on subjective impressions of who might be sex working (“looking as if you are going to do something illegal”).

Like the earlier area restriction strategy, sex workers are released from police custody with a Promise to Appear and an Undertaking, the latter describing the “loitering restrictions” and associated definition (GSPS email correspondence, 2012). If an individual does not qualify for release from police custody the judge or justice of the peace who releases them uses the same “loitering condition.” These terms are valid until the individual attends “diversion (Jane School) or [the] conditions are removed after a trial” (GSPS email correspondence, 2012).

Although males charged as consumers are still released on geographic boundary restrictions, current policing efforts with sex workers aim to curb the problematic behaviour “without punishing the individual” for their involvement in the street trade (GSPS personal communication, 2012). The current GSPS philosophy is that “enforcement is not the answer, but it’s a component” (GSPS personal communication, 2012). The officer made it clear that police are working to build trust between their organization and sex workers. Their intent is to use enforcement as an intervention opportunity to help individuals disengage from the trade.

The goal of the Greater Sudbury Police and our community is not to restrict access [to] vital services required to support individuals engaged in the sex trade. We are trying to support these individuals through diversions, access to services and by working cooperatively with community partners. (GSPS email correspondence, 2012)

In collaboration with the Second Chance Committee and the Crown, optional diversion programs are offered to sex workers and customers charged with communicating. The officer

noted observed successes with these programs and that they have had a few sex workers attend the diversion program “of their own desire” without having been charged (GSPS personal communication, 2012).

Since the Greater Sudbury Police Service did not have success with area restrictions, their newly implemented and collaborative response had already been labelled an accomplishment.

## **APPENDIX K- Report on Saskatoon, Saskatchewan and Area Restrictions**

Saskatoon has a population of 251 000 and its own municipal law enforcement, the Saskatoon Police Service. Very little information could be collected for this research site. Only one email response was received, stating that “the policy has been tried in Saskatoon and the overall impact is that it dispersed prostitution throughout the Westside of the city. It hasn’t been pretty” (Saskatoon community agency email correspondence). Further details about the implementation and terms of area restrictions in Saskatoon could not be captured but the strategy clearly resulted in displacement and dispersal of the trade seemingly without achieving intended results.

## **APPENDIX L- Report on Calgary. Alberta and Geographic Restrictions/ No-Go Conditions**

Calgary has a population 1 265 100 and its own municipal law enforcement, the Calgary Police Service (CPS). Information was collected from telephone conversations with a Calgary police officer who explained that “geographic restrictions” are not currently used on street sex workers by the police although they had been previously.

The CPS used geographic restrictions on sex workers in the early-to-mid 1990s and targeted the two major strolls in the city. Although the officer was not certain, it was believed that sex trade clients/customers were also targeted by the strategy during that period and that geographic restrictions were not specific to the sex trade. After being arrested and charged, individuals were typically released at the scene with a Promise to Appear, the geographic restriction, and any other applicable conditions such as a curfew or to avoid drug use.

No-go conditions are still used on sex trade customers in an effort to reduce the demand side of the trade by restricting sex workers’ clients from the identified strolls. Although geographic restrictions have been used on other crimes, the Vice Unit only issues them to sex trade customers. The CPS use Alberta’s Form 11.1 Undertaking and the Appendix “A”- Conditions of Release document that outlines the terms of the restriction (see *Appendix “A”* at end of report).

The CPS stopped using geographic restrictions on sex workers because they were found to generate larger policing problems. Geographic restrictions “simply expanded the stroll” and moved the trade to a different area of town. The strategy was also reported to have added to the difficulties faced by those working in the trade “who were going to work anyways,” regardless of enforcement efforts (CPS personal communication, 2012). Sex workers tended to live in the areas they were being restricted from. Since the restrictions

“were not truly addressing the causes” of the street trade, the CPS decided that it did not make sense to use them. The officer explained that currently the CPS typically releases sex workers who are picked up during undercover operations, unless the individual was wanted by a warrant. Upon release they are given information about the network of support organizations and services that are available to address a wide range of needs. It also seemed that the courts tend not to use geographic restrictions as conditions or sentences for the street sex trade.

## **Calgary Police Service Appendix "A"- Conditions of Release for the Area Restrictions Issued to Clients Only**

### **Appendix "A" - Conditions of Release**

Case # \_\_\_\_\_

**The accused is not to frequent any area of the City of Calgary known for prostitution, specifically:**

1. The area known as the "A" Stroll, the boundaries of which are: from 1 Street S.W. to 6 Street S.W. and from 2 Avenue S.W. to 4 Avenue S.W.
2. The area known as the "B" Stroll, the boundaries of which are: from 3 Street S.E. to 6 Street S.E. and from 5 Avenue S.E. to 9 Avenue S.E.
3. The area known as the "C" Stroll, the boundaries of which are: from 6 Street S.E. to 5 Street S.W. and from 10 Avenue S.W. and S.E. to 17 Avenue S.W. and S.E.
4. The area known as the Town & Country Stroll, the boundaries of which are: from 36 Street S.E. to 52 Street S.E. and from 15 Avenue S.E. to 26 Avenue S.E.
5. The area known as the Boy Stroll, the boundaries of which are: from 5 Street S.W. to 10 Street S.W. and from 10 Avenue S.W. to 17 Avenue S.W.

**It is understood that under certain circumstances the accused may require entry into one of the restricted geographical areas. This would be acceptable under the following circumstances only:**

- To attend the office of his legal counsel
- While traveling on public transit.
- To maintain gainful employment

**Or as otherwise authorized in writing by a member of the Calgary Police Service Vice Unit.**

\_\_\_\_\_  
Accused Signature

Copy provided to the accused this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Police Officer

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## **APPENDIX M- Report on Kelowna, British Columbia and Red Zones**

Kelowna, BC has a population of 182 800 and is policed by the Kelowna RCMP Detachment. H.O.P.E Outreach (Helping Out People Exploited) collected information from RCMP and social service contacts and shared it with the researcher for this thesis.<sup>70</sup> Other sources include media articles and the Kamloops City RCMP's red zone proposal in which Kelowna's red zone strategy was briefly discussed.

Kelowna's red zone strategy was developed in the mid 2000s and sources indicate it was implemented in 2006. "Red zones came out shortly after DEU [Downtown Enforcement Unit] was formed [...] as a tool to deal with prolific/ chronic offenders in the downtown core" (HOPE Outreach email correspondence, 2012). Street drug trade activity was identified as the main target for red zones: "it was created to keep drug dealers out of the area [where] they were selling their drugs" and problematic drug users similar to a "no contact order" (HOPE Outreach email correspondence 2012; also Hayes and Moore Sept. 19, 2008 and Sept. 22, 2008; Hayes Jul 28, 2009). Red zones are commonly used on street sex workers too (HOPE Outreach email correspondence 2012). When developing the red zone strategy the RCMP consulted "with Crown Counsel [...] to ensure what [they] were proposing was acceptable" and now the process is backed by Kelowna's criminal justice system: "courts support it, probation supports it, police support it" (HOPE Outreach email correspondence, 2012).

Kelowna has one designated red zone, seemingly chosen according to the area most affected by drug-related street crime. Any individual issued an area restriction upon release from police custody receives the same pre-determined boundary. An officer had explained to

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<sup>70</sup> This contact wanted H.O.P.E Outreach to be identified.

the agency contact that “once approved through Crown we would provide the charged person with the no contact order outlining the areas that they could not go. We then would include a map to make it even easier for people to understand” (HOPE Outreach email correspondence, 2012; see map of restricted area at end of report).

The red zone includes the downtown core of the city, which is also where most support services offered to street based people are located. Initially the terms of the red zones were a comprehensive restriction but over time the RCMP amended them “to allow offenders into the Red Zone for meal times and medical care, as at that time, the only services available to people without homes or jobs was in the actual ‘Red zone’” (HOPE Outreach email correspondence, 2012).

Negative consequences from the use of red zones were reported, linked to the resulting displacement and dispersal of individuals who engage in illicit activity. A resident who lived outside of the red zone commented in an article: “They move them (drug dealers) out of this stupid Red Zone. The Red Zone should be in our city, not downtown. The whole city should be a Red Zone. The crackheads and the crackhoses are [...] moving further. It’s got to stop” (Hayes and Moore Sept. 19, 2008).

The response to displacement has been an expansion of the red zone boundaries, approved by the provincial court just two years after the strategy was implemented. The area added to the red zone was called “the orange zone” and extends “up to, and including, the Capri Mall” (Hayes and Moore Sept. 22, 2008). The Kelowna RCMP Superintendent commented on the expansion in an article

I think the red zone has worked for the downtown core. Unfortunately, with the red zone, what we’ve done with our enforcement is cause displacement [...] They’re (criminal transients) like nomads, they just go from one community to

the next until they are tossed out of that community as well. We're really not solving the problem. (Hayes and Moore Sept. 22, 2008)

The article also notes that the Superintendent acknowledged "that enforcement is not the single solution to the problem. 'We need a joint approach with everyone involved in order to solve the problem'" (Hayes and Moore Sept. 22, 2008). The HOPE Outreach contact made it clear that such a collaborative approach is yet to be implemented and that support services to provide aid to street-based populations in their times of crisis are not available in Kelowna.

## Kelowna RCMP Red Zone Map

# RCMP Red-Zone

(June 2006)



## **APPENDIX N- Report on Kamloops, British Columbia and Red Zones**

Kamloops has a population just over 87 000<sup>71</sup> and is policed by the Kamloops City RCMP Detachment. The arrest and release area restriction is commonly referred to as “red zones” or “no-go zones” and is applied using a provincial variation of Form 11.1, *Undertaking Given to a Peace Officer or an Officer In Charge; Canada: Province of British Columbia* with the attached *Appendix “A”* red zone document(see end of report for Form 11.1 and *Appendix “A”*). Red zones are used on a variety of illicit street activity, one of which is street sex work.

Due to time constraints, the researcher did not conduct a formal interview with a Kamloops City RCMP representative. The following sources *were* used: a formal interview and email correspondence with a community agency worker; a report and a proposal by the RCMP; release documents used by the RCMP; media sources; and a brief, informal phone conversation with an RCMP officer. Because of limited RCMP input, certain details are largely based on the partial understanding of the agency worker through their personal caseload experiences and interpretation of other sources by the researcher. While I could not determine how accurate this representation is of Kamloops’ current red zone strategy, findings reflect the range of relevant details linked to the use of the area restrictions.

### **Creation and Implementation**

Both the community agency participant and RCMP sources indicate that Kamloops was experiencing very high crime rates prior to the implementation of the red zone strategy. The participant explained that in 2002-2003 there was a very sharp increase in criminal activity on the North Shore and “a lot more crack houses [had] moved in, [and] there was a

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<sup>71</sup> This figure was collected from the Tourism British Columbia website (n.d.) because Kamloops, BC is not a census metropolitan area and so Statistics Canada did not list Kamloops’ population.

lot more prostitution in the area” (Kamloops Community Agency Participant, 2012). By 2006 crime rates had reached a “critical level” and the police received a very high volume of complaint calls from various community members (Kamloops RCMP 2010; Lewis n.d.).

Street-level crime<sup>72</sup> was labelled “detrimental” to the community because “prostitution, substance abuse, property crime and violence, as well as traffic and litter (including infected needles and used condoms) have a direct impact on those living in, shopping in or visiting these areas. Residents and their children may be exposed to litter from both the sex and drug trades as well as intrusions onto their property” (Lewis n.d., 1). Sex trade and drug activity, especially “in the warmer months of 2006,” were identified as having grown “far more visible” in the North Shore and downtown areas (Lewis n.d., 1). “Street prostitutes were soliciting sex all hours of the day. Sex acts were often performed within the business and residential areas of downtown district. [...] Drug transactions and use occurred in front of businesses and within residential and school areas, often in plain view of business owners, customers and children” (Lewis n.d., 1). Local businesses had “expressed concern over a loss of revenue and the RCMP [were] spend[ing] a great deal of resources investigating crime” in that area (1).

The red zones in Kamloops were created “to target active criminals” participating in street-level crime in these “problem areas” of the city where most criminal activity took place (Lewis n.d., 1). The red zone proposal implies that Kamloops’ KARTeam developed their red zones based on the version used in Kelowna, BC, which is presumably where they got the idea from. The proposal declared that Kelowna has had “excellent results” on the sex and drug trades, and that “placing a no-go condition on drug dealers, drug consumers and sex

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<sup>72</sup> The red zone proposal defined street-level crime as including “prostitution, drug activity, property crime, assaults, robbery, breach of court imposed conditions and offences relating to firearms” (Lewis n.d., 1).

trade workers who have been arrested within the boundaries of the “RED ZONE” will help restore and sustain civil vitality” in Kamloops (Lewis n.d., 1, 5-6). It is clear that sex trade and drug activity were central targets for Kamloops’ red zone conditions from the beginning.

The introduction of police-imposed red zones in Kamloops was part of a larger intelligence-led Crime Reduction Initiative by the Kamloops RCMP. The Kamloops Action Response Team (Lewis n.d.) was developed as part of this initiative, mandated to focus energy “on enforcing conditions and writing reports to crown counsel on new convictions for the Prolific Offenders as well as some high priority offenders” (Kamloops RCMP 2010, 4). Further, “curfew checks, street checks and projects” by KART were meant to proactively address criminal issues pertaining to those offender groups. Between the RCMP report on this Crime Reduction Initiative (Kamloops RCMP 2010) and KART’s red zone proposal, it seems that the police-imposed red zone conditions were developed and/or proposed in 2006 and implemented in 2007.

The creation and development of the red zones seems to have been a collaborative effort. The RCMP’s Crime Reduction Initiative report explains that Kamloops’ red zones were created according to “sharing of information with another Detachment [Kelowna, BC] that had a similar problem” but also in “consultation with Crown Prosecutors” (Kamloops RCMP 2010, 5). A media account positions Kamloops North Shore businesses at the centre of the establishment of the red zones in an effort to “reclaim that area” from the crimes “associated with drug-dealing and prostitution” (“Conflict in” Jul 16, 2007). The community agency worker identified KART and the RCMP as being central to the red zone strategy’s development and thought it likely that the Social Planning Committee of Kamloops and the Crown were also involved.

### **Issuing a Red Zone: Policy and Practice**

The contacted officer made it clear that the red zone strategy was neither designed nor used exclusively for managing street sex work. Anyone committing criminal acts within the red zone areas is susceptible to being red zoned and street sex trade is potentially one of the *less*-targeted activities (Kamloops RCMP personal communication). The agency worker indicated that undercover operations on the sex trade are only conducted every couple of years. This means there is not a lot of opportunity to gather the necessary evidence to charge an individual with solicitation and thus issue a sex worker a red zone for a prostitution-related offence.

While having worked with transsexual sex workers, the agency worker was not aware of male or transsexual sex workers having been red zoned. Male sex trade was described as “very different from female sex trade” in Kamloops (Kamloops Community Agency Participant, 2012). The agency worker explained that male and transsexual sex workers do not typically work on the strolls in Kamloops since their trade is more off-street.

Although “prostitution” in general was an identified target of the red zone strategy, the agency worker was only aware of sex workers being red zoned and not their clients or pimp-drug dealers. “Johns are rarely arrested in the [North Shore] area, and I would doubt- you could check, I wouldn’t know for sure- but I would doubt very, very much if they would be given a red zone” (Kamloops Community Agency Participant, 2012). Although an in-depth discussion was not possible, the RCMP officer communicated that sex trade customers had definitely received red zones from the RCMP. In terms of the “pimp-drug dealer figure,” although they may be “picked up for a drug activity” they are much less visible to police because their role is often carried out indoors or via phone and it is unlikely that they are caught and red zoned (Kamloops Community Agency Participant, 2012).

It does not seem necessary for an individual to have a previous criminal record for prostitution-related charges in order to receive a red zone. However, the participant had the impression that “first-timers” often do not receive red zones from police.

Sometimes they won’t get a no-go zone. I guess it just depends on who they are, how often police have seen them frequent the area. If they’re well-known sex trade workers, they’ll get a no-go zone. If it’s their first time they’ve ever been picked up, they’re not recognizable, “oh my God I just started this” kind-of thing, then they probably wouldn’t get one. I think it really comes down to the arresting police officer. (Kamloops Community Agency Participant, 2012)

RCMP input was not collected on this particular issue. However, police discretion and the extent of an individual’s involvement in criminalized street-level activity seem to be the deciding factors for whether any sex worker will get red zoned from an area.

The red zone strategy is meant to function as follows: “when a person involved in street-level criminal activity is arrested within the boundaries of the “RED ZONES” he or she will either be released [by police] on an Undertaking [or Promise to Appear] with conditions of a no-go or remanded with a request for the same condition [from the court]. The accused will be made aware of the zones prior to release and the rational[e] behind [it]” (Lewis n.d., 4; also Kamloops RCMP 2010, 5). The accused must agree to the release conditions by signing the Undertaking and is “provided a map of the no-go area” (Lewis n.d., 4). RCMP officers are then “made aware of all persons released on the no-go condition and will actively patrol the areas for any persons who may be in breach of their conditions” (Lewis n.d., 4).

The RCMP officer made it clear that a number of factors decide whether any individual can or will be released by a police officer at the scene or at all (Kamloops RCMP personal communication, 2012). Based on the experiences of the agency worker, it seems that police typically detain a sex worker at the station before releasing them with an area

restriction. The participant explained “my clients are picked up and usually thrown in jail [“for a few hours, sometimes overnight”], and they would get a no-go zone or red zone area [from the RCMP] upon their release” (Kamloops Community Agency Participant, 2012).

The Undertaking form identifies that an individual must choose to accept the release condition, that they can apply to have the condition “vacated or varied” by the court but that it is in effect until that time, and that “failure without lawful excuse to abide by” the conditions is a breach offence. Along with the Undertaking form and any other release documents, the accused individual receives:

A photocopy of what’s called the red zone area. And it explains to them with a detailed outline on the map the area that they are not supposed to be entering. [...] So once they are released they get a copy of this as well as [...] their file number, from the police, and they’re told that they are no longer allowed in that area. (Kamloops Community Agency Participant, 2012)

Kamloops has a diversion program of sorts for sex workers, however it typically comes into play after the sex worker has already been put on the area restriction by police. When the individual goes to court for their first appearance, an agency worker from the SWAT (Sex Workers Address Treatment) program<sup>73</sup> can accompany them “and the judge often says, ‘I see you’re working with the SHOP program, that’s good to see. Continue with this. You’re on probation for a year’ versus [the sex worker receiving] any kind of jail time. But as far as getting the no-go zone off, sex workers receive that no-go zone in the police station once they’re released, so there’s no way until they go to court [...] to change that” (Kamloops Community Agency Participant, 2012).

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<sup>73</sup> SWAT is a program within the SHOP (Social and Health Options for Persons in the sex trade) program offered by the AIDS Society of Kamloops Wellness Centre. These programs offer various kinds of support and opportunities to those involved in the sex trade.

### **Terms of the Area Restriction & Exceptions**

In Kamloops the terms of a red zone condition prohibit an individual from entering their red zone area, meaning that a sex worker is not just restricted from sex working there but from *being there at all* (see *Appendix “A”* at end of report). Further, these red zone conditions are “temporary” (Kamloops RCMP personal communication, 2012); they are “in place until they go to court. So that can be months, and months and months. It could be a year” (Kamloops Community Agency Participant, 2012).

The red zone map itself (*Appendix “A”*) identifies certain “lawful” exceptions that allow individuals to re-enter their red zone. In the proposal, KART acknowledged that important services were encompassed by the red zone area:

The AIDS Society of Kamloops (and its SHOP Program) and the Indian Friendship Center are two unique services available within the proposed “RED ZONE”. Both provide health services and counseling to street workers, among others. There should be an exception within the condition stating that the person be allowed in the zones for the express purpose of receiving medical treatment or counseling. Also, as the zone is a major thoroughfare, there should be an exception stating that person be allowed in the zone while travelling in a motor vehicle. (Lewis n.d., 3)

These exceptions were written into the release document which states: “You are prohibited from entering the area of [... here the boundaries of the area are outlined] except for the express purpose of receiving treatment or counseling or while in a moving vehicle” (see *Appendix “A”* at end of report). Police seem to have the option on the Undertaking form to write out exceptions tailored to a particular individual, however, it could not be confirmed whether or not the RCMP make use of this ability when issuing red zones.

There is no mention in the proposal or on the release document of what should happen if an accused individual *lives* within the red zone, however, there does seem to be an unwritten policy for this circumstance. The participant explained that the RCMP will not

enforce red zones (or a breach) for individuals who live within the red zone areas. If an officer was issuing a red zone and a sex worker explained that s/he lived within that area, the officer would not impose the condition

but they'll say something like, "well we better not see you working. You know, you come out of the grocery store, pick your stuff up and go home." [...] They can't enforce that. [...] I think that would be pretty hard to breach them if they lived in the area. That would be a pretty good fight if they lived in the area [...] but] I have seen that. And they brought it up right at the time. They said "well I live there, how can you breach me?" And they've said just that, "well, we better not see you working. You better make sure you just get your stuff and move on home" kind of thing. (Kamloops Community Agency Participant, 2012)

Although the RCMP officer explained that there was no blanket policy around red zoning when the accused lives in the area, it was emphasized that officers are aware that they are dealing with *people*. An officer would not intentionally red zone someone from where they lived, although it could happen based on the known facts during the arrest-and-release process.

The RCMP officer explained that an officer's discretion takes a number of factors into account when red zoning an individual and that, depending on the relevant factors known at the time, a "modified zone" might be issued instead of the regular one. The officer elaborated, stating that the RCMP conduct undercover operations on the sex trade with the plan to red zone anyone caught engaging in illicit behaviours within the zone. That said, there are "no blanket policies" and if the accused presents valid reasons or facts for why they should not be red zoned, those details are taken into account (Kamloops RCMP personal communication, 2012). Further, exceptions often get made to allow people into their red zone area for various reasons, but these are typically made through application to the court.

Even with these exceptions available, the agency worker identified that there are miscommunications about the terms of the red zone condition. Often when a sex worker is

issued a red zone with the documented exceptions, the officers “don’t really explain that in detail and [so] they’re under the assumption that they are not allowed in the area [at all]. And if they have to go and see- say they come to my program weekly, it often has to be by permission” from legal authorities (Kamloops Community Agency Participant, 2012). In effect, although exceptions are written out in the release documents, sex workers may not take advantage of the opportunity to continue to access services in their red zone because of how the red zone condition was explained in person.

Since there are two different zones in Kamloops, an individual can hold conditions for both red zones at one time but the agency worker thought this would be a rare circumstance for sex workers. If an individual “had been red zoned [from the North Shore ...] and then they went downtown and worked there [...] they would get another zoning that says ‘you can’t come down here either.’ I’ve never seen that, though. I’ve never seen somebody get two zones” (Kamloops Community Agency Participant, 2012).

### **Breaching an Area Restriction**

If a sex worker is caught breaching their release conditions “they would probably be thrown back in jail and be charged with a breach [...] and then that goes through the courts, and it’s another charge” in addition to the original solicitation charge (Kamloops Community Agency Participant, 2012). The participant was under the impression that enforcing a breach was used at the discretion of an officer instead of charging individuals with the breach as often as possible.

I think it’s up to their discretion. And I think it’s generally the behaviour of the client. If she’s going to be mouthy when they pick her up, or going to be a hassle, you know, cause a problem, then they’ll pull her in. But I mean, if she’s pleasant, minds her business, you know, “just out for a walk, officer” they’re not going to pull her in. And that obviously depends on the police officer as well. (Kamloops Community Agency Participant, 2012)

### **The Red Zone Areas**

The red zones were designated according to patterns of types of crime and crime rates in Kamloops. As part of the Crime Reduction Initiative, the KART team had identified certain areas in Kamloops as being “susceptible to high rates of drug and street trade worker activities” (Kamloops RCMP 2010, 5). In particular, “the business area of Tranquille Road and several of its side streets and adjacent vacant lots” was identified as *the* problem area because of its “disproportionately high level of prostitution, street-level drug activity, violence and property crime” (KART, 1). A second “high crime area” was also noted, presumably the downtown area.<sup>74</sup> The KART team developed the red zone strategy to address these two areas.

The boundaries of the no-go zones are pre-determined in Kamloops and do not vary case-by-case. The red zone received by an individual depends only on which zone they were picked up in. The participant had the impression that sex workers typically only received no-go zones for the North Shore area, despite the fact that street sex work does occur in both areas. The downtown core is the other area; “We have sex trade downtown, I’ve just never had one of my clients get a no-go zone from there” (Kamloops Community Agency Participant, 2012). The RCMP officer corrected that sex workers do get red zoned from downtown and was not aware of any information that would contradict that fact. Undercover operations are conducted in both areas and a sex worker is apparently just as likely to receive a red zone from the downtown area as the North Shore area (Kamloops RCMP personal communication, 2012).

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<sup>74</sup> The red zone proposal only mentioned the “North Shore downtown business district” for red zone conditions. Upon implementation, two separate red zone areas were designated, a North Shore zone and a downtown zone.

Both the proposal and *Appendix “A”* release document outline the North Shore zone. This red zone encompasses the North Shore downtown business district and “incorporates both residential and business areas ... as well as three vacant lots. Kamloops RCMP believe[d] both the main thoroughfare and adjacent areas must be included in order to protect businesses and residents” (Lewis n.d., 3). This red zone has a lot of low-income or affordable housing, “basement suits, affordable apartment buildings. The North Shore is sort of your blue collar area and so [...] most of your social service agencies are over here” (Kamloops Community Agency Participant, 2012). This includes welfare, the ministries, and social agencies like ASK Wellness Centre, Interior Indian Friendship, and the John Howard building.

Neither the agency worker nor the RCMP officer could identify the streets that border the downtown zone, however, it was defined as the “downtown core” of Kamloops (Kamloops RCMP personal communication, 2012). This zone was described as “quite large” and runs “through downtown and then right down to our public beach area” to include Riverside Park and Pioneer Park (Kamloops Community Agency Participant, 2012). This red zone area “is your basic downtown. The library is there, a couple of social agencies, but not a whole lot. You know, it’s mostly storefront” (Kamloops Community Agency Participant, 2012). The participant said that “most” of her sex worker clients live in the same areas as these red zones.

There is a small amount of street sex work happening outside of the two red zone areas, but not enough to have earned RCMP attention yet. The participant identified that “there’s one small street outside of the zone that maybe they would go, well, which I know

that they work on, but it's not a busy place" (Kamloops Community Agency Participant, 2012)

### **Frequency of Use: Red Zones and Breaching Charges**

Common practice is that police issue a red zone to any sex worker arrested and charged with solicitation. The participant had the impression that "any girl that's going to get picked up-- if she gets picked up for whatever reason it may be, maybe she's causing a disturbance or what-- [...] before she's released, she will get a no-go zone. Especially if she's a recognized sex worker" (Kamloops Community Agency Participant, 2012). The participant noted that fewer area restrictions were being issued for solicitation charges because fewer sex workers are on the street since the trade is increasingly moving off-street. The participant indicated that the RCMP are likely using red zone conditions as often as ever, they "would probably still be using it [as] frequently in the downtown core with people who are dealing [drugs] openly in the streets" (Kamloops Community Agency Participant, 2012).

Once an individual is on a red zone, it seems that police discretion is encouraged when deciding whether or not to charge those caught within their red zone. The red zone proposal claimed that area restriction conditions give RCMP officers the

opportunity to use discretion when observing a person in the zone known to be on a no-go condition. If the person appears to be passing through the area and not engaged in criminal activity the matter would not likely be forwarded to Crown Counsel. Conversely, if any person located in the "RED ZONE" appears to have no purpose being there the officer may forward charges. (Lewis n.d., 4)

In other words, an individual will not be charged with breaching their conditions unless they have obviously returned to participating in illicit behaviours.

That said, it appears that those who receive red zones tend to breach their conditions and breach charges are laid often:

They're pretty common. At first they [the sex workers] get freaked out by it [their red zone], "oh my god, this is where you are and how am I supposed to see you? And how am I supposed to go to my doctor's appointment?" and on and on and on. And really, after a little while- because they're in place for so long- [...that eventually] they just [say] "whatever" [and] they go out [into their red zone] anyways. (Kamloops Community Agency Participant, 2012)

## Form 11.1 Undertaking Used in Kamloops (and likely other BC Research Sites)



### Undertaking Given to a Peace Officer or an Officer in Charge

Canada: Province of British Columbia

|                                |
|--------------------------------|
| Court File No.(s):             |
| Police Agency and File No.(s): |
| DOB:                           |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |       |                                                |               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|------------------------------------------------|---------------|
| I, Accused                                                                                                                                                                                                                                                                                                                                                                                                                                                        |       | Gender                                         |               |
| of address                                                                                                                                                                                                                                                                                                                                                                                                                                                        |       | city                                           |               |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |       | province British Columbia                      |               |
| I understand that it is alleged that I have committed:                                                                                                                                                                                                                                                                                                                                                                                                            |       |                                                |               |
| OFFENCE DATE                                                                                                                                                                                                                                                                                                                                                                                                                                                      | PLACE | OFFENCE DESCRIPTION                            | SECTION / ACT |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |       |                                                |               |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |       |                                                |               |
| In order that I may be released from custody by way of                                                                                                                                                                                                                                                                                                                                                                                                            |       |                                                |               |
| <input type="checkbox"/> a promise to appear before an officer in charge or other peace officer (or)                                                                                                                                                                                                                                                                                                                                                              |       |                                                |               |
| <input type="checkbox"/> a recognizance entered into before an officer in charge or other peace officer.                                                                                                                                                                                                                                                                                                                                                          |       |                                                |               |
| <input type="checkbox"/> I undertake to remain within jurisdiction                                                                                                                                                                                                                                                                                                                                                                                                |       |                                                |               |
| <input type="checkbox"/> I undertake to notify name                                                                                                                                                                                                                                                                                                                                                                                                               |       |                                                |               |
| of any change in my address, employment or occupation;                                                                                                                                                                                                                                                                                                                                                                                                            |       |                                                |               |
| <input type="checkbox"/> I undertake to abstain from communicating directly or indirectly with name                                                                                                                                                                                                                                                                                                                                                               |       |                                                |               |
| or from going to place                                                                                                                                                                                                                                                                                                                                                                                                                                            |       |                                                |               |
| except in accordance with the following conditions: conditions                                                                                                                                                                                                                                                                                                                                                                                                    |       |                                                |               |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |       |                                                |               |
| <input type="checkbox"/> I undertake to deposit my passport with name                                                                                                                                                                                                                                                                                                                                                                                             |       |                                                |               |
| <input type="checkbox"/> I undertake to abstain from possessing a firearm and to surrender to name                                                                                                                                                                                                                                                                                                                                                                |       |                                                |               |
| any firearm in my possession and any authorization, licence or registration certificate or other document enabling the acquisition or possession of a firearm.                                                                                                                                                                                                                                                                                                    |       |                                                |               |
| <input type="checkbox"/> I undertake to report at time to name; and                                                                                                                                                                                                                                                                                                                                                                                               |       |                                                |               |
| <input type="checkbox"/> I undertake to abstain from                                                                                                                                                                                                                                                                                                                                                                                                              |       |                                                |               |
| i) the consumption of alcohol or other intoxicating substances, or                                                                                                                                                                                                                                                                                                                                                                                                |       |                                                |               |
| ii) the consumption of drugs except in accordance with a medical prescription.                                                                                                                                                                                                                                                                                                                                                                                    |       |                                                |               |
| <input type="checkbox"/> I undertake to comply with the following: conditions                                                                                                                                                                                                                                                                                                                                                                                     |       |                                                |               |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |       |                                                |               |
| I understand that I am not required to give an undertaking to abide by the conditions specified above, but that if I do not, I may be kept in custody and brought before a justice so that the prosecutor may be given a reasonable opportunity to show cause why I should not be released on giving an undertaking without conditions.                                                                                                                           |       |                                                |               |
| I understand that if I give an undertaking to abide by the conditions specified above, then I may apply, at any time before I appear, or when I appear, before a justice pursuant to (a promise to appear, or a recognizance entered into before an officer in charge or another peace officer) to have this undertaking vacated or varied and that my application will be considered as if I were before a justice pursuant to section 515 of the Criminal Code. |       |                                                |               |
| I also understand that this undertaking remains in effect until it is vacated or varied.                                                                                                                                                                                                                                                                                                                                                                          |       |                                                |               |
| I also understand that failure without lawful excuse to abide by any of the conditions specified above is an offence under subsection 145(5.1) of the Criminal Code.                                                                                                                                                                                                                                                                                              |       |                                                |               |
| Dated Date                                                                                                                                                                                                                                                                                                                                                                                                                                                        |       | Signature of Accused                           |               |
| at City                                                                                                                                                                                                                                                                                                                                                                                                                                                           |       |                                                |               |
| British Columbia                                                                                                                                                                                                                                                                                                                                                                                                                                                  |       | Signature of Officer in Charge / Peace Officer |               |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |       |                                                |               |

Undertaking Given to a Peace Officer or an Officer in Charge

#### NOTE:

Subsection 145(5.1) of the Criminal Code states as follows:

"(5.1) Every person who, without lawful excuse, the proof of which lies on the person, fails to comply with any condition of an undertaking entered into pursuant to subsection 490(2) or 503(2.1)

(a) is guilty of an indictable offence and is liable to imprisonment for a term not exceeding two years; or

(b) is guilty of an offence punishable on summary conviction."

#### NOTICE OF LANGUAGE RIGHTS AT TRIAL

You may apply, pursuant to Section 530 of the Criminal Code, to have your trial in whichever of the two official languages of Canada (English or French) is your language.

If you would like your trial in French, you must apply to the court before:

- Your trial date is set;
- At the time of your election; or
- At the time you are ordered to stand trial



**Promesse remise à un agent de la paix ou  
un fonctionnaire responsable**  
Canada: Province de la Colombie-Britannique

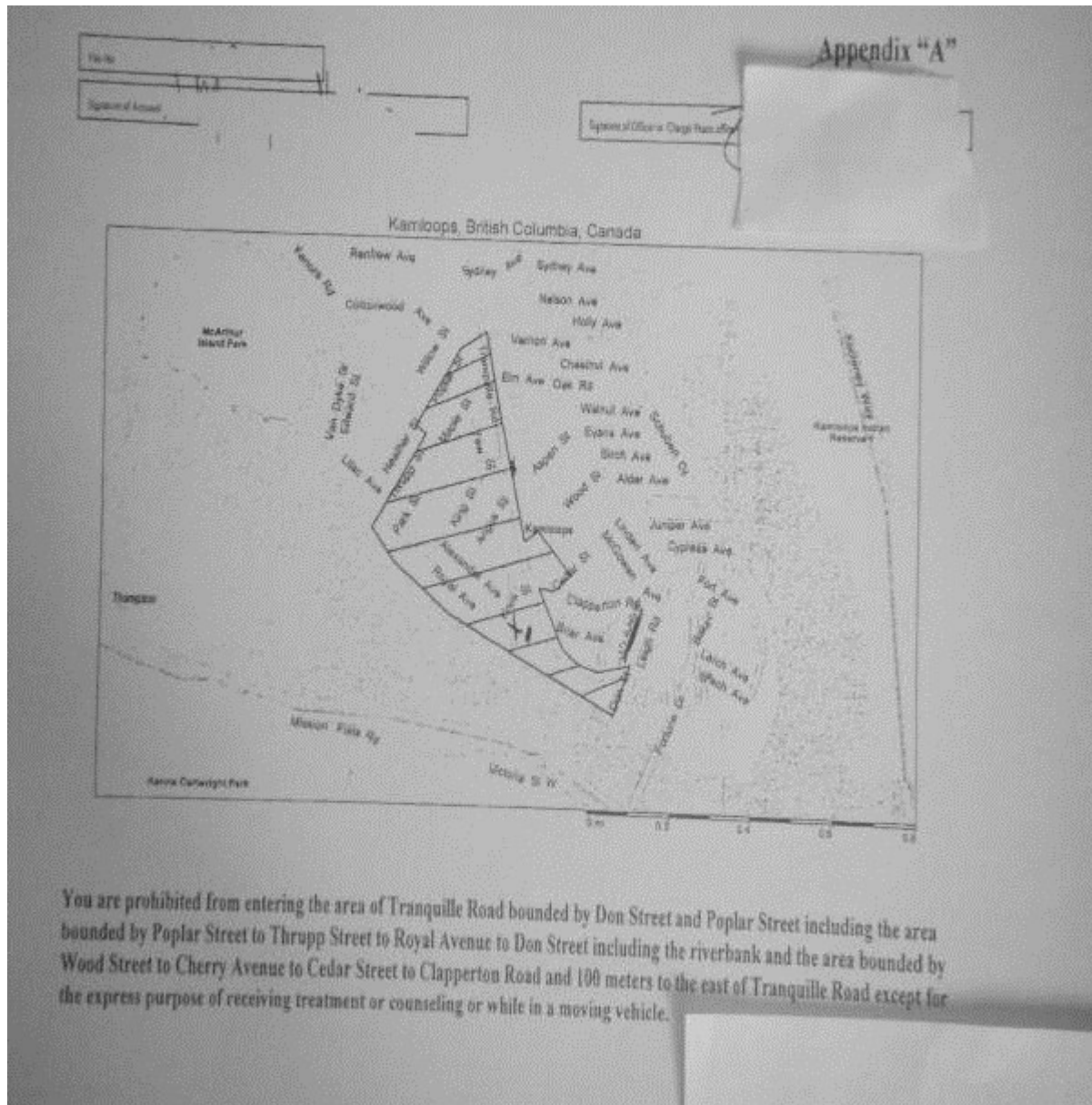
|                                      |
|--------------------------------------|
| N° de dossier(s) du greffe :         |
| Service de police et n° de dossier : |
| DDN :                                |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |      |                             |             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-----------------------------|-------------|
| Je _____ Sexe _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |      |                             |             |
| adresse _____ ville _____ province _____                                                                                                                                                                                                                                                                                                                                                                                                                                                            |      |                             |             |
| comprends qu'il est allégué que j'ai commis:                                                                                                                                                                                                                                                                                                                                                                                                                                                        |      |                             |             |
| DATE DE L'INFRACTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | LIEU | DESCRIPTION DE L'INFRACTION | ARTICLE/LOI |
| _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |      |                             |             |
| Afin que je puisse être mis(e) en liberté par                                                                                                                                                                                                                                                                                                                                                                                                                                                       |      |                             |             |
| <input type="checkbox"/> une promesse de comparaître devant un fonctionnaire responsable ou autre agent de la paix (ou)                                                                                                                                                                                                                                                                                                                                                                             |      |                             |             |
| <input type="checkbox"/> un engagement contracté devant un fonctionnaire responsable ou autre agent de la paix.                                                                                                                                                                                                                                                                                                                                                                                     |      |                             |             |
| <input type="checkbox"/> Je promets de demeurer dans les limites de _____                                                                                                                                                                                                                                                                                                                                                                                                                           |      |                             |             |
| <input type="checkbox"/> Je promets d'informer _____                                                                                                                                                                                                                                                                                                                                                                                                                                                |      |                             |             |
| de tout changement en ce qui a trait à mon adresse, mon emploi ou occupation;                                                                                                                                                                                                                                                                                                                                                                                                                       |      |                             |             |
| <input type="checkbox"/> Je promets de m'abstenir de communiquer directement ou indirectement avec _____                                                                                                                                                                                                                                                                                                                                                                                            |      |                             |             |
| ou d'aller à _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |      |                             |             |
| sauf en conformité avec les conditions suivantes _____                                                                                                                                                                                                                                                                                                                                                                                                                                              |      |                             |             |
| <input type="checkbox"/> Je promets de confier mon passeport à _____                                                                                                                                                                                                                                                                                                                                                                                                                                |      |                             |             |
| <input type="checkbox"/> Je promets de m'abstenir de posséder des armes à feu et à remettre à _____                                                                                                                                                                                                                                                                                                                                                                                                 |      |                             |             |
| mes armes à feu et les autorisations, permis et certificats d'enregistrement dont je suis titulaire ou tout autre document me permettant d'acquiescer ou de posséder des armes à feu;                                                                                                                                                                                                                                                                                                               |      |                             |             |
| <input type="checkbox"/> Je promets de me présenter à _____ à _____                                                                                                                                                                                                                                                                                                                                                                                                                                 |      |                             |             |
| <input type="checkbox"/> Je promets de m'abstenir de consommer:                                                                                                                                                                                                                                                                                                                                                                                                                                     |      |                             |             |
| i) de l'alcool ou d'autres substances intoxicantes,                                                                                                                                                                                                                                                                                                                                                                                                                                                 |      |                             |             |
| ii) des drogues, sauf sur ordonnance médicale.                                                                                                                                                                                                                                                                                                                                                                                                                                                      |      |                             |             |
| <input type="checkbox"/> Je promets de me prêter aux conditions suivantes: _____                                                                                                                                                                                                                                                                                                                                                                                                                    |      |                             |             |
| Je comprends qu'il n'est pas exigé que je fasse une promesse de me conformer aux conditions mentionnées plus haut, mais que si je refuse, je pourrais être retenu(e) en prison et amené(e) devant un juge afin qu'il soit donné au procureur une chance raisonnable de démontrer les raisons pour lesquelles je ne devrais pas être mis(e) en liberté sur une promesse sans conditions.                                                                                                             |      |                             |             |
| Je comprends que si je fais une promesse de me soumettre aux conditions énoncées plus haut, je peux alors demander, en tout temps avant la promesse, ou lors de ma comparution devant un juge de paix (conformément à la promesse de comparaître, ou l'engagement contracté devant un fonctionnaire responsable ou un autre agent de la paix), d'avoir cette promesse annulée ou modifiée et que ma demande sera considérée comme si j'étais devant un juge suivant l'article 515 du Code criminel. |      |                             |             |
| Je comprends que cette promesse m'est opposable jusqu'à ce qu'elle soit annulée ou modifiée.                                                                                                                                                                                                                                                                                                                                                                                                        |      |                             |             |
| Je comprends que l'omission sans excuse légitime d'être présent au tribunal en conformité avec le présent engagement constitue une infraction prévue au paragraphe 145(5.1) du Code criminel.                                                                                                                                                                                                                                                                                                       |      |                             |             |
| Fait le _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |      | _____                       |             |
| à _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |      | _____                       |             |
| Colombie-Britannique                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |      | _____                       |             |

Promesse remise à un agent de la paix ou un fonctionnaire responsable

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>NOTE:</b><br>Les paragraphes 145(5.1) du Code criminel s'énoncent comme suit:<br>"(5.1) Quiconque omet, sans excuse légitime, dont la preuve lui incombe, de se conformer à une condition d'une promesse remise aux termes des paragraphes 499(2) ou 503(2.1) est coupable:<br>a) soit d'un acte criminel et passible d'un emprisonnement maximal de deux ans;<br>b) soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire." | <b>NOTIFICATION DE VOS DROITS DE LANGUE AU PROCÈS</b><br>Vous pouvez demander, conformément à l'article 530 du Code criminel, de subir votre procès dans la langue officielle du Canada qui est la vôtre (le français ou l'anglais).<br>Si vous voulez subir votre procès en français, vous devez présenter votre demande au tribunal :<br>• avant que la date du procès soit fixée;<br>• au moment de votre choix; ou<br>• au moment où vous êtes renvoyé(e) pour subir votre procès. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## Kamloops RCMP Appendix "A" Document that Maps the Area Restriction



## **APPENDIX O- Report on Chilliwack, British Columbia and Red Zones**

Chilliwack's population is 92 308 and policing services are provided by the Chilliwack RCMP Community Policing Office of the Upper Fraser Valley Regional RCMP. Information was collected from media articles and a media release by the B.C. RCMP. These sources do not confirm with certainty that police issue red zone conditions themselves but it is clear that the red zone restrictions are a pre-sentence police effort to keep individuals out of certain areas of the city.

Sources suggested that the red zone strategy was not common practice for the Chilliwack RCMP, but rather was used as part of "a five-week crackdown on street prostitution in the city's downtown core" (Tommer Oct. 4, 2011). There was no evidence that red zones were used previously in Chilliwack. For example, an article proclaimed "Downtown Chilliwack now has a designated 'red zone' that police have declared a no-go area for prostitutes and their customers" (Fournier Oct. 6, 2011). The conditions were issued to both sex workers and clients/customers arrested and charged during the crackdown efforts (Hollingsworth Oct. 3, 2011) and tell individuals "to stay out of the demarcated 'red zone'" or face a breach charge (Fournier Oct. 6, 2011).

The RCMP identified complaints and community safety as the main motivation for the red zones. "The crackdown by Chilliwack police Crime Reduction Unit (CRU) came in response to complaints by concerned local merchants and residents" about sex trade activity in the downtown area (Tommer Oct. 4, 2011). "It's not only about the safety [of] the concerned citizens, but it is also a safety concern for the girls on the street" (Hollingsworth Oct. 3, 2011). The area was bounded according to the expressed "concern by the community" in order to relieve "some of the incidents of crime experienced in the downtown

core” (Hollingsworth Oct. 3, 2011). It seems that all individuals were issued the same red zone, “from Nowell to Williams streets and from Bole to Princess avenues [which] is where police say the worst street-level drug and sex trade occurs. Much of the area is low-income residential, but merchants have suffered, too” (Fournier Oct. 6, 2011).

By the end of the “clean-up campaign,” individuals who had been placed on red zone conditions during earlier weeks of the crackdown had already been re-arrested for breaching the restriction (Tommer Oct. 4, 2011).

## **APPENDIX P- Report on Vancouver, British Columbia and No-Go's/ Red Zones**

Vancouver has a population of 2 419 700 and its own municipal law enforcement, the Vancouver Police Department (VPD). Little information could be collected on Vancouver's area restrictions. The contacted community agencies were not very knowledgeable of the practice and the contacted VPD officer could not be reached for a phone conversation. Area restrictions *are* used in Vancouver but it is not clear whether or not it is currently a common practice for the street sex trade.

The VPD officer confirmed that police use “no go's” and “no go's .... except for \_\_\_\_\_ (fill in the blank)” (VPD email correspondence, 2011), the latter being an undertaking where police could identify certain exceptions to the no go condition. The officer did not link either practice specifically to the sex trade. An agency worker contacted in 2010 explained that “as far as I now, no-go zones are still used in Vancouver and they do, occasionally affect our members but the Vancouver Police Department seems to now have an understanding of the multiple impacts such actions can have on an already vulnerable population and seem to not use them very often in the downtown east side” (Vancouver community agency email correspondence, 2010). A second agency worker contacted a year later explained that there was not currently “a great deal of enforcement around sex workers” but that “from time to time the police ‘red-zone’ people for various reasons [...] Usually it is violence, street activity like dealing, repeated offenses etc.” (Vancouver community agency email correspondence, 2011).

Details could not be collected on the process or terms of Vancouver's no go conditions but a media article identified that “a red zone is an area that individual sex workers are banned from. If even found walking through them, they can be arrested” (“Sex

Worker” Jun 11, 2007). It seems no go’s are a comprehensive restriction from an area unless an individual has been released on a “no go except for \_\_\_\_.” Sources indicate that the VPD use area restrictions on a range of street-level criminal activity, but that police use discretion and sensitivity to the issues surrounding street sex trade involvement when and if no-go’s are applied to the sex trade. This infers that “no go’s” have been acknowledged as a strategy that does more harm to sex workers than good for the area that they were used in.

## **APPENDIX Q- Report on Victoria, British Columbia and No Go Zones/ Red Zones**

Victoria has a population 360 900 and its own municipal law enforcement, the Victoria Police Department (VicPD). Information was provided by a community agency contact who explained that Victoria's area restrictions "are not sex work specific. Instead the no-go zones are targeting the homeless which, of course, net the [street] sex workers as well" (Victoria Community Agency email correspondence, 2011). According to the agency worker, the municipal government ("city council") played a major role in developing and implementing the area restrictions used by police and the courts.

The agency worker identified that both "red zones" and "no-go zones" are used by police to "move and disperse the homeless & drug using community" but did not know the legal process or exact terms of either (Victoria Community Agency email correspondence, 2012).

No-go zones and Red Zones are often the same thing. The Red-Zone is a predetermined (and fairly static) delineation around the downtown core. No-go zones seem to be made up per person. No one has written any of this down. It's not codified, so I'm speaking from observation. So, Redzones are the 'boundary release conditions' and no-go zones are made up as the situation wants it (or the city wants it or whatever). (Victoria Community Agency email correspondence 2012)

Red zones were identified as particularly problematic because they keep individuals "from accessing any support or agency [...] as many service providers are downtown" (Victoria Community Agency email correspondence, 2011). Specific to sex work, the restrictions aimed to "move what was once the 'track'" (Victoria Community Agency email correspondence, 2012).

A media article defined the red zone as a designated boundary that encompassed the downtown core from which individuals are regularly restricted. The article detailed a case where a man was charged for a drug offence and that in 1999 a Judge ruled that banning people from the city's red zone "violates their rights under the constitution" ("Victoria's red" Jun 29, 1999). In making his decision, the judge explained:

Many people who are subject to a red zone condition have their lives put at risk, because they are forbidden from using necessary social and health services like the needle exchange. [...] evidence showed that a lot of people who need the needle exchange's services are either not getting them or are violating the red zone condition to do so. ("Victoria's red" Jun 29, 1999)

Despite this case, it seems red zones have continued to be used in Victoria. It is not known whether or not any changes were made to the strategy as a result of the 1999 court decision.

## **APPENDIX R- Report on Nanaimo, British Columbia and Red Zones**

The population of Nanaimo is 98 021 and its policing services are provided by the Nanaimo RCMP Detachment. Information was collected from media articles and a report prepared for the City of Nanaimo. Although these sources do not confirm with certainty that police issue red zone conditions themselves, it is clear that the area restrictions are used pre-sentence to keep individuals out of certain areas of the city and that the RCMP have played a central role in their implementation and use.

One source identified that Nanaimo's red zone strategy was initially suggested by a federal Crown prosecutor and then "implemented through the courts and the RCMP in 2005" (Walton Jan. 26, 2010). The downtown core of the city was the original red zone and in 2007 the RCMP created a second red zone area in Nanaimo's south end. This essentially expanded the boundary to a single red zone area with roughly a "40-block radius" (Bell May 3, 2010). RCMP officers have commented that "downtown had a culture of 'open air' drug activity" and that the strategy aimed to "break up the nucleus" (Tropea Apr. 13, 2007) and relieve "growing fears among downtown merchants and residents" (Walton Jan. 26, 2010). The red zone itself

is a well-defined area of the downtown within which addicts under court order are separated from the location of their drug dependency. Often they were charged with simple possession of a controlled substance, sometimes possession for the purpose of trafficking and at times other offences. (Walton Jan. 26, 2010).

It seems that from the start the street drug trade was the main target for red zone conditions, however offences related to alcohol and other disturbances are included, netting the homeless and sex trade workers.

One source implied that the terms of the red zone conditions do not allow any exceptions to the restriction, meaning that those found within the area for any reason after

being red zoned receive a breach charge (City Spaces 2008, 6). Important support services for street-based populations are located within the red zone area, including the Street Outreach Clinic and the city's primary needle exchange. As a result, one of the challenges identified by the City Spaces report is the need for balance between enforcement efforts and service delivery. "Service providers and homeless individuals [...] are concerned about the limited availability and access to needed services resulting from the increased 'red-zone' and concurrent enforcement initiatives" (City Spaces 2008, 17).

The red zone strategy has been credited for a mixture of positive and negative consequences. Within the red zone the change has been described "as night-and-day from the time vomit and urine littered downtown doorways and city hall regularly took calls of complaints from businesses and residents" (Bell May 3, 2010). One article explains that these changes are

in no small part due to the red zone, and a moment needs to be taken to acknowledge both [federal Crown prosecutor] Jones, who persisted with the provision despite objections of defence lawyers, and Cpl. Dave Laberge, head of the RCMP's downtown bicycle unit. Laberge and his unit somehow did manage to do part police work and part social work as they directed the enforcement of the strategy. If someone wanted help [...] they were pointed] in the direction of Vancouver Island Health Authority workers or other resources. The city too played a significant part in the success of the red zone strategy. The approach was not simply to remove these people from public spaces, but to offer them alternatives. Those who declined then faced the process of just being removed and facing the court-ordered red zone condition. (Walton Jan. 26, 2010)

As the excerpt above identifies, the creation of the red zone was one measure within a multi-pronged approach by various key stakeholders to combat problems related to street-based crimes in certain areas and "assist the drug addicted, homeless and mentally disturbed"

(Walton Jan. 26, 2011; also City Spaces 2008).<sup>75</sup> The efforts have “diffused the intensity of drug activity” by pushing

the visible homeless and street-entrenched population [...] out of downtown and into neighbouring areas, but at a more fragmented scale. Overall, the population became less street evident and there was a reduction in the level of petty crime and concentration experienced four years previous. There is no evidence that the number of homeless individuals was reduced. (City Spaces 2008, 7)

This excerpt hints at the negative consequences of the red zone strategy. Nanaimo’s use of area restrictions has received much criticism for dispersing street-level problems into other neighbourhoods “instead of solving the drug problem” (Tropea Apr. 13, 2007).

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<sup>75</sup> Other efforts included: fast-tracking offenders through the court system; creating “good neighbourhood agreements” between service providers, funders, the City, police and immediate neighbours; and applying Crime Prevention Through Environmental Design principles (City Spaces 2008, 6).