

**Ottawa Street-based Sex Workers and the Criminal Justice System: Interactions Under the
New Legal Regime**

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Abstract

In 2007, one current and two former sex workers, Amy Lebovitch, Terri-Jean Bedford and Valerie Scott launched a charter challenge, *Bedford v Canada*, arguing that the prostitution provisions criminalizing bawdy houses (section 210), living on the avails (section 212 (1)(j)) and communicating for the purposes of prostitution (section 213.1 (c)) violated their section 7 rights under the Charter of Rights and Freedoms. Six years later, the Supreme Court of Canada ruled unanimously to strike down all three challenged laws, leaving a one-year period to construct a new regime on prostitution. On December 6, 2014, the *Protection of Communities and Exploited Persons Act (PCEPA)* came into effect, criminalizing, for the first time, prostitution in Canada and introducing a law that replicates many of the provisions of the previous regime.

This thesis uses semi-structured interviews and qualitative analysis to examine the experiences of nine street-based sex workers in Ottawa, paying particular attention to experiences after the introduction of the new law. Drawing on the work of Mead & Blumer's symbolic interactionism theory and Goffman's concept of stigma the thesis examines how embedded stereotypes in legislation 'play out' in the lives of sex workers. I argue that the interactions of sex workers in Ottawa are conditioned by stereotypical assumptions which in turn lead to their broader discrimination and marginalization. This study concludes by finding that the first objective of *PCEPA*, to protect those who sell their own sexual services, has not been met; instead, *PCEPA* has resulted in street-based sex workers in Ottawa assuming more risk, and in turn, facing more danger while on the job.

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Introduction

When former Justice Minister Peter Mackay was asked if his prostitution bill, Bill C-36,¹ was at risk of a *Canadian Charter of Rights and Freedoms*² (hereafter *Charter*) challenge, he claimed, “I don’t suffer from *Charter* constipation. I don’t shy away from the fact that there might be a *Charter* challenge” (Kennedy, 2014). His answer acknowledges the potential unconstitutionality of Bill C-36 – a law that responded to the Supreme Court of Canada’s mandate that the government should “engage in law reform so as to ensure that Canadian criminal law no longer endangers sex workers’ lives and security” (Campbell, 2015, p.29).

Yet, despite expert testimony and evidence from social science research that any form of criminalization of prostitution would continue to be unconstitutional, the *Protection of Communities and Exploited Persons Act* (hereafter *PCEPA*), previously known as Bill C-36, came into effect on December 6, 2014. The stated objectives of *PCEPA* are to protect both sex workers and the community by putting laws into place that will result in the eradication of the sex industry.³ In order to do so, the *Act* introduces a number of provisions, including ones that criminalize clients of sex workers (making prostitution illegal), as well as communicating for the purposes of prostitution “in a public place, or in any place in public view, that is or is next to a school ground, playground or daycare centre” and advertising sexual services for sale on the internet (see Appendix A for a chart that presents the laws pre and post *PCEPA*).

¹ I will explore Bill C-36 in-depth in the next chapter.

² (Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11)

³ This chapter focuses only on street-based sex work; however the sex-work industry consists of many avenues, including: in-call sex work, escorting, dancing (strip dancing), erotic massage, web-camming, and a variety of work in Bondage, Domination, Sadism and Masochism (BDSM).

This project examines the impact of the new legal regime on female street-based sex workers in Ottawa. To do so, this qualitative research project draws on interviews with nine street-based sex workers in Ottawa by paying particular attention to interactions with clients and law enforcement after the enactment of *PCEPA*. The overarching question is, “how does the new legal regime affect female street-based sex workers in Ottawa?” Relatedly, we consider if the first objective of *PCEPA* – to protect those who sell their own sexual services – has been met.

1. Thesis Layout

In order to answer my research question, we must first contextualize prostitution in Canada; Chapter 1 will do this by offering a background of the history of prostitution in Canada, from pre-Confederation vagrancy laws to *PCEPA*'s asymmetrical criminalization. This chapter discusses the logic behind a series of regulations on prostitution beginning from the 19th century to present day. We next turn to the literature on the criminalization of prostitution in Chapter 2. Here, two bodies of literature are examined: the first argues that the criminalization of prostitution is necessary, while the second maintains that the criminalization of prostitution is detrimental to the safety and well-being of sex workers. In order to address how the criminalization of clients impacts sex workers, the literature on the effect of Sweden's 1999 *Violence Against Women Act* is considered.

Following the literature review, Chapter 3 introduces symbolic interactionism and the concept of stigma to consider how stereotypes embedded in legislation can result in risk management campaigns targeting “Othered” populations (Sanders, 2004). This chapter concludes with a reflection on gendered risk.

Chapter 4 lays out the methodological approach of this thesis. I start by explaining the impetus behind this research project, before explaining the research process itself. It is here that I

introduce the epistemological background of the project, standpoint feminism, as well as Hubbard's (1999) principles on conducting research on sex workers. After presenting recruitment strategies, the data collection approach and detailing how the data was analyzed, I present the demographics of the nine women who were interviewed, before discussing the ethical precautions and limitations of the study.⁴

Chapter 5 is where the findings of this study are presented – the chapter starts with a description of what street-based sex work in Ottawa looks like to provide a contextual framework for the findings. This section is divided into interactions with clients, predators, and law enforcement, and consideration is given the participants' description of their good, unpleasant, and bad experiences; how the participants have to navigate risks when interacting with these populations is also examined.

Chapter 6 addresses these findings by offering an analysis that asserts *PCEPA* did not meet the objective of keeping those who sell their own sexual services safe, but rather, prioritizes the objectives of protecting the community and eradicating the sex industry. It is argued that embedded in the legislation are stereotypical assumptions about street-based sex workers as risky that directly influence the safety of street-based sex workers in Ottawa. The final *Conclusion* chapter ends this project with a reflection on the agency and resilience of the participants.

⁴ This thesis will use the female pronoun as all of the participants self-identified as female. Moreover, this research project was concerned with the female-specific perspective with regard to the participants' experiences with working under new legislation.

Chapter 1: **Contextualizing Prostitution in Canada: Moralism, Risk and** **Legislation**

Prior to December 6th, 2014, adult prostitution had never been illegal in Canada.⁵ The sex industry was instead regulated through a series of provisions in the *Criminal Code of Canada* (hereafter *Criminal Code*) that criminalized activities associated with prostitution:

- 1) Being found in or keeping a common bawdy house (section 210);
- 2) Providing directions or transporting someone to a bawdy house (section 211);
- 3) Procuring or living on the avails of prostitution (section 212);
- 4) Communicating in a public place for the purpose of prostitution (section 213.1 (c))

Of these criminalized activities, the majority of prostitution-related charges fell under the “rigorously enforced” communicating in public for the purposes of prostitution statute (section 213.1 (c) of the *Criminal Code*) (Bruckert & Hannem, 2013a, p.50). Despite estimates that street-based sex workers comprise just five to twenty percent of the sex industry, they are the most criminalized group of sex workers in Canada (see for example Bruckert & Chabot, 2010; Childs, 2006; Perrin, 2014; Strega et al., 2014).

This disproportionate rate of criminalization of street-based sex workers can be understood as part and parcel of the visible nature of street-based sex work and community mobilization against prostitution.⁶ Outdoor sex work has a greater visibility over its indoor

⁵ The act of prostitution is defined as the exchange of money or services for sexual services.

⁶ Assumptions of mental illness, drug addiction and disease also assist in constructing this population as “at-risk” (Childs et al., 2006; Goldenberg et al., 2014; Kuszelewski & Martin, 1997; Lowman, 2000; O’Neill et al., 2008), who must be criminalized in order to be “helped” out of the industry (Bruckert & Hannem, 2013b, p.49).

counterparts (Childs, 2006) and is viewed by communities as a nuisance that threatens family values, degrades the community, and facilitates the spread of disease (Bruckert & Hannem, 2013; Campbell 2015; Hintonburg Community Association, 2001). One result is community mobilization (as will be discussed later), which in turn facilitates the disproportionate rate of charges being laid against street-based sex workers under section 213.1 (c) of the *Criminal Code*.

1. History of the Criminalization of Prostitution in Canada

The association between prostitution and the discourse of risk and nuisance can be traced back to Canada's pre-Confederate era and is similar to how it was framed in other Commonwealth countries that were informed by Britain's moral and social purity movements (van der Meulen, Durisin, & Love, 2013). According to Campbell (2015), Commonwealth countries have historically invoked legislative initiatives that punish public, visible sex work considering it to be "more offensive" thus, "susceptible to a response from the state" (p.27-28).

This Commonwealth understanding of visible sex work as offensive (and thus, punishable) is reflected in Canada's early laws on prostitution.⁷ Prior to 1867, vagrancy laws regulated behaviour and persons who were deemed undesirable, which included those who ran or visited bawdy houses or those who held the *status* as a prostitute (see Campbell, 2015).⁸ By making the status of being a known prostitute (unless she could "provide a satisfactory account" of herself) illegal, sex workers were formally defined as an undesirable population whose perceived risk to the greater community necessitated state intervention (Campbell, 2015, p.30).

⁷ This thesis will use the terms "prostitute," "prostitution," "sex worker," and "sex work." It is important to note, however, that the terminology of "prostitute" and "prostitution" will be used when I am referencing sources that use those terms, when I am discussing a period of time in which "prostitution" or "prostitute" was used, and when I am referring to the legal terminology. The terms of "sex work" and "sex worker" will be the terms that I choose to use in this thesis. "Sex work" recognizes that sex work is a legitimate form of labour. Moreover, the term of "prostitution" and "prostitute" has a negative connotation, which is demeaning and perpetuates the stigmatization of sex work and sex workers.

⁸ *Criminal Code of Canada* 1872, s.175(1)(c)

By Confederation in 1867, the “at-risk” narrative emerged in Canada, where the focus of protection now included safeguarding women and children from being seduced into the sex industry. In post-Confederate era in Canada the preservation of patriarchal control, marriage and property was prioritized (Jeffrey & MacDonald, 2006). A valid risk to the family unit could be a female member who was sexually active or sexually assaulted. In other words, men were perceived as a threat to the chastity of unmarried women, who were the property of their fathers before becoming the property of their husbands (Carrasquillo, 2014). The root of female value to the patriarch was her virginity and reproductive capabilities – a father could marry his chaste daughter to a suitor for a dowry, and the suitor would be able to produce his legacy in children. Indeed, Canada even had a legislative campaign that favoured “seduction laws” (Dubinsky, 1999, p.35) which granted fathers a “tort remedy against men who had slept with their daughters (and thus damaging their property interest in the women)” (Sampson, 2014, p.144).

As such, laws were established that prohibited the “defilement of women under the age of 21” and by 1869, in order to combat female exploitation, vagrancy laws were extended to anyone who was living off of the avails of prostitution (Shaver, 2011). In 1892, the finalized *Criminal Code* included additional prohibitions on those who operated bawdy houses and those who procured women for “unlawful carnal connection” (*Criminal Code*, 1892, s.186 (a)) (Carrasquillo, 2014, p.705).

a. 1972 Solicitation Law

The 1892 laws remained in effect until 1972, when the vagrancy provisions were repealed and replaced by s.195.1 of the *Criminal Code* that read, “Every person who solicits any person in a public place for the purpose of prostitution is guilty of an offence punishable on summary conviction” (*Criminal Code*, 1972). The definition of “solicit,” however, was unclear

(Duchesne, 1997) and was clarified in the Supreme Court of Canada ruling in *Hutt v. R.* (1978):⁹ In order to find the activities of a sex worker to be criminal, her actions must fit the “dictionary definition of ‘solicit’; that is to say, it must be importuning, or ‘pressing or persistent,’ and constitute more than a mere indication that she was willing to prostitute herself” (at para.482). This led to fears that police could no longer act against street prostitution since their behaviour rarely met the “pressing or persistent” threshold – these fears soon resulted in community mobilization.

b. Community Mobilization

In the above context, the media consistently framed street-prostitution as a “problem” that police could not address (Lowman, 2000). In the early 1980s, community mobilization against street-based sex workers began across the country. In Vancouver, groups such as the Concerned Residents of the West End (CROWE) and Shame the Johns began initiatives to remove prostitution from their neighbourhoods “without seeming to care where it might go” (Lowman, 2000, p. 1002). By 1984, street-based sex work was displaced from Vancouver’s West End, only to be met with more community lobbying from other neighbourhoods (Lowman, 2000).

Similarly, Ottawa street-based sex workers also faced community mobilization as areas in which they traditionally worked were gentrified – most particularly the 1980s in the Byward Market and 1990s and 2000s in Hintonburg (Bruckert & Chabot, 2010). For example, in 2001, the Hintonburg Community Association released “Dispelling the Myths: Stories of the Effects of Street Level Prostitution on Communities” in which non-sex working community members shared their stories about, and perceptions regarding, the negative impact of prostitution. In this

⁹ In this case, Hutt was invited into the vehicle of a plains clothed officer, where she identified herself as a prostitute and began negotiations. The court did not believe that entering into a vehicle contributed to public inconvenience.

report, the anti-prostitution sentiment is unmistakable as, among other things, the Association takes credit for piloting the “Ottawa John School” and STAR Cards, “which residents use to record and report the activity of street prostitutes and their customers” (Hintonburg Community Association, 2001, p.2).

c. The Fraser Committee

In 1983, the Minister of Justice of Canada established a committee to inquire into prostitution and pornography (Kanter, 1985; Robertson, 2003). Led by Paul Fraser, the Fraser Committee released their findings in *Pornography and Prostitution in Canada; Report of the Special Committee on Pornography and Prostitution* (Communications and Public Affairs, 1985). In the report, the Fraser Committee first found that economic factors were a primary motivator to women’s involvement in prostitution and called on the government “remove the economic and social inequalities between men and women.” Second, the Fraser Committee asserted that addressing prostitution by legal measures alone is largely ineffective (Communications and Public Affairs, 1985, p.34-35).

Despite the Fraser Committee’s progressive understanding that prostitution should not be responded to through criminal sanctions, they rejected the complete removal of provisions regulating adult sex work maintaining the “annoyance and interference” of street prostitution would continue to be an issue for the general public. These “nuisances” were cited by the Fraser Committee as real ills that stem from street prostitution and that section 195.1 of the *Criminal Code* had not resolved (Communications and Public Affairs, 1985, p.37). Further, since the *Hutt* decision, a vehicle used during a sexual transaction was not considered a public space, yet at the same time these vehicles “proscribe[d] the nuisance effects of street prostitution” (Communications and Public Affairs, 1985, p.37). In short, while the Fraser Committee asked for

repeal of section 195.1 of the *Criminal Code*, it accepted that street prostitution is a form of nuisance that requires attention.¹⁰

d. *Bill C-49*

In 1985, Bill C-49 was introduced. Following the completion of the Fraser Report.¹¹ Bill C-49 replaced the 1972 solicitation provision (section 195.1 of the *Criminal Code*) with a new provision that made communicating for the purposes of prostitution illegal (section 213.1 (c) of the *Criminal Code*). The new law was gender neutral with both male and female sex workers and clients potentially criminalized (Campbell, 2015; van der Meulen, Durisin, & Love, 2013; Shaver, 2011); in practice, however, “despite the provision’s gender-neutral language, courts interpreted it as applying only to the practices of female workers” (Campbell, 2015, p.30).

In the years following the 1985 changes to the *Criminal Code*, sex worker rights groups, drawing on social science research, argued that Canada’s prostitution laws negatively affected sex workers’ health and safety. Despite this evidence, street-based sex workers continued to be targeted through both criminal law provisions and municipal bylaws, the latter of which was used to control the physical whereabouts of sex workers through charges against infractions such as loitering or jaywalking (Bruckert & Chabot, 2010; Shaver, 2011; Williamson et al., 2007).

A large part of the social science research argued that there was a correlation between the increased policing of street-based sex workers and the disproportionate violence that they

¹⁰ The Fraser Committee’s recommendation to repeal section 195.1 of the *Criminal Code* due to their belief that the provision “operates in a way that victimizes and dehumanizes the prostitute” (Communications and Public Affairs, 1985, p.34). The Fraser Committee also asked for repeals of subsections (3) and (4) of section 195 (procuring) to reflect recommendations that criminalized procurement. Finally, the Fraser Committee also sought repeal of section 195.1 (j) (living on the avails of prostitution) for a recommendation of criminalizing, again, those who gain avails through exploitation (Communications and Public Affairs, 1985, p.38).

¹¹ The Fraser Committee began in 1983 under Pierre Trudeau’s Liberal Government. When Bill C-49 was introduced at the end of 1985, Brian Mulroney’s Conservative Government led Canada. It is possible that this shift in government meant that the Committee’s recommendations were not followed.

experience (Lowman, 2000). This violence reached a point of international notoriety in Vancouver's Downtown East Side during the late 1990s and early 2000s, where over 60 women were missing – of the missing, the remains of 33 women were found on serial killer Robert Pickton's farm \. Pickton was only charged with the murder of 26 of the women and convicted in the murder of six of the women; however, Pickton claims to have murdered 49 women (CTV News). As a result of this context, two *Charter* challenges to the legal regime emerged in the mid-2000s.¹² It is to the precedent setting *Canada (Attorney General) v. Bedford*¹³, (hereafter *Bedford*), case to which we now turn.

2. **Bedford v. Canada (2007-2014)**

In 2007, three sex workers – one current, Amy Lebovitch, and two former, Terri-Jean Bedford and Valerie Scott – launched a *Charter* challenge (*Bedford*), arguing that the prostitution provisions within the *Criminal Code* criminalizing bawdy houses (section 210), living on the avails (section 212.1 (j)) and communicating for the purposes of prostitution (section 213.1 (c)) violated their section 7 rights under the *Charter* by obliging sex workers to labour in unsafe locations and impeding their ability to protect themselves (*Bedford v Canada*, 2010).¹⁴ The challenge launched by Bedford, Lebovitch and Scott is based on four claims:

- 1) Each impugned law violates sex workers' section 7 *Charter* right to liberty and security of the person;
- 2) These *Charter* violations are not in accordance with the principles of fundamental justice;
- 3) The communication for the purposes of prostitution law (section 213.1 (c)) violates sex workers' section 2(b) *Charter* right to freedom of expression;
- 4) These violations of sex workers' right to liberty, security of the person and freedom of expression are not justified in a "free and democratic society" (*Bedford v Canada*, 2010,

¹² The first charter challenge was launched by the Downtown Eastside Sex Workers United Against Violence Society (SUAVE) in 2007 and the second by *Bedford et al.* in 2007. (Sampson, 2014)

¹³ 2013 SCC 72, [2013] 3 S.C.R. 1101

¹⁴ Section 213.1 (c) was also challenged on the basis that it infringed Section 2 of the *Charter*, (freedom of expression). Though cognizant that section 213.1 (c) of the *Criminal Code* was restrictive, the majority upheld that the provision was reasonable under section 1 of the *Charter*. (*Bedford v Canada*, 2010)

at para.3; Santini, 2013, p.3)

The applicants' case was heard at the Ontario Superior Court of Justice in October 2009, during a seven-day trial. On September 28th, 2010, Justice Himmel struck down the challenged provisions, concluding that Canada's prohibition of communicating for the purposes of prostitution was "no longer in step with changing international responses"¹⁵ (*Bedford v. Canada*, 2010, at para.481) and that the provisions for living off of the avails of prostitution and keeping or being in a bawdy house are both "grossly disproportionate to their purpose" (*Bedford v. Canada*, 2010, at para.428). Justice Himmel's core finding revolved around the consequential harm that sex workers face due to the law. Justice Himmel ruled that the law greatly restricted the ability for sex workers to take measures that increased their safety because the "impugned provisions' [effect] is to force prostitutes to choose between their liberty interests and their personal security" (*Bedford v. Canada*, 2010, at para.435). While Justice Himmel was cognizant of arguments that Canada's prostitution laws were needed in order to protect community interests, she ruled that the danger posed to sex workers through the current provisions "greatly outweigh any harm which may be faced by other members of the public" (*Bedford v. Canada*, 2010, at para.538).

An appeal of Justice Himmel's ruling was heard from June 13th to the 17th of 2011 in the Ontario Court of Appeal (*Canada (Attorney General) v. Bedford*, 2012). On March 26th, 2012, the appellant judges, Doherty, Rosenberg, Feldman, MacPherson and Cronk upheld Justice Himmel's decision that the prohibition on bawdyhouses for the purposes of prostitution is unconstitutional (*Canada (Attorney General) v. Bedford*, 2012). Further, while the appellant judges agreed that the

¹⁵ Justice Himmel arrived at this conclusion by citing social science evidence and countries with alternative approaches to prostitution. The countries examined by the Court were the Netherlands, New Zealand, Germany, Australia (Queensland), the United States (Nevada), and Sweden (*Bedford v Canada*, 2010).

prohibition on living off of the avails of prostitution infringed section 7 of the *Charter* “to the extent that it criminalizes non-exploitive commercial relationships between prostitutes and other people” (*Canada (Attorney General) v. Bedford, 2012*, at para.6), they maintained that this could be resolved by “reading in” the words “in circumstances of exploitation.” The appellant judges ruled that, contrary to the decision by Justice Himmel section 213.1 (c) of the *Criminal Code* was constitutional and should remain in force (*Canada (Attorney General) v. Bedford, 2012*, at para.7).

The ruling on section 213.1 (c) of the *Criminal Code* was not unanimous – a minority ruling by Justices MacPherson and Cronk concluded that Justice Himmel was correct in ruling section 213.1 (c) of the *Criminal Code* to be a violation of section 7 of the *Charter* (*Canada (Attorney General) v. Bedford, 2012*). Justice MacPherson – writing for the minority – argued that expert evidence determined that the communication provision produced harms to sex workers that greatly outweighed threats felt by the community. Moreover, they asserted that the majority decision written by his colleagues, overlooked “evidence, that instead of reducing street prostitution, the communication provision forces prostitutes into isolated and dangerous areas.” (*Canada (Attorney General) v. Bedford, 2012*, at para.352)

In the following year, the Attorneys General of Canada and Ontario as well of the Bedford et al. plaintiffs pursued appeals and cross-appeals of the Ontario Court of Appeal’s ruling – the case was heard at the Supreme Court of Canada on June 13th, 2013. On December 20th, 2013 the Supreme Court of Canada struck down the three challenged provisions ruling that the judges in the Court of Appeal “wrongly attributed errors in reasoning to the application judge [Justice Himmel] and made a number of errors in considering gross disproportionality” (*Canada*

(*Attorney General*) v. *Bedford*, 2013, at para.159).¹⁶ Chief Justice McLachlin writing for the court wrote:

Each of the challenged provisions, considered independently, suffers from constitutional infirmities that violate the *Charter*. That does not mean that parliament is precluded from imposing limits on where and how prostitution may be conducted (*Canada (Attorney General)* v. *Bedford*, 2013, at para.165).

In spite of ruling that the laws increased sex workers' vulnerability to violence, the Supreme Court of Canada ruled that:

The choice between suspending the decision of invalidity and allowing it to take effect is not an easy one. Neither alternative is without difficulty. However, considering all interests at stake, I conclude that the declaration of invalidity should be suspended for one year. (*Canada (Attorney General)* v. *Bedford*, 2013, at para.169)

3. 2014: The Aftermath of Bedford

During the year-long suspension of the Court's decision, the debate surrounding the direction in which Canada should approach sex work revolved around two main models.¹⁷ The first is the asymmetrical approach to prostitution loosely based on Sweden's prostitution regime which criminalizes of the purchase of sexual services (Guy, 2014; Lowman & Louie, 2012).¹⁸ The second approach, decriminalization, seeks to remove all criminal law sanctions related to adult prostitution (like the regime in New Zealand) from the *Criminal Code* and would instead regulate prostitution under existing business and civil laws (Guy, 2014; Lowman & Louie, 2012).

a. Asymmetrical Criminalization

¹⁶ The struck down laws were the ban on street solicitation, brothels and living off of the avails of prostitution

¹⁷ The suspension of the court decision meant that the ruling was not in effect until the following year. This suspension allowed for a new legislative approach to sex work to be drafted and implemented before eliminating the existing legislation.

¹⁸ Those who support asymmetrical criminalization will be referred to as prohibitionists as they seek an end to the prostitution industry.

The basis of the asymmetrical argument is that prostitution is inherently harmful to women – supporters of prohibition argue that prostitution is a form of men’s violence against women, where sexual harassment, exploitation, rape and “torture” are commonplace and inevitable (Farley, 2004; Perrin, 2014).¹⁹ Moreover, this approach considers that prostitution, as a form of male dominance, encourages the objectification of women for male pleasure (Ekberg, 2004; Leidholdt, 1993). They argue the intrinsic harm of prostitution is that the “selling of one’s body [...] and sexuality destroys not only the integrity of the body, but also the integrity of the identity itself” (Comte, 2013, p.200).²⁰ In this understanding, women in the sex industry are identified as “prostituted” women. Furthermore, in order to protect prostituted women, this approach advocates that male clients, pimps and all other third parties must be criminalized, while the prostituted woman must be helped in exiting the industry (Comte, 2013; Farley, 2004; Guy, 2014; Majic, 2014).

This position opposes the decriminalization of prostitution as “normalizing” prostitution, which often seem as a form of unpleasant work, rather than as violence (Farley, 2004, p.1089). Prohibition proponents cite research in countries that have implemented either the legalization or decriminalization of prostitution, to argue sex workers continue to face “incidents of violence, threats, forcible confinement, theft, and refusal to pay for services” (Perrin, 2014, p.11).

b. Decriminalization

In contrast, proponents of decriminalization argue that this approach starts to break down stigma by legitimizing sex work as labour (Comte, 2013). In support of their arguments, these advocates cite research in countries where decriminalization is implemented that demonstrates

¹⁹ Prohibitionists seek to end the prostitution industry completely for reasons ranging from prostitution polluting the community to prostitution being violence against women.

²⁰ The following chapter addresses the literature on prostitution as violence against women in detail.

improved labour conditions and decreased violence against sex workers (because clients can be properly screened, sex work in remote locations is limited, and condom use can be asserted). Further, it is argued that relations between sex workers and law enforcement improve since sex workers can call upon the criminal justice system if victimized (Maggie's, 2010). Similarly, because health care can occur without fear of criminalization, physical, emotional and mental health is improved.

4. New Legislation: Sex Workers Not Welcome

Following the *Bedford* ruling and in the midst of the prohibitionist versus decriminalization debates, Justice Minister Peter MacKay and the Conservative government introduced Bill C-36, or *PCEPA*, a series of legislative reforms with prohibitionist tones promoted as legislation that can protect both sex workers and Canadian communities. The Justice Committee's hearings on the Conservatives' Bill C-36 was characterized by limited engagement by sex workers as the committee instead favoured hearings on anti-trafficking groups, police, and religious associations (Ross, 2014). Moreover, those sex workers who did present felt dismissed. For example, reflecting on her experience presenting on July 8th, 2014, Kerry Porth, the Board Chair of Pivot Legal Society (hereafter Pivot) wrote, "Conservative members [...] typ[ing] on their Blackberries and gossiped amongst themselves" (Porth, 2014) while she and panel members Chris Bruckert and Elin Sigurdson presented their evidence against Bill C-36. The disdain was apparent when Sigurdson tried to defer a question better suited for a response from someone in the sex industry and was met with Conservative MP Stella Ambler telling her, "We don't have time for that" (Porth, 2014).

The following month, Justice Minister Peter MacKay traveled across the country for meetings with "criminal justice system stakeholders" about Bill C-36 (O'Malley, 2014).

Excluded from these meetings were several critics against the bill, including Kerry Porth. In response to MacKay's assertion of reading the expert testimonies, Porth noted her surprise that anyone claiming to have read 25,000 pages of expert testimony during *Bedford* could "think that C-36 responds in any way to any of that" (O'Malley, 2014).²¹

One of the most unnerving instances of exclusion was in September 2014 when Terri-Jean Bedford was escorted out by security for exceeding her allotted response time during a Bill C-36 Committee hearing. Bedford expressed that "other people" were given "lots of time" to speak and that she had, "30 years of your [Government's] abusive laws, so I should be allowed at least an extra five minutes to talk about it" (O'Malley, 2014). Her commentary was met with committee chair Senator Runciman adjourning the meeting and calling for Bedford's removal, exemplifying the extent to which sex workers were unwelcome to participate on matters relevant to their labour and on which they have a great deal of expertise.

5. Current Regime: Protection of Communities and Exploited Persons Act (*PCEPA*)

On December 6th, 2014 *PCEPA*, previously known as Bill C-36, came into effect. It was framed (by the government) as being in the best interests of sex workers because "the Parliament of Canada has grave concerns about the exploitation that is inherent in prostitution and the risks of violence posed to those who engage in it" (*PCEPA*, 2014). As such, the following provisions are additions or changes to the previous provisions on prostitution in Canada:

- **286.1 (1)** Everyone who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person is guilty
 - a) an indictable offence and liable to imprisonment for a term of not more than five years and a minimum punishment of,
 - (i) in the case where the offence is committed in a public place, or in any place open to public view, that is or is next to a park or the grounds of a school or religious institution or that is or is next to

²¹ Kerry Porth explains that the 25,000 pages include social science evidence, sex worker testimony on how they maintain their safety and their desire for decriminalization (O'Malley, 2014).

any other place where persons under the age of 18 can reasonably be expected to be present

- **286.2 (1)** Everyone who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under subsection 286.1(1), is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years.
- **286.3 (1)** Everyone who procures a person to offer or provide sexual services for consideration or, for the purpose of facilitating an offence under subsection 286.1(1), recruits, holds, conceals or harbours a person who offers or provides sexual services for consideration, or exercises control, direction or influence over the movements of that person, is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.
(b) an offence punishable on summary conviction and liable to imprisonment for a term of no more than 18 months.
- **286.4** Everyone who knowingly advertises an offer to provide sexual services for consideration
(a) an indictable offence and liable to imprisonment for a term of not more than five years;
- **213 (1.1)** Everyone is guilty of an offence punishable on summary conviction who communicates with any person – for the purpose of offering or providing sexual services for consideration – in a public place, or in any place that is or is next to a school ground, playground or daycare centre (*Criminal Code*, 2014)

Of the abovementioned provisions, Section 213 (1.1) and Section 286.1 are explicit that sex workers and the community must be protected from prostitution.

1) *PCEPA* Critiques

Canadian sex workers and their supporters were not alone in voicing their concerns about *PCEPA*. On December 5th, 2014, 25 Toronto city councillors presented Premier Kathleen Wynne with a letter asking her to take *PCEPA* to the Ontario Court of Appeal to determine its constitutionality (Robertson & Houston, 2014). The councillors stated that they “fear that Bill C-36 has introduced such unsafe conditions into Canadian society, bringing foreseeable detriment and real danger to some of the most vulnerable women we represent” (Robertson & Houston, 2014). In response, Wynne stated her concern that “this legislation [...] will not make sex

workers safer”, and that she had “asked the Attorney General to advise me on the constitutional validity of this legislation” (Robertson & Houston, 2014). In response, former Attorney General Madeleine Meilleur maintained that the laws are constitutional (Ontario Women’s Health Network, 2015, p.4).

Chapter 2: A Review of the Literature on the Regulation of Prostitution: A Comparison of Perspectives on Criminalization

As we saw in the previous chapter, the history of Canadian regulation of prostitution evolved out of nineteenth century moralism identifying prostitution as a risky endeavour. Notably, the discourse on moralism has not changed; in Canada, right-winged and religious groups committed to promoting a socially-conservative country pursue the criminalization of prostitution (Sampson, 2014).²² This religious and moral discourse influences law and policy by constructing sex work, particularly visible sex work, as so “destabilizing or revolting” to both sex workers and the morality of community that criminalization of sex work is a necessity (Campbell, 2015, p.29).

While the laws regulating prostitution in the past have focused on the protection of society, the current legal regime in Canada explicitly pivots on the “at-risk/risky” stereotype: *PCEPA*’s objectives aim not only to protect the community from prostitution, but to aid sex workers to escape from the exploitation and violence that *is* prostitution. This chapter examines two conflicting bodies of literature: the first argues that the criminalization of street-based sex

²² During the Supreme Court of Canada’s hearing of *Bedford*, The Evangelical Fellowship of Canada (EFC), The Christian Fellowship League (CLF), and REAL Women of Canada’s (REAL) argued that the criminalization of prostitution is necessary because prostitution’s status as immoral reflects not opinion, but a “common and fundamental social value rooted in other constitutional values such as promoting gender equality, preventing the exploitation of vulnerable persons and protecting human dignity” (Factum of Interveners, 2013, para.2). The interveners note the importance of having criminal provisions against prostitution because it is for the protection of “public morality” – since the larger Canadian society views prostitution to be both immoral and harmful, law is required to protect “core social values” (Factum of Interveners, 2013, para.1).

work is a necessity, while the second body of literature maintains that the criminalization of sex work amplifies street-based sex workers' risk of danger.

Part I: The Purpose of Criminalization of Street-based Sex Workers

The criminalization of prostitution is rooted in ideas of risk-management: legislation criminalizing the industry for the perceived risk posed to society and, sometimes as in the case of *PCEPA*, the need to risk-manage on behalf of sex workers themselves, who are understood to be victims of exploitation. Indeed “contemporary legislative discussions are couched in the language of public nuisance, community security, and risk” with the underlying moral assumption that sex work is a, “literal and figurative pollution that is potentially damaging to communities” (Bruckert & Hannem, 2013, p.49). The following section examines the literature in support of criminalization of prostitution based on: health risks to the community and sex workers, prostitution as a form of nuisance, and as a risk to the safety of women.

1. Health Risks: HIV-STIs and Family

The literature in favour of the criminalization of prostitution is preoccupied with the fear that prostitution may facilitate sexual ill health for sex workers' clients and their families. This anxiety has essentially equated prostitution with the spread of sexually transmitted infections (STIs) and is based on the logic that since a sex worker has sex with multiple clients, she is increasing her risk of being infected with an STI.²³ Specifically, the panic is that STIs may contaminate the broader society – once a client (assumed to be a heterosexual man) visits a sex worker, he can infect his “unknowing” wife with a sexual infection resulting in real and dangerous consequences for both the clients and their families (Carrasquillo, 2014, p.705). A

²³ The discussion around prostitution and diseases almost exclusively explains the topic in a gender specific manner; women are almost always the sex workers (and cause for impurity and disease) while men are almost exclusively discussed as the clients.

community report in Ottawa, for example, credits prostitution for the destruction of the family unit:

Families get torn apart as a result of prostitution. Disease is out there: it has no race, no gender, no high or low-income level and often it has no symptoms. It robbed me of my children, my marriage, and my child's father. (Hintonburg Community Association, 2001, p.13)

The spread of HIV and STIs is also explained as a result of the marginal, and at-times impoverished, social location of street-based sex workers.²⁴ Responding to claims (from decriminalization and legalization advocates) that sex workers' health is improved when criminalization of prostitution is abolished, Raymond (2008) contends that sex workers are not protected from STIs in countries with these approaches. She cites mitigating factors such as:

The need of women to make money; older women's decline in attractiveness to men; from places that do not require condoms; pimp pressure on women to have sex with no condom for money; money needed for a drug habit or to pay off the pimp; and the general lack of control that prostituted women have over their bodies in prostitution venues (p.324)

Accordingly, Raymond (2008) explains that safe, sexual health can only be maintained through the criminalization of prostitution because it reduces the size of the industry in which potentially harmful sexual transactions occur.

a. Health: Street-based Sex Workers

Prohibitionist scholars argue that because of prostitution, sex workers experience a long list of ill health conditions including, but not limited to, STIs, exhaustion, sleep disorders, and reproductive issues (Farley, 2003). One major concern is that sex workers are at risk of an increased threat of cervical cancer and chronic hepatitis. Farley (2003; 2004) argues that the chance of cervical cancer increases depending on the age of first sexual encounter and the overall

²⁴ The PrEP (Pre-Exposure Prophylaxis) is an option for someone who is at very high risk for contracting HIV. This is an option for someone who has recently been exposed to HIV during sex or through the sharing of needles.

number of sexual partners, thereby positioning sex workers as a population at risk not only of diseases but also of death.²⁵

In addition to sexual health, Farley et al. (2003) and Deering et al. (2014) state that many sex workers also suffer from Post-Traumatic Stress Disorder, which lessens their overall quality of life. Moreover, traumatic brain injury, for example, is claimed to be as a significant issue for sex workers who are hit, beaten, and attacked on the upper body and head (Farley, 2004, p.1098). In each case, since the inherent risks of prostitution are continually identified as the reasons these health issues occur, prohibition is the proposed solution.

2. Nuisances – The Community

Both Canadian and international literature on the nuisances posed by prostitution reference near identical concerns in support of the criminalization of prostitution. For one, the literature maintains that prostitution is disruptive and limits the community's use of public space. In Ottawa, the Hintonburg Community Association reports that children are unable to play in parks for fear of the risk of exposure to used syringes or condoms (Hintonburg Community Association, 2001). Both women and men document instances of harassment when walking alone. Women fear being mistaken for a street prostitute – this distress is exemplified by a student who recalls her experience while waiting to be picked up from work: “Some men [...] yelled, ‘Why don’t you get a real job!’ I was stunned. Why did they all think that I was a prostitute?” (Hintonburg Community Association, 2001, p.17). Men on the other hand report being mistaken for clients and experiencing “threats and intimidations” from pimps and drug dealers (Hintonburg Community Association, 2001, p.18).

a. Associated Nuisances

²⁵ Gardasil and Cervavix are accessible vaccinations used to combat the risk of the HPV (Human Papillomavirus) infection that can cause cervical cancer. (Public Health Agency of Canada)

The relationship between drug use and street-based prostitution is a frequently identified harm. The use of crack-cocaine by street-based sex workers, for example, is a major concern for non-sex worker community members (Duff et al., 2013; Hintonburg Community Association, 2001; Roy & Arruda, 2015). The Canadian literature notes that street-based sex work is heavily associated with “*plaque*” (Roy & Arruda, 2015, p.632) or “crack houses” (Hintonburg Community Association, 2001) and that some sex workers operate on the basis of a “sex-for-money-for-drugs exchange” (Roy & Arruda, 2015) or “sex-for-crack exchanges” (Duff et al., 2013). This in turn increases the presence of drug dealers and organized crime in the community. In Ottawa, law enforcement explains that in areas with street-based prostitution and crack houses, both petty and organized crime plague the neighbourhood (Hintonburg Community Association, 2001). The existence of crack houses also engenders the need for protection from competitors. Guard dogs are used for this purpose – these typically “poorly kept” dogs can get loose and “terrify” the neighbourhood (Hintonburg Community Association, 2001, p.27).

3. Violence Against Women

Anti-sex work advocates argue that the criminalization of prostitution is necessary; they believe that the prostitution industry *is* violence and exacerbates violence against women and *prostituted* women. The literature on prostitution as violence asserts that prostitution is a form of male dominance that objectifies the bodies of women (whether sex workers or not) for male pleasure (Day, 2008; Leidholdt, 1993). Prostitution is viewed as an industry that normalizes the rape, battery and harassment of women because prostitution supports the sexual objectification of women. It is argued that the broader social harm of prostitution resides in the ability of men to buy, sell and use women, which positions women as unequal to men in both sexual and non-sexual relations: “The purpose of prostitution is to make sure that one person is object to the

other's subject, to make sure one person does not use her personal desire to determine which sexual acts do and do not occur" (Farley, 2003, p.249; see also Day, 2008; The Women's Coalition, 2011).

In the case of *prostituted* women, prohibitionist feminists maintain that prostitution is inherently violent and a form of "gender victimization and oppression" (Barnett & Casavant, 2011; Dodillet & Ostergren, 2011; Ekberg, 2004; Ekberg, 2013; Levy & Jacobsson, 2013a). Therefore, women in the sex industry are understood as exploited victims: so physically and psychologically damaging is prostitution that no woman would choose to sell herself (Barnett & Casavant, 2011; Dodillet & Ostergren, 2011; Ekberg, 2004; Ekberg, 2013; Levy & Jacobsson, 2013a; Levy & Jacobsson, 2013b).

Finally, sex workers are understood to be at-risk from pimps who employ coercive tactics to exploit them for monetary gain (Busch et al., 2002; Farley, 2003). According to Farley (2003) and Farley et al. (2008), prostitution is typically "pimp-controlled," where young women are dehumanized and forced to perform acts that are sexually humiliating in order to ensure self-hatred so they cannot defend themselves or exit the industry (p.253). According to anti-sex work advocates, the solution to this violence is to end the industry by criminalizing clients and third parties (Comte, 2013; Farley, 2004; Guy, 2014; Majic, 2014; The Women's Coalition, 2011).

4. Summary

The literature supporting the criminalization of prostitution fundamentally revolves around risk discourse. The sex industry is constructed as a risky undertaking that victimizes those who sell their own sexual service. The industry is portrayed as inherently violent rendering sex workers susceptible to a multitude of harms including the potential for physical and sexual victimization. Furthermore, prostitution is argued to also victimize the community: from the risk

of HIV/STI contamination to associated nuisances of prostitution that effect the neighborhood. Woven to this is the discourse of immorality, where prostitution is equal to moral turpitude, corruption and contagion, which must be eliminated for the safety of society. Equipped with one part of the literature on the criminalization of prostitution, we now turn to a body of literature that argues criminalization creates the risky, unsafe environment in which sex workers labour.

Part II: The Impact of Criminalizing Prostitution on Street-based Sex Workers

The previous section of this chapter explored the main arguments for supporting the criminalization of sex work: negative health consequences, sex work as violence against women and affiliated nuisances. For each problem, keeping or making the prostitution industry illegal is viewed as the appropriate solution. Directly challenging this body of literature is one that identifies the criminalization and stigmatization of the sex industry to be a significant contributing factor to the violence experienced by sex workers. From this perspective, sex workers are at risk of violence not due to their labour choices or because prostitution is inherently violent, but because criminalization stigmatizes sex workers, resulting in discrimination and violence. Further, criminalizing aspects of prostitution – like working with third parties, or clients – directly impacts the safety of sex workers by restricting their ability to implement measures which increase their security. It is to this literature we now turn.

1. Stigma

A considerable body of literature on street-based sex workers recognizes stigma as a defining factor conditioning how sex workers are treated once the nature of their work is disclosed or exposed.²⁶ Sex workers are framed as, “dirty, immoral, hyper-sexualized, home-wreckers, coerced, victims and not workers” (Bruckert & Chabot, 2010, p. 80). Once a woman is

²⁶ The following chapter will look at stigma in-depth as I consider the theoretical framework of this project, symbolic interactionism.

identified as a prostitute, it can result in stigmatization, discrimination, exclusion, rejection and segregation from society because she cannot be disassociated from these perceived characteristics (Hubbarb, 1998; Jeffrey & MacDonald, 2006; Lazarus et al., 2011; Lewis et al., 2005; O'Neill et al., 2008; Sanders, 2004; Shaver & Maticka-Tyndale, 2011). Stigmatization:

Reproduces social stratifications and hence is profoundly implicated in processes that legitimate marginalization at the same time as they become the justification for discrimination, sanction, neglect and the denial of fundamental rights, including the right to protection and criminal justice redress. (Bruckert & Chabot, 2010, p.79)

Here, we see the master status at work: once a sex worker is labelled a prostitute, she is assumed to embody the stereotypes associated with the stigmatized status and is ultimately excluded as “Other” (Sanders, 2004, p.1705).

The effects of this “Othering” are seen when communities treat street-based sex workers as the “criminalized Other” or, as risky outsiders (e.g. Hubbarb, 1998; O'Neill, 2007; O'Neill et al., 2008; Sanders, 2004). The perception of street-based sex workers as “Other” positions sex workers as a perilous risk to the cohesion of the social and family units. To control this risk, street-based sex workers are pushed out by members of the geographic community (Benoit & Miller, 2001; Lewis et al., 2005; Shaver, Lewis & Maticka-Tyndale, 2011).

In some cases, the extent of community exclusion is exemplified when street-based sex workers are assaulted or threatened. Some community members attack sex workers with bottles and food from passing cars (STAR, 2006), while other communities, like Vancouver in the 1980s and 1990s, refer to “street-connected women and anyone associated with them as scumbags and sleazeballs” and administer warnings and threats to permanently move street based sex workers out of the community (Lowman, 2001, p.1002).

2. Police Interactions

The literature reviewed also reveals tensions between street-based sex workers and law enforcement that plays out in a number of ways: the following will examine harassment, abuse and sexual victimization of street-based sex workers by law enforcement.

a. Harassment

Street-based sex workers report harassment from police when they are on and off of the job including being detained, called names and publically outed (Bruckert & Chabot, 2010; Jeffrey & MacDonald, 2006).²⁷ The Canadian literature draws attention to street-based sex workers' assertion that they are being stopped and publicly shamed by police officers while non-marginal citizens are able to blend into public spaces without being required to account for themselves (Bruckert & Chabot, 2010). In short, it appears that once street-based sex workers are known to the police – or prescribed a master status – they are targeted in their everyday lives (Lewis et al., 2005).

Exclusion is often identified as another discriminatory practice that occurs in criminalized regimes. Similar to communities driving sex workers out of the neighborhood, law enforcement pushes street-based sex workers into isolated and dark spaces of the city. For example, Ottawa Police Services (hereafter OPS) regularly undertake “street sweeps”; Bruckert and Hannem (2013b) describe this as “the removal of street-based sex workers from the community and public space, thereby associating sex workers with pollution or trash that is degrading the community” (p.49).²⁸ In the early 1980s, Vancouver also had a street-sweep initiative supported by politicians, police and non-sex worker communities (Lowman, 2000, p.1002), while in Toronto, police are known to “block bust” parts of the city where drug dealers

²⁷ “Outing” refers to the exposure of a hidden status that was not meant to be told/meant to be kept a secret.

²⁸ OPS continues the practice of removal through targeting clients.

and known sex workers congregate, in order to “clean up” the area (Kuszelewski & Martin, 1997, p.850). Often, police issue “red” or “no-go zones” as a tactic to control and criminalize the physical whereabouts of known street-based sex workers (Bruckert & Chabot, 2010; Jeffrey & MacDonald, 2006). In these cases, the use of geographical restrictions pushes street-based sex workers out of their work space, as well away from their communities’ social, health and economic supports (Bruckert & Chabot, 2010; Jeffrey & MacDonald, 2006).

b. Verbal Abuse

Verbal attacks from police officers are reported as a common occurrence in sex worker-police interactions (Bruckert & Chabot, 2010; Jeffrey & MacDonald, 2006; Williamson et al., 2007). The attacks are both demeaning and degrading and reflect the instilled stereotypes about those who provide sexual services. Street-based sex workers report being called “diseased,” “nasty whores,” and “crack heads” by law enforcement (Williamson et al., 2007, p.28). The same is also found during arrest for various illegal activities – the detainees are not simply arrested, but are verbally assaulted in the form of name-calling or bullying tactics as a method of humiliation and dehumanization (Bruckert & Chabot, 2010; Jeffrey & MacDonald, 2006; Williamson et al., 2007).

c. Sexual Victimization

Research also suggests criminalization of prostitution creates conditions where sex workers are vulnerable to sexualized abuse of power by law enforcement (e.g. Bruckert & Chabot, 2010; Jeffrey & MacDonald, 2006; Kuszelewski & Martin, 1997; Lewis et al., 2005; Williamson et al., 2007). In Ottawa, for example, street-based sex workers recount strip-searches performed by male officers, which is a violation of their right to be searched by an officer of the same-sex (Bruckert & Chabot, 2010, p.57).

Street-based sex workers also report police extorting sexual services (e.g. Jeffrey & MacDonald, 2006; Kuszelewski & Martin, 1997; Lewis et al., 2005; Williamson et al., 2007). In Toronto, one officer was known to street-based sex workers as the “sperm whale” because he used the threat of his handgun to frighten sex workers into providing oral sex (Kuszelewski & Martin, 1997, p.849), while in an undisclosed, large Canadian city, street-based sex workers report sexual transactions with undercover officers who face no legal repercussions (Lewis et al., 2005). Research done in the United States echoes these Canadian findings – Williamson et al. (2007) found that many participants were sexually assaulted or misled into engaging in sexual activity with police officers. Out of 137 respondents, 29.6% reported experiences of police violence including being raped, stalked, slapped, choked or robbed, while 15.4% reported being forced into sexual activity with a police officer (Williamson et al., 2007, p.22).

3. Violence and Labour: Predatory and Situational Violence

According to Lowman (2000), the criminalization of sex workers creates a conflictual relationship and alienates the population from the protective services of the police. Combined with the nuisance rhetoric isolating sex workers from their own communities, the risk of violence is exacerbated since sex workers are unlikely to report victimization out of fear of criminalization and/or being discredited (e.g. Allan et al., 2014; Betteridge, 2005; Bruckert & Chabot, 2010; Childs, 2006; Deering et al., 2014; Jeffrey & MacDonald, 2006; Krusi et al., 2014; Lowman, 2000; Monto, 1998; Penfold et al., 2010; Williamson et al., 2007). In the coming section we see that scholars point to the criminalization of prostitution as elevating the risk of violence. In this context, violence is one of two kinds: either predatory or situational. In either case a street-based sex worker’s vulnerability is exacerbated by the criminal status of their work and their inability to turn to the criminal justice system for protection.

a. *Predatory Violence*

Sex work scholars argue that sex workers are at risk of being targeted by predators who pose as clients.²⁹ These predators carry out planned, premeditated attacks where the purpose is either sexual assault or, less often, robbery³⁰ (e.g. Bruckert & Chabot, 2010; Jeffrey & MacDonald, 2006; Lowman, 2000; Monto & Hotaling, 2001). Predators prey upon sex workers' vulnerability, knowing sex workers typically work in isolation and are unlikely to turn to the police (or face police inaction on their complaint if they do). Underlying these misogynist attacks is legitimized whore stigma,³¹ where a "prostitute is someone who can be treated differently than other women" since sex workers permit "them [clients or predators] to do things they would not ordinarily be allowed to do with other women" (Monto & Hotaling, 2001, p.278). Further, rape

²⁹ It is important to differentiate what is meant by a client and a predator. A client is often a respectful, paying individual who engages in a consensual sexual transaction. A client will usually respect the boundaries determined by the sex worker. Sometimes, sex workers must deal with unpleasant clients who may push boundaries, or who may be rude or unhygienic. At times, situational violence may occur at the hands of unpleasant clients; this violence is contextual and occurs out of a misunderstanding or dispute. A predator, on the other hand, is an individual who has no intent to engage in a consensual transaction with a sex worker; rather, a predator is preying upon sex workers for purposes of robbery or sexual assault due to the precarious situation that sex workers are forced to be in.

³⁰ Sex workers report predators not paying for the services they receive (Bruckert & Chabot, 2010; Childs, 2006; Jeffrey & MacDonald, 2006). Some sex workers consider unpaid sexual services as rape, since the agreement was sex-for-money and therefore would not be consensual otherwise (Barnard, 1993; Bruckert & Chabot, 2010; Penfold et al., 2010; Williamson, 2007), while other sex workers consider it a robbery (Barnard, 1993; Bruckert & Chabot, 2010; Childs, 2006; Penfold et al., 2010; Williamson, 2007). In Childs' (2006) research, street-based sex workers in Vancouver report high instances of *robbery*, where clients either steal their purses and run away, or refuse to pay for the services they have received. In more severe cases, instances of being physically assaulted have occurred for simply asking for payment (Childs, 2006).

³¹ Scholars suggest that one of the most damaging stigmatic stereotypes is the "whore stigma" or "whorephobia" which is used principally against street-based sex workers by community members and or police who feel the moral superiority to shame sex workers for being dirty, immoral, vectors of disease and for being a source of transmission of sexually transmitted infections, including HIV/AIDS, into mainstream society (Betteridge, 2005; Bruckert & Chabot, 2010; Jeffrey & MacDonald, 2006; Koken, 2011; Kuszelewski & Martin, 1997; Lazarus et al., 2011; Strega et al., 2014). As a result, whorephobia reproduces the at-risk/risky stereotype by identifying sex workers as victim-nuisances who are too "dimwitted" to know what is best for them (Bruckert & Chabot, 2010, p.79). As will be addressed later, "whorephobia" is also used to legitimize misogynistic sexual violence against street-based sex workers.

myths also play a crucial role in the sex workers' vulnerability as predators believe "the rape of a prostitute is unproblematic" or that "prostitutes cannot be raped" (Monto & Hotaling, 2001, p.277). In short, when street-based sex workers are stigmatized with the dangerous stereotype of "Other," violence against the population is made easier.

b. Situational Violence

There are also scenarios of violence between legitimate clients and street-based sex workers – situational violence, which is not premeditated, but, emerges out of a dispute for a variety of reasons (Bruckert & Chabot, 2010; Jeffrey & MacDonald, 2006; Lowman, 2000). In Vancouver, some male respondents who self-reported to have been violent with a sex worker indicated the violence emerged when specific services purchased were never delivered (Lowman & Atchison, 2006, p.293). As identified in the 2010 "*Challenges: Ottawa area sex workers speak out*" report (hereafter *Challenges*), situational violence is often mitigated when there is, "adequate time to carefully assess a potential client, negotiate the services, and establish fees" as this reduces the opportunity for misunderstanding (Bruckert & Chabot, 2010, p.41).

4. Negative Health Consequences

Many street-based sex workers, "hid[e] their involvement in sex work in an attempt to increase the likelihood of receiving services, [with the result that] providers remain unaware of all their care needs" (Lazarus et al., 2011, p.141). Not disclosing their occupation in fear of being misdiagnosed by health care professionals is often raised in the literature: for example, medical health issues (e.g. a flu) may be misdiagnosed (e.g. as an STI) due to stigmatic assumptions about prostitution (Cohen et al., 2006; Csete and Cohan, 2010; Jeffrey & MacDonald, 2006; Lazarus et al., 2011; STAR, 2006). Other reasons for withholding relevant medical information and work status included the "fear of arrest and prosecution, negative past experiences with

disclosure, fear of disapproval, embarrassment and believing that sex work was not relevant to their health needs” (Cohen, et al., 2006, p.141).

In addition to poor access to medical health care, stress is also identified as a health concern that many street-based sex workers experience. Street-based sex workers, mindful that they are working in isolated dimly lit areas, report being stressed due to concern for their safety (Childs, 2006; Shaver, 2011). In particular, street-based sex workers report stress when in situations where client screening is neglected in order to settle a transaction. Stress is also linked to as the risk of STI exposure if condom negotiations fail (Allan et al., 2014; Childs, 2006; Goldenberg et al., 2014; Krusi et al., 2014; Jackson, Bennett and Sowinski, 2007).

5. Criminalization of Clients

Given that this thesis will attempt to address the impact of *PCEPA* on street-based sex workers in Ottawa, and since criminalizing the clients of sex workers is new in Canada, we must turn to the literature on asymmetrical criminalization in Sweden where the initiative has existed for nearly two decades. Asymmetrical criminalization, rooted in radical feminist ideology, advocates for the criminalization of sex workers’ clients and third parties while sex workers are viewed as victims of sexual exploitation (Sampson, 2014). The following considers the impact that asymmetrical criminalization in Sweden has on street-based sex workers and the response of local law enforcement to the shift in the legal regime.

a. Effects of Asymmetrical Criminalization in Sweden

There is a debate within the academic literature about the effects of asymmetrical criminalization of prostitution in Sweden. In terms of the success of the law, one body of literature concludes that the 1999 provisions criminalizing the purchase of sexual services has reduced street prostitution. Ekberg (2004) states that in 1999, there was an estimated 125,000

men who “bought” about 2500 prostituted women one or more times in the year – out of the 2500 women, 650 were street-based sex workers (p.1193). Further, the number of women involved in street-based sex work has decreased by 30% to 50%, while the recruitment of women into prostitution has almost completely ended (p.1193). By 2004, the number of women in street-based prostitution in Sweden was no more than 500 women (in a country of nine million). In total, it is estimated that less than 1500 women continued to work in the sex industry by 2002 (p.1193). These figures are supported by Eriksson and Gavanas (2008) who state that Swedish NGOs and governmental agencies claim street-based sex work has almost completely disappeared.

b. Police Enforcing the Law

To align government initiatives with law enforcement, education programs that instruct officers on the realities of prostitution and human trafficking have been implemented (in collaboration with the National Criminal Police and the Division for Gender Equality). After the first year of the 2003 program, the arrest rate for purchasers of sex increased by 300% - an increase that is attributed to police officers understanding the conditions in which women are vulnerable to “becoming victims of prostitution and trafficking” (Ekberg, 2004, p. 1196). In 2010, over a decade after the *Violence Against Women Act* became law, reports showed that 650 individuals had been convicted “under anti-prostitution laws,” and that 1,200 individuals were prosecuted for the “purchase of sexual services between 2008 and 2011” (Barnett & Casavant, 2011, p.14).

It is notable that some of this increase, according to researchers, is attributable to sex workers themselves. Pros-Centre in Stockholm explains that now that they are protected by the law, women involved in prostitution who are seeking to exit bring “buyers to justice” by

reporting them to police, therefore, facilitating prosecutions for purchasing sexual services, and other “sexual crimes” such as rape, battery and the sexual exploitation of minors (Ekberg, 2004, p.1204).

c. Critique of Asymmetrical Criminalization

A body of literature exists that is critical of the assertions that the *Violence Against Women Act* in Sweden is working. Academics Levy (2013), Levy and Jakobsson (2013a), and Chu and Glass (2010) argue that the prostitution industry in Sweden has not been abolished – sex work has moved indoors and online. Moreover, the impact of asymmetrical criminalization results in the same risks to sex workers as criminalization: with the reduction of bargaining power (as a result of increased fear amongst clients, greater competition for clients, and reduction of prices), sex workers are accepting riskier clients (Chu & Glass, 2010; Sampson, 2014). Further to this point, sex workers in other Scandinavian countries like Norway, for example, express that they cannot work with other sex workers to mitigate risk, nor report violence out of fear of being charged with “promotion of prostitution” under the law (Amnesty International, 2016, p.4). Overall, the negative impact on street-based sex workers was recognized by the Global Commission on HIV and the Law, who condemned the 1999 prostitution laws in Sweden as having worsened the lives of street-based sex workers (Levine, 2012).

Chapter 3: Symbolic Interactionism, Stigma and Risk Narratives

This chapter draws on George Howard Mead and Herbert Blumer's symbolic interactionism to develop a theoretical point of entry to think about the impact of stereotypes and stigma on interactions with an eye to developing a theoretical lens to think through the guiding question of this thesis: How does the new legal regime impact female street-based sex workers in Ottawa? The chapter starts with the theory, symbolic interactionism, to provide context for situating how meaning and understandings are defined and assigned during interactions. Next, Ervin Goffman's concept of stigma is introduced. In order to reflect on stigma's structural affects, structural discrimination (whereby law and policy makers unintentionally create discriminatory policies or legislation about stigmatized groups of people) is considered before introducing the concepts of structural stigma (where stigmatic assumptions about groups of people are thought to be embedded in legislation and policy which is then disguised as risk-management initiatives). Lastly, in association with structural stigma, gender and sexuality are discussed as part of risk narratives that position (some) women as "Other."

1. Symbolic Interactionism

Conceived by George Mead and coined by his student, Herbert Blumer, symbolic interactionism's underlying assumption can be summarized as follows: people behave towards objects or others on the basis of the meanings that have been determined through social interactions and interpretations. In contrast to the broad, macro-oriented theories of early sociology, symbolic interactionism in the Mead-Blumer era focused on the "interpersonal

interactions and communications in individual settings” (Shantz, 2012, p.70), where individuals create and manage their settings, interactions and lives by going through, “the social process of influencing others in a social act and then taking the attitude of the others aroused by the stimulus, and then reacting in turn to this response” (Mead, 1932, p.171).

In more contemporary scholarship, emphasis is placed not only on the micro interpersonal interactions, but also on the importance of macro elements when subscribing meaning to a phenomenon:

Symbolic interactionists remind us that behavior, meaning, and all of social life, including drug addiction, are not only products of an individual’s interaction with others in a social world, they are also a product of the macro background or social structure in which that interaction takes place. (Anderson, 1994, p.171)

In this understanding of symbolic interactionism, micro and macro elements are mutually capable of producing meaning, something Anderson argues is critical because focusing on micro-strategies of “dealing with the problem” only allows for the nuisance to grow back – something he likens to a dandelion weed (Anderson, 1994, p.172). In other words, real change cannot be successful without broader interventions that address inequality at the root of stigma. What becomes problematic is when Anderson’s theorization of the dandelion is inversed; rather than working towards a reduction or elimination of stigma and inequality, macro interventions can become harmful when stereotypes are embedded in broader risk management interventions that fuel stigma and inequality in interpersonal interactions.

a. Stigma

In 1963, Erving Goffman, a symbolic interactionist, introduced the concept of stigma, which he defined as a discrediting social label, “a failing, a shortcoming, a handicap” (pg.11) used to, “mark people as other” (Bruckert & Chabot, 2010, p.79). Not all stigmatic attributes are alike – Goffman identifies three categories that produce stigma. The first is “abominations of the

body,” or, physical deformities. (Goffman, 1963, p.14) The second is “blemishes of individual character” that are understood as a result of “weak will, unnatural passions, treacherous and rigid beliefs, and dishonesty” (Goffman, 1963, p.14). Those who suffer from mental health issues, as well as those who are unemployed, homosexual or imprisoned may be considered a part of this stigmatic group. The final category of stigma is “tribal stigma,” which stems from race, nation or religious association (Goffman, 1963, p.14).

According to Goffman (1963), stigma occurs when an individual is perceived to:

Possess an attribute that makes him different from others in the category of persons available from him to be, and of a less desirable kind [...] is thus reduced in our minds from a whole and usual person to a tainted, discounted one. (p.11)

Once a stigma is associated with an individual, those without stigma “exercise varieties of discrimination” against the stigmatized, “not quite human” individuals (Goffman, 1963, p.14). Often, stereotypes are employed to explain the inferiority of a stigmatized individual or group and constituting them as a threat of danger or risk (Goffman, 1963).

The effects of stigmatization are not lost upon those stigmatized – an individual that is “marked” as different may internalize the “standards he has incorporated from the wider society” (Goffman, 1965, p.17). When an individual perceives that something about their identity may be a “failing” or “defiling” attribute to possess, shame, self-hate, and self-derogation become a possibility (Goffman, 1963, p.17). The awareness and internalization of stigma produces anxiety about interactions with other people; for example, a stigmatized individual may perceive their inferiority during interactions with non-stigmatized people: “Individuals’ actions, behaviours and ways of knowing or perceiving their world will be conditioned and contoured by their social positioning within it” (Comack, 1996, p.29).

b. Structural Discrimination

Consistent with contemporary symbolic interactionist recognition that interactions must be understood in the context of broader social processes, Link and Phelan (2001) expand on Goffman's work by theorizing that stigma can also include macro-elements. The authors argue that "stigma has affected the structure around the person" leading to broader discrimination and for the individual to be "exposed to a host of untoward circumstances" (p.373). For example, Link and Phelan (2001) explain that stigmatized groups, like those suffering from mental illness, may face barriers due to their illness or due to exclusion (p.372). Structural discrimination then occurs, for example, when a mental disorder like schizophrenia is so demonized that less funding is dedicated to research towards the illness and to the care and management for those suffering from the condition (p.372). In addition, treatment for stigmatized illnesses may be in isolated or in inconvenient areas conducted by a "less accomplished group," whilst the most successful mental health experts hold their practice in affluent areas and treat "less serious illnesses" (p.373). Structural discrimination then leads to barriers felt by the individual suffering from schizophrenia "whether or not anyone happens to treat [...] her in a discriminatory way because of some stereotype about schizophrenia" (p.373).

Structural discrimination is unintentional and occurs when those in charge of creating rules, policies, or legislature are unaware of the impact of their decisions on specific groups of people (Hannem, 2012). While discrimination is the "visible result of symbolic stigma and occurs without the intent of separating that person or group from the 'normal,'" inducing "shame or disgrace," structural discrimination does not carry an intention to shame or disgrace a particular group or person (Hannem, 2012, p.24).

c. Structural Stigma

Working in relation to the scholarship of Link and Phelan (2001), Stacey Hannem (2012) advances the concept of structural stigma which she argues is the inverse of structural discrimination. Whereas structural discrimination defines a situation in which law and policy makers are unaware of the devastating consequences that certain policies or laws may have on a specific group of people, structural stigma occurs when there is an “awareness of the problematic attributes of a particular group of people” and therefore, law and policy makers seek to manage risk posed by the specified population on the basis of their perceived stigmatic attribute (p.24). The structural component of stigma occurs due to “institutional and conceptual structures that surround” stigma (Hannem, 2012, p.24). Individuals marked by stigma may be subjected to a variety of interventions and/or regulations including surveillance by the State on the basis of their membership in a “risky” group.

d. Structural Stigma and Risk Narratives

According to Lupton (1999), the use of “the noun ‘risk’ and the adjective ‘risky’ have become more commonly used in both popular and expert discourses” (p.9) and there has been a surge in the production of expert knowledge revolving around risk, such as that risk can be measured and controlled (Lupton, 1999). According to Lupton (1999):

Risk has become an increasingly pervasive concept of human existence in western societies; risk is central aspect of human subjectivity; risk is seen as something that can be managed through human intervention; and risk is associated with notions of choice, responsibility and blame (p.25)

According to Bruckert and Hannem (2013), structural stigma occurs when assumptions of risk, whether to the self or to others, “becomes attached to a discredited identity through institutionalized discourse” (p.49). Law and policy makers – those deemed as experts on judgements of risk – evaluate and create policies based on risk assumptions and not on the basis of an objective or neutral assessment of risk (Lupton, 1999, p.29).

2. Risk and Gender

Populations that are dubbed “risky” by experts can include sexual minorities – according to Sanders (2004), sexual minorities are a group “that have been ‘Other-ed’ through spatial as well as social processes of seclusion” (p.1706). In other instances, women as a whole are identified as risky. This becomes problematic when groups such as sex workers – who are predominately female— are defined as dangerous and sanctioned off from public space: “Women [that] are shifted from one location to another, in an attempt to remove them from the ‘safe spaces’ to the margins “as form of risk-aversion (Sanders, 2004, p.1706).

Indeed, embedded in this perceived danger is the female, sexualized body, which has “always been targeted by ideas of danger, sinfulness, and immorality” (Sanders, 2006, p.97). Identifying specific groups as sexually risky effectively regulates and controls the boundary of acceptable sexuality (Sanders, 2006; Ruthven, 2015). The female, sexualized body is then an area that is legally defined as a “legitimate object of corporal punishment” (Smart, 1985, p.93). We see this when women who engage in extramarital sex are judged as “‘overly sexual’ and subjected to ‘slut shaming’” (Carrasquillo, 2014, p.707), or when women are blamed for their sexual victimization on the basis of their attire, sexual ‘promiscuity’ or consumption of alcohol. This form of regulation and control attempts to push women to engage in normative sexual behaviour, where expressions of female sexuality constituted as a danger to the morality (e.g. family unit) and the health of the greater population (Smart, 1985).

3. Summary

In summary, this chapter provided an overview of Mead and Blumer’s symbolic interaction theory and Goffman’s concept of stigma. Given that this thesis is focused on the impact of embedded stereotypes in legislation that can result in the risk management initiatives of

populations of people, I will draw on this theoretical framework and the associated concepts in the analysis of individual interviews of sex workers.

Chapter 4: Conducting Research as an Outsider Looking in: Reflexivity, Respect and Power when Interviewing Experts

This research project comes at a moment where sex work has become a “‘sexy’ intriguing topic for academics and researchers” (Pitts, 2015, p.25). Conscious of this, I was mindful that I was an ‘outsider’ researching a titillating and popular subject at the same time as I was committed to unpacking the impact of *PCEPA* on street-based sex workers in Ottawa. In this chapter I therefore go into considerable detail to lay out both the research process and my own positioning.

Principles of Conducting Research on Sex Work

It is important to be aware of my own position as a researcher when entering into a qualitative study of this nature. As a woman who has not worked in the sex industry, I am already an outsider to the community. Indeed, in many ways I am just another academic researching sex workers during a time where the discussion on sex work is popular. Further, I am a graduate student who is fortunate enough to have independent housing and gainful employment. I have the support of my friends, family and peers and am able to have access to a variety of social and economic assistance should I require it. Since I am an outsider conducting research focused on real women’s experiences, it has been important to maintain Hubbard’s (1999) four principles for conducting research on people in the sex industry. Hubbard’s principles include:

1. That the research must be capable of producing knowledge which would reduce stigma surrounding sex work;

2. That the researcher has an understanding of the realities of sex work;
3. That sex work is understood by the researcher as a legitimate form of work; and,
4. That the researcher believes in the minimization of health and safety risks for sex workers in their work. (Hubbard, 1999, p.235)

It is with Hubbard's principles that I have committed to being a careful researcher, and every point of this research project and its methodology seeks to reduce stigma around sex work.

1. Epistemology

The epistemological point of departure for this study which relies entirely on the experiences shared by participants is standpoint feminism. The production of knowledge from a standpoint perspective should begin with the collection of data from marginalized individuals whose experiences are far removed from the experiences of privileged academics (Harding, 1993). Accordingly, standpoint epistemology recognizes that there are marginalized individuals who observe and understand a social world in a manner that is contrary to what is promoted through current research in academia, popular culture and normative contemporary framing (Comack, 1999; Shantz, 2011).

Standpoint feminists claim that women's lives and experiences are so extraordinarily different from their male counterparts that expertise on the lives of women, located at different intersections, can only be shared by the women themselves. Standpoint feminism recognizes that the social experiences illuminated in mainstream knowledge production are inherently limiting and skewed. Standpoint feminism, on the other hand, disrupts this mainstream, 'legitimate' knowledge by, "developing feminist knowledge about women's lives" (Comack, 1999, p. 291). Standpoint feminism also recognizes that the production of feminist knowledge does not mean that all feminism or women's experiences are identical. Rather, by suggesting that women's lives

exist within class, race and gender relations, it could be argued that women share *common* experiences that stem from the various levels of female oppression (Comack, 1999, p. 295).

2. Recruitment

Informed by standpoint feminism, this project is qualitative in nature. As will be discussed next, the use of qualitative, semi-structured interviewing and qualitative analysis are methodological tools that allow for flexibility and new ideas to emerge, and creates the space for participants to share their expertise. Since sex workers are often denied the ability to provide meaningful testimony during law reform, it is essential to gather information that comes from the population as the new legal regime on prostitution impacts them directly.

Recruitment of participants began in September of 2015. A poster (see Appendix B) was distributed to social service and health facilities in the downtown core, as well as distributed through my personal and professional networks. It became evident during this process that street-based sex workers are a hard-to-reach population.³² This difficulty in recruitment could be due to the rejection and discrimination that sex workers face as a result of their criminalized status, with the result that speaking to a stranger can be risky (Lazarus et al., 2011). Intersections of marginalization, including illness, addiction and economic distress could also have impacted recruitment and may have added to these difficulties of access.

Evidently, the use of posters proved to be largely ineffective on their own. However, the posters were successful when used in combination with non-probabilistic snowball sampling. Neuman (2011) describes snowball sampling as a method that is particularly useful for reaching a target population which is either deviant, hidden, or lacks accessibility (p.126). The purpose of this method was to begin recruitment with a trusted contact that could assist in generating a

³² Initial contact with first respondents began in mid-November of 2015, two and a half months after the recruitment process began.

larger sample of eligible participants. Considering the population is rightfully mistrustful of outsiders, it was important to approach street-based sex workers through word-of-mouth. In doing so, those with membership to the population were able to promote the research study and its objectives with other members who would be more willing to interact with an outsider. As such, a personal contact – who is an active street-based sex worker and sex worker rights activist – provided important assistance; her status as a trusted and known woman to the street-based sex workers in Ottawa proved to be invaluable.

3. Data Collection

Once the participants were recruited, I met each participant outside of the designated location for their interview and introduced myself. Once introduced, we would go inside to settle in a private room. I then explained the objectives of the interview and advised the participant that an oral consent form would be read out loud. I assured the participant that consent to participate required only a verbal agreement as opposed to a signature (see Appendix C). Once the oral consent form was read, each participant agreed to be audio-recorded. They were also advised that a pseudonym would be used in place of their real identity to protect their anonymity and confidentiality.

After oral consent was confirmed, a ten-dollar gift card honorarium was provided to the participant who was advised it was theirs to keep whether or not they chose to continue with the interview. A resource list (detailing counseling, crisis intervention, housing, and victim services – see Appendix D) was also provided in the event that the participant required assistance or support after the interview. With those tasks out of the way the recorder was turned on and the interview began.

In regards to the interview guide (see Appendix E), the questions were developed around

my research question, as well as themes that had emerged from the literature. The style was semi-structured, which Mason (2004) defines as a method that is flexible and fluid, and contains:

Topics, themes, or areas to be covered during the course of the interview, rather than a sequenced script of standardized questions. The aim is usually to ensure flexibility in how and in what sequence questions are asked, and in whether and how particular areas might be followed up and developed with different interviewees. (p.1021)

This method was ideal for this study because it is compatible with the epistemological position of the research as it allowed for the interviewees' own knowledge, understanding, interpretations, experiences, and interactions to be shared in the interview (Mason, 2004).

Furthermore, by holding a semi-structured interview, unanticipated, but highly relevant, themes and topics of importance emerged. As Tomura (2009) explains, the natural spontaneity of semi-structured interviews allows for in-depth exploration of the participants' experiences.

4. Data Processing and Analysis

Next, I transcribed the recorded audio files into verbatim text. Vetting of the transcript occurred at this stage – all potentially identifiable information was deleted or changed.³³ The anonymized transcripts were analyzed through qualitative content analysis, a method used to organize collected data in a strategic manner that facilitated comparisons between each text (Brewer, 2003; Druckman, 2005; Mitchell, 1967). Qualitative content analysis is a systematic method that, despite the perspective or lens used, has a series of steps that are the same or very similar across the board. Qualitative content analysis is an approach that entails building a coding frame (gathering material, creating and defining categories, and revising and growing the frame); by trial coding (applying the collected data from the interview to the coding frame and categories); analysis phase (making sure all data is coded); and discussing the findings (Schreier, 2014).

³³ I went through the transcripts three times to ensure all identifiable content was deleted.

Using qualitative content analysis allowed for the participants' experiences to be explored; these experiences and accounts were not skewed by dissecting their words, but used to produce broader themes that will be discussed in the following chapter. Qualitative content analysis allows for feminist practices to guide the process – as Leavy (2007) explains, “By bringing a feminist lens and feminist concerns such as women's status, equality, and social justice to the study of material culture [...] and symbolic culture [...] feminist researchers employ content analysis in very unique ways and ask questions that would otherwise go unexplored.” (p.224). Due to content analysis' flexibility, its ability to allow a feminist lens to be used during the analysis of data is important for my research project so that gender, stigma, status and experiences can be illuminated. This is not to say that their individual accounts were unimportant – on the contrary, their individual explanations worked together to establish an account for the experiences of female street-based sex workers.

I used N-Vivo analysis software to build a code book with codes emerging the literature reviewed and the theoretical framework. While not an extensive list, codes included identity, police, clients, law, stigma, labour practices, and community. These “parent nodes” (or main codes) were then divided into “child-nodes” (or sub-codes). For example, the parent code of “police” was divided into child-nodes encompassing accounts for bad interactions, good interactions, surveillance practices, changes in police after Christmas of 2014 and general discourse on police.

5. The Participants

This research study called for eight to 12 interviews, and once recruitment began, nine women agreed to participate in this study. Participants needed to be over the age of 18, to self-identify as female and be active as a street-based sex worker. The purpose of these specific

criteria was to ensure the participant could give consent to participate in the interview as an adult and had relevant experiences to share. The following will explain the demographics of the sample in regards to their age, housing, and work history.

a. The Demographics

At the time of the interviews, the ages of the sample ranged from early 20s to over 60. The average of the nine participants was 46 years of age:

- ❖ One participant was under the age of 25
- ❖ Seven participants fell between the ages of 42-51
- ❖ One participant was over the age of 60

When asked when they first entered into the sex industry, the responses ranged from entering as teenagers to first entering over the age of 30. The average age of the group when entering the sex industry was 17.7 years of age:

- ❖ Five participants entered the sex industry under the age of 20
- ❖ Two participants entered the sex industry over the age of 25
- ❖ Two participants entered the sex industry over the age of 30

Accordingly, this meant that except for one participant, all had over 15 years of experience in the sex industry. In the current line of work, six participants identified working full time as street-based sex workers, while three said they worked on a part time basis in the recent years.

At the time of the study, the housing arrangements of the participants consisted of a mix between transitional, shelter and Ottawa housing:

- ❖ One participant lived in a shelter
- ❖ One participant lived in Ottawa Housing
- ❖ Seven participants lived in transitional housing³⁴

The participants were asked to discuss their labour history and participation in other avenues of sex work aside from street-based, where all but three participants worked in either:

³⁴ Transitional Housing in this context means shared housing that is subsidized and monitored by staff. It is used as a tool before someone secures complete housing of their own if they have been homeless.

- ❖ Stripping/Dancing
- ❖ Escort
- ❖ Massage
- ❖ Chat lines
- ❖ Indoor sex work

6. Ethical Safeguards and Precautions

The study received ethics approval from the University of Ottawa's Research Ethics Board's in May of 2015 (see Appendix F). In accordance to both the oral consent form and ethic's application, participants were advised on multiple occasions that their participation was voluntary and subject to on-going consent. They were further assured that all identifiable information would be edited or deleted, and that pseudonyms would be assigned in place of their real identities. Further, participants were assured that recordings were deleted upon transcription, and all transcribed files are kept in a password protected file in a password protected computer. Each of these precautions was maintained throughout the data collection, analysis, and data preservation stages.

7. Limitations

With every research project comes limitations. The first limitation in this study is with respect to the method of recruitment, snowball sampling. The concern with snowball sampling is that the final population is shaped by that initial contact. While the data collected in this research study provides important insight, it cannot be generalized outside of Ottawa or even to the street-based sex industry in Ottawa.

A second limitation is that this research study came at a time where the new legal regime on prostitution had just been implemented. In particular, this research study focused on participants recounting experiences within the last year (from Christmas of 2014 to Christmas of 2015). A

large concern was whether or not the effects of a new law would be apparent when the law itself was so new.

While this limitation is certainly valid, it can also be a strength of the study. The novelty of the research works in my favour as the interviews were conducted one year after the new legal regime was implemented, resulting in a recollection of recent memories. Moreover, while *PCEPA* came into effect on December 6, 2014, I used Christmas of 2014 as a “flagpole” date in the interview questions. This was done as the date is perhaps more memorable and significant than December 6, 2014 and could assist in reducing confusion between experiences pre and post *PCEPA*. As we see in the following chapter, it was obvious that the participants were able to differentiate experiences pre and post *PCEPA* as resulting from the change in law, and in turn, their experiences, were new, notable and obvious. Perhaps if this research study began in at a later date, the nuances would not have emerged in the same way.

8. Summary

In this chapter, I have discussed the methodology that this research project has used as inspired by standpoint feminism and Hubbard’s principles on conducting research on sex workers. The rationale for this research, its recruitment process, data collection and data analysis, have all been identified. Next, we turn to the research findings, where the nine participants describe their interactions with clients, predators and police after Christmas of 2014.

Chapter 5: Interactions and Implications

In the previous chapter, I presented demographic information on the nine participants who work as street-based sex workers. Despite the daily trials that these women face, they volunteered their time to participate in this qualitative research project. These semi-structured interviews, which reflect participants' experiential knowledge, are the foundation of this research. In keeping with the symbolic interactionist approach adopted for this research project, this chapter introduces the participants' experiences by focusing on interactions between the participants, clients and the police, with special attention paid to changes in interactions in the post-*PCEPA* period of Christmas 2014 to Christmas 2015.

The chapter begins by offering a glimpse of what street-based sex work in Ottawa looks like in terms of an examination of why (circumstances surrounding why participants choose to do sex work) and where (the areas of Ottawa where the participants work). After this initial "setting of the stage," I turn to the interactions between sex workers and their clients. This is important as the new laws aim to create a safer environment for sex workers who are now viewed as, "victims who need support and assistance rather than blame and punishment" in relation to the previous, "grossly disproportionate" laws that "serious[ly] impact[ed] on prostitutes' safety" (Justice Canada, 2016). Under *PCEPA*, the root cause of violence against sex workers is perceived to come from clients who are framed as violent exploiters of prostituted women. Unlike the law, the literature distinguishes between clients and predators. Accordingly, I begin by introducing the participants' interactions with both good and unpleasant clients, as well as changes that they have witnessed with this group in the last year. In the next section I shift from clients to

predators by examining interactions with men, some of whom posed as clients, whose intent was to cause physical, sexual, emotional, or financial harm. I then examine good and bad interactions between the participants and the OPS. I examined whether OPS applies the *PCEPA* philosophy of sex workers as victims to their daily practice and survey if they fulfill their duty to assist victims by paying particular attention to denial of access to redress.

Setting the Scene: What Does Street-Based Sex Work in Ottawa Look Like?

In the previous chapter, I presented the basic demographic information about the women – all of whom faced multiple constraints culminating in intersecting marginalization. With the exception of one, every participant was over the age of 40, and all were insecurely housed. All self-identified as having a “*drug habit*” or being “*an addict*.”³⁵ As identified in *Challenges*, Bruckert and Chabot (2010) explain that not all street-based sex workers are “members of the most disadvantaged segment of society” but that “the most economically marginal sex workers are street-based” (p.106). In this study, the intersections and social disadvantage of the participants significantly restricts their income generating options or choices.

a. Why Do the Participants Work as Street-based Sex Workers?

Before discussing the findings, it is important to state that a considerable part of the marginalization that the participants encounter is associated to their drug use and dependency. It is commonly assumed that street based sex work is an avenue to generate income to purchase drugs (Bruckert & Chabot, 2010) and indeed, for most of the participants, the connection can be summed up as they “*do it for drugs*” (Cindy) (see also Duff et al., 2013; Roy & Arruda, 2015).

Their drug use is not only a reason they do sex work, it also conditions how and where they work:

³⁵ The choice of wording throughout this chapter reflects the words used by the participants. By using terms such as “drug habit” or “addict,” I am respecting the language of the women.

*I personally believe street-based sex work is the hardest. The nitty gritty of it, you know? Other avenues of making money are not always as common or readily available in situations like mine; [situations] like addiction and waking up sick and needing 20 or 40 dollars to get well and to be able to start your day. [Sex work is] easy. It's available. It's fucking. Again, different aspects of it – if I'm with a friend and he's taking care of me, then it's more hanging out and getting paid dope to hang out with a friend. Street work like walking up Montreal [Road] and getting picked up by strange men – no.*³⁶ (Rain)

Rain's explanation is complex – it speaks to the scarce options that some drug misusing women with limited economic recourses have. For them, an undesirable activity like sex work is used to alleviate “*dopesickness*” and withdrawal symptoms (see also Shannon et al., 2008).

Doing sex-work for drugs is not the only reason that the participants work; for some, “*it's fun. It has its moments*” (Connie), while others work to support their families:

I hate it! I can't stand it. It makes me sick. It's hard to get out there and put that fake smile on. It's not what it's all out to be. Not at all. It gets harder and harder [...] I have two kids; you know? I have to support them” (Cookie).

Cookie's abhorrence for sex work is significant – Monto (2004) explains that in situations like Rain and Cookie's, choice to engage in prostitution “may be mediated by dire economic circumstances and drug addiction” (p.162) though the interaction is still consensual (see for example, Amnesty International, 2016).³⁷

b. Where Do Street-based Sex Workers Work?

In Chapter 2, we saw that some members of different geographic communities across Canada, USA and the UK, operate on the belief that street-based sex workers undermine the quality of the neighbourhood (Hubbarb, 1998; O'Neill, 2007; O'Neill et al., 2008; Sanders, 2004). Yet, this framing ignores the reality that street-based sex workers are also members of the communities from which they are ostracized. This practice has forced street-based sex workers

³⁶ Rain's discussion of being “taken care of” by a friend refers to her having sexual relations with this friend in exchange for drugs. Rain explains that she prefers to have sex with her friend to get the drugs as opposed to having sex with strangers for money.

³⁷ The participants' reflections on agency and choice are explored in the conclusion of this thesis.

out of certain locations in the city and into the margins. Writing about Ottawa, Bruckert and Chabot (2010) suggest:

[Street-based sex workers have] peacefully co-existed with working class inhabitants of the Byward Market area for over 150 years. Tension emerged in the early 1980s when, in a process of urban renewal, upwardly-mobile citizens began purchasing property in this centrally-located area. These new residents brought with them cultural, political and economic capital that allowed them to redefine the neighbourhood. (p.11)

Historically, when areas undergo gentrification the new, influential, residents with their social, economic and political capital, mobilize to push out original residents like sex workers who come to be seen as unsuitable neighbours. In this context, sex workers find themselves soliciting clients in an increasingly hostile environment.

As discussed in Chapter 1, we saw this process occurring in the Byward Market in the 1980s resulting in the displacement of sex workers to the Hintonburg neighborhood of Ottawa (Bruckert & Chabot, 2010). In turn, as a result of Hintonburg's community mobilization, sex workers were once again displaced – this time to the East end of the city. Specifically, the participants explained that they “go [...] to Vanier” (Anna) where “a lot of the girls do their working” (Tracey). As was the case in Hintonburg/Gladstone and the Byward Market, street-based sex work in Vanier has been met with organized community action, specifically “Together for Vanier” led by Crime Prevention Ottawa. Consisting of “key”³⁸ community players, this group has, “the power to sway public perception about [...] street sex work,” in a manner that, “endorse[d] community safety” over the safety and inclusion of street-based sex workers (Rohde, 2010, p.109).

For sex workers who, like many of us, “reside, shop, socialize, and access health and

³⁸ The “key” community players identified by Crime Prevention Ottawa included: Members from City council, Crime Prevention Ottawa, the South East Ottawa Community Health Centre (SEOCHC), OPS, Vanier Community Service Centre (VCSC), Centre Richelieu Vanier, Focus Vanier and the Angolan Community (Rohde, 2010, p.67). Notably absent are, of course, sex workers or a sex worker rights organization.

other services in the same geographic area in which they work”, this means they sometimes experience harassment and verbal violence from their neighbours (Bruckert & Chabot, 2010, p.74): *“They yell at you, they call you names, they tell you to get off the street. They put up big signs that say ‘neighbourhood watch.’ It’s worse than the cops. You cannot work. You cannot work at all when you have neighbours like that. Some ladies come out and chase you away”* (Cookie). Lynn, an Ottawa local, recalled that, *“A few times I got yelled at, you know, ‘get off our streets’ kind of thing.”* In Lewis et al.’s (2005) study, street-based sex workers faced harassment and assault from the community who would “threaten [...] and chase them” or throw “bottles, food and insults” (p.157). Likewise, Jessie, who has worked as a sex worker across North America, explained that community contempt can get physical, where *“a lot of people will throw drinks at you and scream obscenities at you just to make your life difficult and embarrassing.”* Other times, people will yell, *“‘Move it along or I’m calling the police’”* (Anna).

Anna also recounted an experience when she was told to leave a public park by a group of women: *“Well I experienced one thing, one time, in the park in Vanier. Mothers were coming over and saying ‘get out of the park.’ It was night-time, so I said, ‘what kind of mother are you to bring your kids to the park at night-time?’”* The quotation by Anna also alerts us to her a decision-making process around when and where she works – she screens for the potential presence of children and chooses to work when they are unlikely to be present. Pivot found much the same sensitivity among street-based sex workers in Vancouver:

Street-level workers emphasized that, if they were to continue working on the street, they would like to do so in highly populated and well-lit areas such as core downtown locations, but they also felt strongly that such an area should be located away from children and families. (Childs et al., 2006, p.19)

Indeed, a number of participants take into consideration the concerns of the public (and their own moral compass) and stated that they actively choose to stay away from areas when children are

likely to be present. For example, Amber explained her personal decision to avoid working near persons she views as vulnerable by “*tak[ing] it away from apartment buildings and neighbourhoods where there are children or elderly. I try to stick to a closed business or street corner or near one that doesn’t have any kind of action with people.*” Likewise, Jessie said that she “*never do[es] it around schools or anywhere where it might look bad for children because I don’t think children need to see that stuff. They grow up soon enough and see enough.*” Notably *PCEPA* articulates the need to manage harm to children by prohibiting solicitation near parks, daycares and schools. Yet, the participants in both Pivot’s study and this one show that for vulnerable persons, this consideration contradicts *PCEPA*’s implicit assumption that risk must be managed through the threat of penal sanctions. It begs the question: what is the purpose of criminalizing street sex workers’ whereabouts if sex workers already subscribe to *PCEPA*’s viewpoint on the protection of children?

As has been noted in both the methodology and early parts of this chapter, the participants in this study are amongst the most marginal women. Factors like drug addiction and severely limited economic resources coupled with community mobilization and police scrutiny, mean that this already marginal population faces amplified risks of danger. In the coming sections we see how these factors play out when the participants describe their interactions with clients, predators, and police in the past year.

1. Interactions with Clients: The Good, the Unpleasant, and Navigating Risks

As we saw in the literature review, the enactment of *PCEPA* represented a shift from criminalizing sex workers to criminalizing purchasers of sexual services. This section challenges *PCEPA*’s assumption of clients as violent as I draw on the statements of the participants’

interactions with their customers. The section concludes by highlighting changes in interactions with clients after Christmas of 2014.

a. *The Good*

Monto (2004) writes that clients refer to their relationships with sex workers as “friendships, mutually satisfying relationships or even as love relationships” (p.173). Likewise, when participants were asked to describe their relationships with their clients, the general consensus was that interactions were “*more positive instead of negative*” (Jessie). The women described their clients as being “*nice men*” and that as a whole they “*have good rapport with most people*” (Connie). Most of the women agreed that they “*have a good relationship with clients. They’re my regulars. People I’ve known for a while. The elderly men are nice. They’re not there for trouble, they’re in their 60s, whatever. They’re nice. They don’t want no problems*” (Cookie).

Sometimes the relationships discussed extended to the provision of assistance. For some, valuable economic support like “*rent money [...] and food*” (Cookie) were provided by clients:

I had one guy; he didn’t even want to have any sex and gave me 100 dollars when he saw my fridge was empty. Gave me keys to his car and told me to go shopping. I went, got 100 dollars’ worth of groceries, came home and he was sitting on the couch watching T.V! I was blown away. You don’t get too many people like that. I have a couple of others who have been really generous at times. (Amber)

In other cases, clients remembered important milestones in the lives of the participants. Rain, who has worked across Ontario, recalled a particularly thoughtful client:

I’ve had a few clients that I would see on a regular basis. If I was stuck or broke they would drive by and say: “Hey, here’s a 100 dollars, I’ll stop by in a few days.” They’ll take me shopping. There’s actually one who I haven’t seen since I moved to Ottawa, so two and a half years, but he actually sent me a few hundred dollars in the form of a “Babies R Us” gift card when I had my son and again another 200 dollars for his first birthday. So you know, there are nice things like that.

Some clients became friends:

Over the course of the years, I've had men buy me all my Christmas gifts for my family, all of my groceries for months and months. To this day, I have a couple tricks that I no longer use as tricks but they'll buy me cigarettes, they'll take me out partying. They never expect anything in return, just friendship and kindness. I do have tricks – they'll often drive me home afterwards. (Jessie)

Tracey too notes that some clients “*give rides home*” rather than dropping the sex worker off on the street. Similarly, Anna, in her 40s, also says: “*Well, I have quite a few people that will give me a tip, an extra 20 dollars or whatever. Lots of times they will drive me home.*” It is worth mentioning that Jessie, Tracey and Anna perceive being driven home as generous, signifying that most transactions do not end with this courtesy.

There was, however, some variability on what these sex workers defined as a *good* client. While Cindy remembered past clients who she could, “*phone up – they'd give me 200-300 dollars or take me shopping*”, with fondness, other participants were uncomfortable when clients sought a personal form of intimacy: “*It gets weird when they are friends because, you know, you don't want them to be friends but they think you're friends*” (Cookie). Rain described her discomfort when clients wanted to treat her like a girlfriend. She prefers to offer sexual services and is uncomfortable engaging in the emotional work that some other sex workers provide:

They want me to act like I'm their girlfriend and they want to complement me and tell me that they love me and things like that. So I don't know if it's because I remind them of something or associated with something, but in the moment, you try not to think of things like that.³⁹

Lynn, who has worked in the sex industry for over 30 years, described interactions as “*quick – I don't sit and talk to them a lot. I just get to business and that's it*” yet, she also said, “*I had a couple that are, you know, that ended up being more than clients. Friendships. They took*

³⁹ The Girlfriend Experience is a service offered in the sex industry where clients seek “deeper and more emotionally rewarding relationship with the provider” as opposed to a purely sexual transaction (Milrod & Monto, 2012, p.795). Provision of this service necessitates emotional labour on the part of the sex worker.

care of me.” These exceptions described by the participants show the complexity of interactions between sex workers and their clients and problematize the simplistic framing of clients, in the *PCEPA*, for example, as simply perverts (Iverson, 2014, p.1).

b. The Unpleasant

While the overall tone of client-sex-worker relations is described as pleasant with some remarkable acts of thoughtfulness, the participants in this study also identify interactions with disagreeable clients. Much like any other service industry, unpleasant clients are those who, for example, push boundaries, or who are disrespectful or rude (Bruckert & Chabot, 2010, p.27). For example, each participant had encountered disagreeable clients who “*spit and sputter and try to argue*” for no condom use, resulting in a lost transaction for the women: “*They try to offer me more money or whatever the case is but I always leave because there are a lot of girls working the streets with HIV and I don’t want that to be me*” (Anna). Similarly, participants lose money when clients push for unrealistic rates:

I try to be nice after they have driven miles away. I try to get them to drive me back to where they picked me up. One guy drove for a long time and blurts out that he only has ten dollars! He says, “What will you do for ten dollars” and I say, “Well not much of anything.” He said he only had six dollars after that! So I got him to take me home, dropped off right at the street because I was afraid of repercussion. You never know; they might try to run you over or whatever, so I came home. Not a good night. (Amber)

It is important to note that a situation such as the one Amber described above could still occur in a decriminalized or legalized context; the difference is, however, Amber’s vulnerability would be reduced as a decriminalized or legalized context which would allow adequate time for negotiation prior to her entering a vehicle. In the criminalized or quasi-criminalized context, the ability to negotiate the exchange prior to entering a vehicle is constrained as the risk of drawing negative, police attention is likely.

c. *Client Interactions post PCEPA*

In Krusi et al.'s (2014) study in Vancouver, it was concluded that criminalizing clients did not result in women leaving the sex industry (which is one of *PCEPA*'s stated objectives), but it did have an impact on street-based sex workers' labour practices:

Enforcement of clients forced them [street-based sex workers] to spend longer hours on the street to earn an income [...] having access to fewer clients meant it was harder to earn an income and forced sex workers to accept clients or services (e.g., sex without a condom) that they would otherwise reject due to safety concerns; this directly increased risks for physical and sexual violence and poor health, including HIV/STIs. (p. 5)

Krusi et al.'s findings have been replicated in this study in four ways. First, the participants are working longer hours after *PCEPA*, where, *"you're out there till two or three in the morning waiting for the fucking pick up and then he drives off"* (Rain). Rain continues explaining that the changes within the last couple of years mean that:

It was a bit easier a year or two ago whereas now we're walking up and down Montreal [Road], towards Vanier and it's taking forever because now there are cops everywhere. We don't have to worry about it because the cops are protecting us, but it's bad for business! Yeah, it's bad for business because a pretty heavy spot for cop traffic exists where we work. (Rain)

Second, clients are nervous and scared because the police are *"harassing the johns a lot more. They're circling the cars instead of us,"* resulting in not as *"many men stopping lately as there used to be"* (Anna). Cookie reported that clients are *"getting scared to pull over now, you know? They don't want no trouble with the police because the police go to their wives. They mail letters to them when they get busted."*⁴⁰ In the following narrative by Cookie, we see how this enthusiastic policing 'plays out':

One time I was with a client and he thought we were being followed so we went all over the city and took the Queensway. He thought he lost them, but here's what happened.

⁴⁰ Cookie's reference to clients being sent letters in the mail predates the 2014 *PCEPA* Act. According to OPS' website, the "Community Safety Letters" Program began in 2007 where "formal letters are sent to sex trade consumers [...] as a way to sensitize them and drug users of the impact of their illegal activity" (Community Concerns on Prostitution, Ottawapolice.ca). It is unknown within this study if this practice remains in effect.

Two to three different cars were following us! All this guy wanted was oral sex with a condom and its funny how things happen. My client and I agreed that we would know each other's real first names in case. When he thought we were being followed in the beginning he thought we should say we were friends, or part-time girlfriend. He had his truck, worked for a provincial television-station and he was a professional man. So we got it figured out. The cops, there was nothing they can do. They found some money in my purse and tried to accuse him giving it to me and I said "No, that's my money" and they said, "Fine, break it up and go home" since it was dark and it was a public area.
(Cookie)

Third, participants are mindful that because clients are being targeted by the police, their earnings have diminished. This makes it difficult to earn the income they need: *"Last week, I don't know if there was a blitz going on, but they were circling and circling and circling like mad! The cruisers, the unmarked, the whole nine yards. I couldn't turn a trick"* (Jessie). One participant said that *"it's caused the clients to be very worried when picking us up. It's made it harder for us to make more money"* (Lynn). Cindy echoed Lynn's statement and explained that, *"because there aren't so many customers out there, it's cheaper now and it's less money out there."* It would seem as a result of the new laws, generous, safe, dates have disappeared, and it has become a "buyer's market." This has a direct impact not only on earnings but also on safety:

The only thing I find that has really been affected is how the Johns are reacting. The fear that is instilled in them – it affects our work. I mean, if they're more afraid, there are less of them out there, and the ones that it is affecting are the ones paying the more money, the ones that are more stable and less violent. There are ones that don't give a god damn one way or other, but the ones with a job or family that were paying 200 dollars for 30 minutes we aren't seeing anymore. (Jessie)

Cindy too found that the quality of clients had changed: *"Yes, they're cheaper, they're meaner. They're not like they used to be. They just want to get it done and over with."*

Finally, not only are there fewer clients, but those who are seeking services are concerned that sex workers are undercover officers or police informants. According to Cookie, clients prefer going on dates with sex workers they had seen previously: *"They like to have the same girl. They get nervous too, you know. I've had a lot of guys pull up and ask about these girls that*

they've been with and wondering where they are." Participants noted that sex workers were historically the ones who had to do the "cop test"⁴¹ by questioning dates about their identity, however, now clients are the ones asking these questions. Williamson et al. (2007) state that police may coerce or "use women involved in street-level prostitution as informants" (p.29), where consequences of these "undercover operations could further reduce the safety of sex workers as the initial interactions with clients focus on determining that sex workers are not undercover police officers, rather than allowing time to negotiate the details of the transaction" (Krusi et al., 2014, p.8). Jessie shared the experiences of her colleagues, noting that clients are beginning to question if she is an officer:

They're a lot more afraid of the cops. A lot more. Before, they were afraid of the cops, but now, they're so cautious. They're doing the cop test rather than us doing the cop test. They say, "How do I know you're not a cop?" They need that concrete proof before they even talk price. There is the odd stupid one, but in general, most of them are being extremely cautious.

While Connie said, "I get the odd one that asks if I am a cop," Rain, like Jessie, has experienced a high volume of distrust in the past year:

Some seem more suspicious about me. Usually, it's been a benefit for me but now I've been told in many situations that I don't look like what my life style would suggest. A lot of men appreciate that. So, normally that's a bonus for me considering I am a crack head and a junkie; not looking like one definitely helps. But I've been in situations where it becomes an issue: "You don't look like an addict, you don't look like a street worker, are you sure you aren't a cop?" and it causes problems for me, you know?

Client fear and suspicion post-PCEPA echoes findings from Sweden. After Sweden prohibited the purchase of sex in 1999, clients seeking services from street-based sex workers became fearful of arrest (Levy, 2013). In Sweden, this fear has resulted in clients becoming exceedingly cautious when arranging an encounter with a street-based sex worker. As a result, street-based

⁴¹ The "Cop Test" refers to a series of interactions done by sex workers (and now clients) to determine whether or not the client or sex worker is in fact who they say they are and not an undercover officer.

sex workers had to assume the risk of meeting clients in dark alleys and taking less time to negotiate (Levy, 2013).

The findings in this section suggest that street-based sex workers in Ottawa have been facing the same constraints as their colleagues in Sweden and Vancouver. Ottawa-area sex workers are now finding that the number of clients have decreased and those that remain are highly suspicious. The clients that do continue to seek the services of street-based sex workers are perceived to be “*cheaper*” and riskier. With all of this in consideration, sex workers in Ottawa are finding they are managing constraints to both their economic livelihood and their safety, which, as we will see next, continues to be compromised in the context of predatory violence.

2. Interactions with Predators

As we saw in Chapter 1, anti-prostitution advocates argue that violence against sex workers is done by all clients who, according to then Attorney General Peter MacKay, are “perverts” (Iverson, 2014, p.1). In this chapter we have seen that clients are paying customers who (generally) respect the boundaries of the transaction. We also know that sometimes unpleasant moments or a dispute with a client can occur and can, on occasion, result in violence. But, it is important to note that such disputes are not premeditated; by contrast, predatory violence *is*.

Monto (2004) contends that the violence experienced by street-based sex workers is due to a “small proportion of more violent men who deliberately seek out prostitutes to victimize because of the reduced likelihood of arrest” (p.177). This violence is typically predatory in nature. Lowman (2000) describes a predator to be an individual who carries out a planned and calculated agenda to target vulnerable populations, like sex workers.⁴² These attacks are

⁴² Bruckert and Chabot (2010) extend predatory violence to also affect taxi drivers, who, like sex workers, “work in isolation and carry cash” (p.37).

generally either for profit (robbery) or are sexual and/or misogynist (sexually assault and/or physical violence) in nature (Bruckert & Chabot, 2010). The predator:

Knows what he is going to do before he does it. He knows how to find victims [...] the choice of a prostitute as a target is, at least partly, a matter of opportunity: Because street prostitutes will get into a car with a stranger, they are targets. (Lowman, 2000, p.1005)

The rates and extent of violence experienced by the street-based sex workers in this study were staggering – every single participant reported having experienced violence with “*bad dates*.”⁴³ For example, Amber recounted:

There was one time, two gentlemen, two guys, picked me up who were visitors from Ireland and took me to the Lord Elgin hotel and started to physically assault me there. I luckily got to the phone and called security. I got out of there before much harm was done but it was very, very scary.

Some participants reported extensive abuse, such as being thrown out of moving vehicles or witnessing other sex workers being brutally assaulted:

I've been beaten up for it. I had money taken from me afterwards for it. When you're in the moment in the fucking car, it's like, "Oh my god please don't throw me out of the car while it's moving. Don't take me to a back alley or field" you know? I love Criminal Minds so every situation is like, "Oh my God is Spencer Reid going to be like, you know?" I guess it comes with the territory [...] Probably around mid-February of 2015, it wasn't my first time working but the first time I had gone over the bridge to Vanier. I got the money taken from me at the end and I got kicked in the chest at the back of the vehicle. I've watched friends of mine get hurt right on Montreal [Road], fucking at eight or nine at night getting thrown out of vehicles or getting the shit kicked out of them at a fucking stop light.”⁴⁴ (Rain)

Rain's disturbing reflection that the risk of violence or death “*comes with the territory*” will be further analyzed in the next chapter as I consider how, in the context of police inaction, rampant

⁴³ A “bad date” refers any bad experience that a sex worker encounters with either a client or predator. Bad dates are typically reported in the “Bad Date List”, an anonymous forum where bad experiences are listed with a description of the perpetrator in order to protect colleagues from encountering the same individual. The list is accessible online and throughout numerous community organizations (Support Services for People in the Sex Industry, 2015)

⁴⁴ Rain is referring to a popular television show called “Criminal Minds” where a task-force is assigned to investigate homicides. Her reference to Spencer Reid suggests that she fears that she could be a victim whose death is being investigated by the likes of Spencer Reid and his team.

whorephobia and the “discourse of disposal” (Lowman, 2000 p.1003), some street-based sex workers may come to perceive violence as simply “part of the job.”

We see too that sexual assault is disturbingly prevalent. Connie, who is amongst the most marginal due to her drug use and mental illness, reported a situation where she had to defend herself from a predator that was sexually assaulting and robbing her: *“I almost killed a guy. I had him on my back and almost threw him over the roof of the Rideau Center. He was raping me and trying to take my money.”* Similarly, Cindy described a recent terrifying ordeal with a predator:

I had a bad client the other night. I was walking down Cumberland and I lost some money out of my pocket and I started screaming and this man approached me and said “Come with me, I’ll give you 20 dollars to talk to you.” He seemed decent. He then took me to the car and said, “Get in the back seat” and I said, “I’ll give you a blowjob for 40 dollars.” Then he said he’s not paying me. He started climbing on me and trying to get sex for free and getting rough on me. But I got away from him.⁴⁵

This discussion caused Cindy to recall other instances of predatory encounters with individuals *“who say they’ll pay and when you get to the spot, they say they won’t pay and threaten to beat the shit out of you and not let you out of the car.”* Similar to Cindy’s experience of having a predator manipulate her distress, Anna described predators that exploit the addictions of some of the working women. She explained that *“a lot of them [predators] will try and offer you drugs to get you close to them, [to] feel friendly with them. Once you get high that’s when they start beating on you.”*

Up to this point we have seen that the participants typically have good relationships with their clients, but can fall victim to violent predators. This dichotomy can be explained by

⁴⁵ It is central to have differentiated that a true client is a non-violent, customer that pays for a service while a predator’s intent is oriented towards violence, robbery or exploitation because the participants’ language does not distinguish the difference. Rather, the participants refer to all encounters as with “clients” whether or not the individual was a genuine customer.

Monto's (2004) research, where a small percentage of men were found to be responsible for the majority of the violence experienced by sex workers. Indeed, the participants themselves say much the same thing – while overall their interactions in the sex industry are acceptable, their bad experiences are devastating. Resilience is, however, apparent in the accounts provided by the participants – the following details a set of skills that sex workers operate to navigate violence.

a. Navigating Risks – Violence

In light of the numerous accounts of violence perpetrated against them by predators, it is important to examine how participants manage these risks to their safety. Consistent with the findings of Bruckert and Chabot (2010), most spoke of vigilance by, “*be[ing] aware of your surroundings*” (Rain), and, “*know[ing] your area. You got to know where you work, the streets, the people. You know, once you're comfortable with your surroundings, it's a lot easier*” (Cookie).

The majority of participants recommended seeing regular clients over new clients as a safety mechanism in the context of the PCEPA: “*The people that I have been picking up lately are the ones that I have always been dealing with because I don't feel safe now taking many strangers*” (Anna). Cookie further explained that it is strategic to heed warnings about new clients and bad dates whenever regulars are unavailable: “*When I get into a car, and I don't know the guy and people are saying there's a new guy around, you gotta watch out for him.*”

Rain, the youngest participant in the study, discussed how she sometimes works in Vanier, but prefers to work the downtown core with a friend. She explains this choice: “*Getting picked up by a random car lately, because of some of the shit I have gone through and dealt with, is just not worth it to me. When I am on the street, sometimes I try and stay with a girlfriend or something like that [...] on Rideau St.*”

3. Interactions with Police: The Good, the Bad, and the Navigation of Risk

Now that the differences between clients and predators have been articulated and the participants' interactions with both groups have been examined, we turn to the third section of this chapter and examine interactions that the participants have had with the OPS. These interactions cover a range from exceptionally positive, to banal, to truly abhorrent experiences: *"Sometimes, they are good, sometimes they are bad. You know? Sometimes, a lot of them are doing their jobs and a lot of times there's a lot of them just wanting to be assholes"* (Tracey). This section concludes with an examination of the ways that participants navigate the risks associated with coming to the attention of the police.

a. *The Good*

The participants identified a number of positive experiences they have had with police officers in Ottawa. These are *"just small things"* that *"are from the heart"* like, *"cigarettes and business cards and kind of like, if I need help or anything, to ask them for help. I had one officer who I have known for a long time who gave me a toonie for a beer"* (Connie). Before moving forward, it is important to emphasize that Connie's experience of kindness results from officers with whom she had developed relationships. Similarly, the following stories are related to a number of specific officers known to the participants and do not appear to speak to a broader institutional policing philosophy.

The acts of thoughtfulness recounted by the participants could be police officers known to the women, warning them about predatory men: *"One female cop pulled over and told me there is a bad date out there. Told me what he looks like"* (Cookie). Likewise, the same officer assisted Jessie:

She gave me cigarettes, bought me hot coffee, gave me rides home. Her and another female officer as well, I can't remember her name, but they would say something positive.

They would relay any and all pertinent information about bad dates to us. They would make sure we knew. Now, any time a cop will talk to you or tell you anything it's with a sneer, "Anything you want to tell us, Jessie?" No, there isn't!

For other participants, a few officers could be relied upon to turn a blind eye to the fact that they were breaching probation conditions:

I have one or two officers who are cool and I can rely on them. Not necessarily to help, but if it's them who pull me over I don't have to worry if I am breaching or I am in trouble or if I am out past curfew or have a pill on me or something like that. I don't have to worry about, "Fuck, I'm going to jail for this." (Rain)

Some participants suggested that police are "keeping a lot more eyes on us" and would reach out to the participants and let them know "if there are any problems, if you want to talk, just give them a call" (Tracey). Lynn noted, "There was a couple [of police officers] that were especially for sex workers and it was nice to know that there was someone out there that was really trying to help us and watch over us."⁴⁶ Here the findings again replicate Pivot's, who found that once police started to focus on clients in Vancouver, sex workers reported "that their interactions with police when soliciting sex work clients are more positive and generally focus on their safety" (Krusi et al., 2014, p.4). What is important to note is that during Pivot's research, the Vancouver Police Department had already implemented a policy of not arresting sex workers and instead pursuing clients, prior to *PCEPA*'s existence.

In addition to an increase in some police officers inquiring about the well-being of street-based sex workers, this research shows that "the newer ones are nicer than the older ones" (Anna). It can be hypothesized that since *PCEPA* defines sex workers as victims who must be assisted out of the industry, perhaps some veteran officers continue to view sex workers as problematic, while younger officers subscribe to *PCEPA*'s definition of sex workers as victims and treat this population accordingly. This appears to be the case in the following story:

⁴⁶ Lynn is referring to the liaison program that was mentioned earlier by Jessie and Anna.

The one officer, the younger one, he was really sweet and supportive. I had conditions and he was like, "You're not really breaching, you're a victim. We'll take a description." But there was an older cop who knew all the girls' names and he was being a fucking dick! Like, "Maybe you should go home girls, fucking what did you do, try to rob him? What did you do, try and take his money? You know, I could arrest you for this." He was being a total dick. Guess it just depends on how long they've been around and how used they are to certain ways that they're not willing to change. (Rain)

As we will see in the next section, participants felt police often failed to “serve and protect” sex workers. However, in one case, two quick-thinking police officers were able to rescue a participant who was being held captive:

I was beaten and raped one time. I was sick and on methadone and finally, after two days, he [predator] walked with me to get my methadone and there is this one female cop who I get along with and her and her partner drove by. I kind of made this action so they can spot me. When they came back, I whispered, "Can you get me away from him." So she said "Yeah, I'll pretend I am arresting you." She put me in the back seat and told me a few days later that her and some partners went after him and beat him for what he had done. That is about the only good thing I have gotten out of the cops (Anna).

Notably, Anna’s previous relationship with the officer meant she was able to seek assistance without fear of reprisal. This is in sharp contrast to the kinds of experiences examined in the following section. As we will see, all too often it is a “you’re just a whore’ attitude” coming from police that keeps many street sex workers from “seeking assistance” (Lewis et al., 2005, p.160).

b. The Bad

Anna’s experience above appears to have been somewhat exceptional. For the most part, when participants sought police assistance from officers, the police were “*rude and mean*” (Cindy), the worker was threatened with arrest, and (not surprisingly in this context) no action was taken against the aggressor. For example, Lynn approached an officer for assistance after a “*bad incident*” and was told that “*he could have me arrested*”. Similarly, Cindy was “*told to shut up*” by the police officer when reporting a violent assault:

The other night when I had the bad date, he was trying to hold me in the car in the [Byward]Market. He wanted sex for free so I got out of the car. I was walking and he left, and I said, "I'm going to get cops after you for rape, for sexual assault." He drove around way down Dalhousie [Street] by the KFC towards King Edward [Street] then he came back around again and I started running. He got out of the car and he chased me and I got up to the steps of the door and knocked. He pulled me down and I went flying down the steps and my head hit the concrete. He tried to say I stole from him and everything, meanwhile he raped me. The cops came to the scene and he lied to the officers saying I stole from him.

Cindy was understandably frustrated: *"I couldn't understand that, you don't tell someone to shut up after something like that. I have my rights to talk, you know? The guy just tried to rape me."*

Likewise, Rain noted that *"the police don't care. I had a friend call the police and was blown off."* Not surprisingly, sex workers are hesitant to report victimization out of fear of being discredited or arrested (Allan et al., 2014; Betteridge, 2005; Bruckert & Chabot, 2010; Childs, 2006; Deering et al., 2014; Krusi et al., 2014; Lowman, 2000; Penfold et al., 2010; Williamson et al., 2007). As Lowman (2000) explains, "criminal law sanctions encourage an adversarial relationship between prostitutes and police. Why would a prostitute turn to a potential adversary for help?" (p.1008). This sentiment is reflected in Amnesty International's (2016) findings in Norway, where sex workers refused to seek the assistance of police out of fear of being charged under the "promotion of prostitution" law (p.4). Jessie said much the same thing when asked if she turns to the police for assistance: *"No I don't turn to them [police]. They're, as far as I consider, useless. They're here to make my life hard"* particularly since *"there is no more relationship on the street with the cops – before there used to be somewhat of one but then they took that whole program too."*⁴⁷

⁴⁷ Jessie is referring to a couple of police officers who were a part of a sex work liaison program and built relationships with many of the street-based sex workers in Ottawa – according to Jessie and Anna, this program no longer exists. Measures were taken to find references about this program, to no avail.

Jessie's claim that police "*make life hard*" is also supported by reports of ongoing social profiling and targeting of known sex workers by police (Lewis et al., 2005). As Bruckert and Hannem (2013) explain, social profiling is the assessment of individuals on the basis of visible signs that can include "appearance, behaviours, attitudes or dress." (pg.301) Therefore, street-based sex workers who are "read" as sex workers can be subject to intense and disproportionate scrutiny (Bruckert & Hannem, 2013, pg. 302).

In Williamson et al.'s (2007) study, it was explained that a sex worker "can be stopped and questioned anytime she is seen on the street" (p. 27). Though being a sex worker is not illegal, almost all participants in this study recalled the practice of detainment and being called to account by Ottawa Police – something Amber experienced as public shaming "*for 20 minutes to make sure everyone sees you pulled over by them – that's one that they do a lot.*" When asked what the officers do during this stop, Cindy explained:

They ask your name, what you've been doing, and are you out doing the streets, are you drug dealing, this and that. They put your name through [...] I say, "What are you stopping me for? I'm not even in the area where I am supposed to be working. It looks bad when everyone sees me talking to you."

Like Cindy, Cookie discussed being stopped by police and questioned about her whereabouts:

"One morning when I was going to the store, they pulled me over and this cop asked my name. And that's the first thing they do, 'What's your name and address and what are you doing?' And it was a female. And I told them I was going to the store to get bread." Stops do not always end in questioning-and-release – in *Challenges*, Bruckert and Chabot (2010) found that "the most economically marginal of the street-based sex workers [...] spoke of having their possessions taken from them by police officers" (p.58). In this study, the participants reported police continuing to confiscate personal property, prescription medicine and harm reduction tools:

"They take your condoms, your gear, and all that stuff. The government is giving that to us to use

for harm reduction, why are they taking it from us?” (Cookie). Anna had a very similar story: “The cops take my money and drugs from me and tell me to ‘Get the fuck out of here.’” Cindy had prescription medication seized by police: “They arrested me one time and I had my morphine pills, which were legal from the doctor, and they took it and threw it without me seeing it” When asked her opinion on these stops and searches, Rain rationalizes:

I know stop and searches are technically illegal. You need to be under suspicion of something, but I guess I’m under suspicion of breaching? I don’t know. They just assume that I’m under conditions that I am not following.

Rain’s reflection on being stopped by police is interesting as she does not know why she is being stopped and therefore hypothesizes that it is on the assumption that she is breaching conditions. Her uncertainty about why she is stopped and searched, hints to the possibility that these stops and searches may be based on social profiling rather than a legitimate cause. This is supported by evidence which suggests that police sometimes stop known sex workers without justifiable cause (Bruckert & Chabot, 2010; Williamson et al., 2007).

The power imbalances in police-sex worker interactions also played out when the participants were threatened with violence or arrest, in an effort to compel them to provide information about individuals known to the participants. Tracey said that “*they try to talk nice to me to see if they can con me*” into providing information about her associates or acquaintances. Some of the participants shared that some police officers have also threatened them with arrest and detention if they do not cooperate by providing information on other sex workers or drug dealers:

I’ve been told I would go to jail if I don’t work with them, for them. They’ve asked for information about other street workers or drug dealers. I had an officer that I was with three times. The first time he paid me, I didn’t know he was an officer. Since, he has answered to two calls of me being arrested, and I guess blackmail is the term? (Rain)

Shamefully, Anna was threatened with violence and held without charge while police attempted

to compel her to provide information:

It was when I was out and about minding my own business and they say, “Hey Anna, come here.” Then they throw me in the back of the car and take me for a long drive. They say, “Tell me this or that or we will pound the piss out of you.” I say, “Pound the piss out of me.” What am I to do?

This type of coercion does not allow sex workers, who refuse to be police informants, the ability to walk away, as the implications of refusal can be devastating. Earlier, we saw that there are police officers that do treat street-based sex workers with the respect and care that should be afforded to everyone. It is within this same police force that we see negative police-sex-worker interactions in spite of the introduction of *PCEPA*. This discrepancy in behaviour means that the onus falls on sex workers to navigate risks – in fact, police become one of the risks to navigate.

c. Navigating Risks – Police Attention

In light of the antagonistic relationship sketched above, it is not surprising that street-based sex workers develop strategies to avoid coming to the attention of community members and to circumvent police attention. While sex workers are no longer directly criminalized, almost all of the participants discussed that they work to avoid adverse attention from police (and pedestrians). Anna explained that she does not “*stand right in the middle of the street*” and that she will “*walk the side streets.*” Another participant similarly acknowledged that there are risks involved with working in isolation but that, “*You don’t go out in the light areas, the lit up areas,*” (Cookie) but rather, “*go to dark alleys, abandoned houses or garages [...] because they’re out of the way*” (Connie). One participant, on the other hand, prioritizes safety as she perceives hiding to be futile: “*I would rather do it in the light and police presence if I’m being raped or someone is trying to kill me. I don’t think there is a difference; they’ll [police] find you even if you’re hiding*” (Jessie).

Continuous movement was amongst the tactics shared by the participants: *“If I am standing in one spot or sitting in one spot, I kind of have to, or I feel I have to move around so they [police] don’t pull over and ask questions. If I don’t have I.D. on me, it could be a problem”* (Amber). While the method of *“just walk, just keep walking”* may help to avoid attention, it also gets tiring for Lynn: *“I move around and try not to stand in one place, if I see them coming. I get tired.”* In contrast, Cindy, who does not have any warrants, does not feel the need to move around unless the police have been watching her for an extended period of time: *“Well I don’t have warrants. When they’re around, I just stand on the same corner but move if they are around for too long.”*

The ineffectiveness of hiding that Jessie alludes to is particularly relevant post *PCEPA* when police are *“around all of the time”* (Tracey). Street-based sex workers are still being targeted and harassed *“more on paraphernalia”* as opposed to prostitution where *“you go in and get your dope, you come out, the guy is waiting for you, now all of a sudden you’re getting pulled over”* (Cookie).⁴⁸ This tactic may provide police the opportunity to lay two charges: the first against the sex worker for drug possession and the second against the client for prostitution related offenses. When there is no cause for arrest or charges, some police are reported to *“pound the piss out of me because they could. They couldn’t ever catch me with anything to charge me so they go about things in other ways”* (Anna).

4. Summary

This chapter provides insights on the lives of street-based sex workers in Ottawa via the experiences shared by the nine participants in this study. Throughout the chapter, the participants raised a number of concerns about their interactions with community members, unpleasant

⁴⁸ The “guy” Cookie is referring to is a client. In this case, she was driven to get drugs by her date. Once in the car, police stopped both her and the client as they now had a viable reason to target both of them.

clients, predators and the police. The significance of these findings is analyzed in the next chapter as we consider the broader impact and implications of the themes at play.

Chapter 6: Making Sense of *PCEPA*

The findings chapter examined the interactions of street-based sex workers with clients, predators and the OPS and paid particular attention to how these interactions differed after the enactment of the *PCEPA* in December of 2014. As we saw, the participants indicated that good, reliable clients have begun to seek services from women they know, or have moved elsewhere, leaving street-based sex workers to assume the risk of accepting questionable dates in an era where predatory behaviour is perceived to have increased. The participants also reported that while the OPS has stopped pursuing sex workers for prostitution related charges, they now target them for drug related activities. Of particular concern is that participants reported that harassing tactics and assaults of known sex workers by OPS officers continued throughout the last year, despite *PCEPA*'s stated objective to protect those "who sell their own sexual services" (Department of Justice, 2014, p.1).

This chapter endeavours to make sense of what appears to be a contradiction – on the one hand, we have an *Act* that seeks to protect those who sell their own sexual services; while on the other hand, sex workers are reporting more risks to their safety post-*PCEPA*. To do so, symbolic interactionism theory and the related concepts of stigma and structural stigma are used to examine how stigmatic assumptions are reflected and reproduced in interactions and in law. I begin by exploring the objectives of the *Act* before considering the effects of *PCEPA* on street-based sex workers. We then move on to consider how, 1) *PCEPA*'s risk management objectives have had the unintended consequences of creating a riskier work environment for street-based

sex workers, and 2) stigmatic assumptions embedded in law that have legitimated stereotypes and thereby enabled interpersonal stigma.

The Objectives of PCEPA

Responding to the Supreme Court of Canada's ruling that Canada's previous prostitution laws increased sex workers' vulnerability to violence and therefore, "violate [sex workers] constitutional rights to security of person" (*Canada v Bedford*, 2013, at para.168), the government introduced Bill C-36 (now *PCEPA*) with the following three articulated objectives:

- 1) To "protect those who sell their own sexual services."
- 2) To "protect communities, and especially children, from the harms caused by prostitution."
- 3) To "reduce the demand for prostitution and its incidence" (Department of Justice, 2014, p.1).

In line with the stated objectives, the Department of Justice (2014) asserted that: "The new criminal law regime also seeks to protect the dignity and equality of all Canadians by denouncing and prohibiting the purchase of sexual services [and] the exploitation of the prostitution of others" (p.1). Under *PCEPA*, those who sell their own sexual services are defined as victims of violence and are encouraged to report their victimization to police.⁴⁹ Moreover, their ability to exit prostitution was to be aided under a \$20 million funding initiative

⁴⁹ As discussed in the context and literature review chapters, anti-prostitution advocates argue that one cannot consent to selling sexual services as the act is inherently violent and exploitive; therefore, sex workers are victims coerced into the industry against their own volition (Dodillet & Ostergren, 2011; Ekberg, 2004; Ekberg, 2013)

(Department of Justice, 2014), though it is unclear how the money was to be used (Sampson, 2014).⁵⁰

There are two priorities in relation to the above objectives: to protect the safety and security of sex workers *and* the community. Since sex workers are portrayed as both “passive victims of exploitation and active agents who pose a threat to the order and safety from communities” (Bruckert & Hannem, 2013, p.61), both priorities stated above can only be met *if* objective three, ending the prostitution industry, is successful. Sex workers will no longer work (therefore, will no longer be in danger) and if there are no sex workers, the community is free of harm. Moreover, as we examine below, by legally framing sex workers as both victims and victimizers, *PCEPA* contributes to a heightened risk and danger for street-based sex workers.

a. The At-Risk Victim

We find the first objective (to protect those who sell sexual services) and third objective (to end the demand for prostitution) of *PCEPA* reflected in Section 286.1 (1) of the *Criminal Code of Canada* (2014), that reads: “Everyone who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person” is guilty of committing a criminal offence. As we saw in the previous chapter, criminalizing clients has resulted in street-based sex workers facing difficulties when trying to earn a living; this obstacle has resulted in street-based sex workers accepting clients under risky circumstances (i.e. spend less time negotiating and screening clients).

This presumes that those who sell their own sexual services are obliged or forced to do so (see Farley 2004), due to socio-economic constraints or personal challenges (Comte, 2013; Guy,

⁵⁰ Cited in a Globe and Mail article by Josh Wingrove, it is unclear if the money will go towards first time offenders, post-arrest or conviction programs or if the money will go towards preventative initiatives such as targeting poverty and oppression.

2014; Majic, 2014). In either case, the presumption, or stereotype, is that agency is an illusion – prostitution in this context is understood to “represent [a lack] of free, informed, individual choice worthy of respect” (Sampson, 2014, p.146). It instead represents male power, and an understanding of prostitution as “defined by men, forced on women, and constitutive of the meaning of gender” (Sampson, 2014, p.146). The outcome is troubling and contradictory – on one hand, *PCPEA* embodies the assumptions that the prostitution industry is male dominated and pushed upon women who do not have a choice, while on the other hand, paternalistic legislation such as *PCEPA* seeks to provide a protective function, but in doing so, denies sex workers the ability to manage their own lives. This denial leads to sex workers having to navigate the implications of the law – implications that the participants reported severely impact their safety and livelihood.

What is clear about section 286.1 (1) is the provision is characteristic of structural stigma, where stigmatic assumptions about a group of people (such as sex workers being victims who need protection) leads to a macro-structural form of discrimination. Here we see that “stigma, as a function of risk, is transformed from an individual experience of discredit to a collective experience of management and regulation” (Bruckert & Hannem, 2013, p.49). In this case, assumptions and stereotypes about sex workers’ lack of agency and exploitation are embedded in the legislation, allowing for the State to risk manage for the “common good” of the population. While neoliberalism is premised on the assumption that self-governing social actors can manage risks at the individual level, sex workers are framed as too naïve and too damaged to be able to navigate the risky and danger-riddled prostitution industry (see for example Farley 2003; Farley et al., 2008). Therefore, provisions like section 286.1(1) of *PCEPA* draws parallels to Canada’s early discourse on female sexuality, protectionism and morality by positioning adult sex workers

as lacking the autonomy and self-responsibility to govern their own sexual activity, resulting in dangerous outcomes that are contradictory to the intent of the law.

b. The Victimizer

The same law that casts sex workers as victims also constructs them as a threat to “communities” and to children. The second objective of *PCEPA* (to protect communities and children) is reflected as an amendment to the previous Section 213.1 (c) of the *Criminal Code of Canada* (1985), which prohibited anyone from communicating or attempting to communicate in any manner in a public place for the purposes of prostitution (Craig, 2011, p.98). This law was repealed and, “revised to limit the applicability of the law to sex workers only in a public place” (Hannem, 2016, p.12). Currently, section 213 (1.1) is described as:

Everyone is guilty of an offence punishable on summary conviction who communicates with any person – for the purposes of offering or providing sexual services for consideration – in a public place, or in any place open to public view, that is or is next to a school ground, playground or daycare centre. (*Criminal Code of Canada*, 2014)

The impact of this provision has been reported by some street-based sex workers in Ottawa to further increase their risk of danger – by criminalizing being present *near* certain areas of the city, this vague provision pushes street-based sex workers further into the margins. Indeed, Section 213 (1.1) creates parameters around public space that threatens sex workers’ civic and citizenship rights to be in and to use public space, similar to the imposition of court-ordered red zones that prohibits individuals, like sex workers, from entering a certain zone of public space once arrested (Bruckert & Chabot, 2010).

Integrated in this subsection are assumptions about street-based sex work that implicate sex workers as a source of contagion that must be kept separate from innocent community members like children. Specific laws that explicitly exclude sex workers from particular public spaces, (and thereby discriminate against the population) are considered to be acceptable because

sex workers are portrayed as a dangerous risk to the moral values of society. As such, section 213(1.1) reflects how assumptions about the risks of prostitution come to be directly linked to sex workers themselves, where the apparent “problematic attributes” of sex workers (such as being dirty, vectors of disease, and drug addicts) must be regulated to check the spread of contagion and risk of contamination (Bruckert & Hannem, 2013, p.48; see also Bruckert & Chabot, 2010).

This portion of the law is particularly frustrating to street-based sex workers who must assume risks to their safety as the prohibited boundaries are left undefined:

Oh it's not supposed to be within, what, X amount of meters from a school or community center? Which is just pathetic because they don't put any specific parameters, so, how are you supposed to know? I mean they just leave it open to their own discretion. (Jessie)

As we saw participants already choose to “*not be around schools and stuff like that*” (Anna) and tried to work away from children or vulnerable individuals like seniors, as they personally felt that it was inappropriate to solicit in these areas. In addition, the participants expressed that sex work should only be done when an individual reaches a “*certain age*”, implying that sex workers should reach the age of majority before entering into the industry. It is evident from the practices of the participants that criminalizing their presence in public space for the purposes of protecting children is unnecessary. Yet, the government ignores the agency and practices of sex workers in exchange for “common knowledge” and subjective understandings of risk narratives that reproduce and reinforce stigmatic assumptions about sex workers.

1. The Role of Gender: How Sexuality is Framed in PCEPA

It is important to consider that there is a gendered notion of risk implicit in this piece of legislation. In *PCEPA*, we see the very conventional understanding of women as needing protection from the risk of having their “chastity and purity” threatened lest they become “fallen

women” (Carrasquillo, 2014, p.706). In reference to Section 286.1 (1), the perceived sexual abuse against a woman’s body casts her as a victim whose corporeal integrity must be protected from the sexual ruses of men. Considering prostitution is “the ultimate contradiction” to chastity and purity, women must be protected from entering or remaining in the industry (Carrasquillo, 2014, p.707).

While Section 286.1 (1) reflects the understanding that women must be protected from defilement, we also see how section 213(1.1) constructs sexualized women as a source of contagion and corruption. As Sanders (2006) and Ruthven (2015) explain, there is often regulation and control for groups of women (like sex workers) that are identified as sexually risky. Here we see that, once again, sex worker’s bodies are seen as diseased and contaminated. The sex worker’s body is positioned as a threat, for example, to the larger society, where ‘innocent’ wives of clients and public health are at risk (see Hintonburg Community Association, 2001) (Carrasquillo, 2014, p.9). The corruption of something pure and chaste is re-introduced in *PCEPA*, where the very presence of a sex worker is an affront to children – a population often symbolized as innocent and pure. Section 213(1.1) is therefore justified in criminalizing the sex worker as a consequence of her physical whereabouts because her presence is equated with contagious dirt that offends the propriety and purity of non-marginal members of society (Lupton, 1999).

2. Effects of *PCEPA* on Interactions

The focus of this research project is about the impact of *PCEPA* on street-based sex workers in Ottawa. While I continue to engage with objective two and three of *PCEPA*, the following is primarily concerned with whether or not the first objective, the protection of those who sell their own sexual services, is met. I argue that the objective to protect sex workers is

overshadowed by legislator's preoccupation with protecting the community and ending prostitution, thereby leaving the first objective unmet. Indeed, the law does the very opposite.

a. Evaluating Objective One: Are Sex Workers Protected?

In the previous chapter, we saw that participants reported dangerous encounters with predators and police since *PCEPA* came into effect. In reference to predators, the participants noted spending longer hours waiting for customers. This is not to say that the demand has disappeared – rather, that clients have likely moved indoors where the risk of arrest is reduced. For those who do continue to purchase sexual services on the street, they are reported to be far more nervous and suspicious, and are interested primarily in sex workers from whom they had previously purchased services (for fear that new sex workers may be undercover police officers or informants). Whether this has increased predatory behaviour is unknown however it is notable that the women interviewed perceived this to be the case – with each participant reporting to have been violently assaulted within the last year.

b. Predators

Part of the objective of *PCEPA* is to protect those who sell sexual services from those who exploit them (clients, pimps, and predators). In the previous findings chapter, a distinction was made between clients and predators: a client is typically a respectful, paying customer while a predator targets sex workers, perhaps posing as a client, with the intent to do harm. While *PCEPA* lumps together clients and predators as one and the same, I suggest that the concern of the first objective is to protect sex workers from predatory violence. Yet, all of the reports of predatory violence in this study have occurred within the last year while *PCEPA* was in effect. In other words, the law is clearly not preventing violent behaviour.

In order to make sense of this, we must acknowledge the role that structural stigma has in regards to the experiences of the participants. To refresh, structural stigma pivots on the notion of risk, whereas a population determined to be threatening must be managed through a host of rules, policies or laws without consideration of the impact they may have on the surveilled group (Hannem, 2012). I suggest that the creators of *PCEPA*, in attempting to reduce the perceived ills of prostitution, have created an antagonistic environment based on stereotypes in which already marginalized street-based sex workers are put at further risk from predators; ironically the very people the *Act* is meant to “protect” sex workers from. The effect of *PCEPA* is in direct contradiction to the objectives, which exemplifies that riskier men are soliciting street-based sex workers under *PCEPA* because the “good” clients have “more to lose” under this regime.

While the resulting predatory violence is not the intended effect of *PCEPA*, part of the legislators’ main objectives was to protect sex workers. Yet, the stigmatic assumptions about sex work trump the concerns raised about sex workers’ safety during *Bedford*, resulting in the much stricter regulation of prostitution. As I discuss next, the task of regulating prostitution is left to police officers who continue to interact with sex workers as non-average citizens.

c. Police

In theory, all citizens are able to turn to the criminal justice system for protection or redress. After the inception of *PCEPA* and its reference to sex workers as victims, the opportunity arose for the OPS to implement a practice around engagement with sex workers that was in accordance with *PCEPA*. As we saw in the findings chapter, police interactions with street-based sex workers appears to be informed by stigmatic assumptions; moreover, the OPS philosophy on prostitution does not appear to have changed post-*PCEPA*. The participants reported that they continue to be stopped and questioned on the street. While some of these stops are care-based,

the majority of them are perceived to be invasive. As Bruckert and Chabot (2010) explain, “calling to account” is problematic because they are:

Public shaming rituals [that] may also increase individual sex workers’ vulnerability to violence [...] when workers elect to solicit clients in more secluded areas where they are free of police surveillance, they also become ‘easier’ targets for aggressors who might otherwise be deterred by witnesses (p.52).

Moreover, unable to lay prostitution related charges, the OPS appear to be criminalizing street-based sex workers for drug and/or public nuisance offences:

They’re following us to the dealers all of the time because obviously, prostitution and drugs go hand in hand. They’re harassing us. I know one place when I would get drugs – they kicked his gate down. They know this is where the working girls go to get drugs when they’ve turned a trick. They’re making a mark on us but in a different category. It would have been with the prostituting, just, they’re not allowed to do it now. (Jessie)

Accordingly, it would appear that this population is not afforded much choice about how to work safely: On one hand, they are at risk if they work in isolation (because of their vulnerability to predators), but on the other, they are at risk of negative police attention if they do not. This is exactly the situation identified by Justice Himmel when she wrote that “prostitutes are faced with deciding between their liberty and their security of the person”:

In pursuing its legislative objective, the communicating provision so severely trenches upon the rights of prostitutes that its pressing and substantial purpose is outweighed by the resulting infringement of rights. This rights infringement is even more severe given the evidence demonstrating the law’s general ineffectiveness in achieving its purpose. By increasing the risk of harm to street prostitutes, the communicating law is simply too high a price to pay for the alleviation of social nuisance. (*Bedford v Canada*, 2010, para.504)

Although the above quotation is speaking to the past communication provision, it remains relevant under *PCEPA* as street-based sex workers continue to feel as if “police see them as ‘less valuable’ or ‘not important’ as compared to other citizens” (Hannem, 2016, p. 40).

Despite being defined as victims by the law, there are, as we have seen, elements of *PCEPA* that also identify street sex workers as a source of risk. The impact of this is that the OPS do not

appear to be abandoning long-held assumptions and stereotypes about street sex workers, and their interactions with street sex workers reflect these tropes.⁵¹ In turn, interpersonal relationships between OPS and street-based sex workers are affected. A contemptuous relationship persists between street-based sex workers and the police, where, “*be[ing] fucking jacked up out of nowhere just because they recognize us is really overwhelming. It’s bullshit*” (Rain). Rain’s narrative exemplifies the dangerous power that stigmatic assumptions and the ascription of master status has, because “*they don’t see me as anything else but a sex worker*” (Jessie). While *PCEPA* does not explicitly label sex workers as “Other”, claims that the community must be protected from prostitution have long been justified on the basis of stigmatic assumptions (or whorephobia) about sex workers as criminal, dirty and risky. When stigmatic assumptions are embedded in legislation, it legitimates such assumptions about sex workers. Therefore, it is hardly surprising that we are seeing interpersonal stigma during police encounters with sex workers.

3. Summary

The chapter explored how *PCEPA*, in accordance with its objectives, has framed street-based sex workers in a series of contradictions. Rather than recognizing street-based sex worker’s expertise, *PCEPA* reflects anti-prostitution advocates’ rhetoric and replicates many of the harms of the previous legislation. Indeed, the current legal context demonstrates the government’s attempt to grapple with both the protection of sex workers, or “exploited persons,” and the protection of the community. By endeavouring to address both, *PCEPA* simultaneously

⁵¹ While disconcerting reports continue to exist about police misconduct, an interesting shift has occurred amongst some officers. According to the participants, younger officers prescribing to *PCEPA*, treat sex workers like “victims” by taking their reports seriously. In these interactions, street-based sex workers are comforted and treated humanely. These officers are also approaching sex workers more often to ask about their well-being and to encourage them to report any bad experiences.

denounces sex workers for a series of perceived ills associated with the industry, but also absolves them of blame because they are victims (Betteridge, 2005; Jeffrey & MacDonald, 2006; Lazarus et al., 2011; O'Neill et al., 2008; Penfold et al., 2010). Indeed, the neoliberal ideology underpinning the *PCEPA* celebrates those who want to exit the industry by treating them as “good choice makers’ while accepting the denial of social and civic rights to those who are unwilling to make the prescribed correct choices” (Bruckert & Hannem, 2013, p.59).

Conclusion: Moving Forward

When *PCEPA* was introduced, Toronto city councillors rallied against the bill – however, it was not only Toronto city councillors and Premier Wynne that were concerned. The sentiment by all groups opposed to *PCEPA* is that, in response to a groundbreaking ruling recognizing sex workers’ right to security, an arguably harsher new legal regime has been introduced and implemented (Guy, 2014). Indeed, 250 000 pages of *Bedford’s* expert and academic evidence – that positioned any form of criminalization of prostitution as increasing the risk of danger and vulnerability of sex workers – has been ignored. Instead, the Conservative government of Canada opted to endorse an approach which “advances the interests of the ‘communities’ without recognition of sex workers’ membership within such communities, and in a manner antithetical to workers’ social, political and personal security interests” leaving *PCPEA’s* constitutionality as “uncertain” as sex workers’ “vulnerability and risk are heightened” (Campbell, 2015, p.29).

As such, this thesis has identified some of the vulnerability and risks that adult, female street-based sex workers in Ottawa experience in their interactions post *PCEPA*; it also suggests that *PCEPA* views prostitution as a “societal evil [that] is, at its core, disrespectful, underscoring patriarchal norms of control around women’s sexuality, and is ultimately unproductive for reducing harm or protecting sex workers’ human rights” (Hannem, 2016, p. 10-11). It has been argued that *PCEPA* is preoccupied with the objectives concerning the safety of the non-sex working community and ending the prostitution industry entirely, “fail[ing] to address the issues

raised in Bedford regarding legislation that makes sex workers more vulnerable to violence” (Lonergan, 2016, p.115). What has not yet been considered is the agency and resilience that the participants have shared, despite these adverse conditions.

1. Agency and Choice

Part of *PCEPA*’s objectives are to create a safer environment for those who sell their own sexual services; though the legislation is about sex workers, *PCEPA* was created without consulting street-based sex workers to ascertain what they actually need and want. Instead, lawmakers imposed protectionist legislation on the population; in other words, we see legal paternalism at play. Defined by Dworkin (1972), legal paternalism is “interference with a person’s liberty of action justified by reasons referring exclusively to the welfare, good, happiness, needs, interests, or values of the person being coerced” (p. 65). As the case with *PCEPA*, the imposition of legislation that limits “individual freedom” is justified as it prevents street-based sex workers from harms that “reasonable” people would “not wish to be subjected to” (Bruckert & Hannem, 2016, p.8). Legal paternalism is often fueled by maternalistic rhetoric (e.g. prohibitionists who argue that prostitution is violence against women) that rationalize sex workers as victims in need of saving from exploitation. As Bruckert and Hannem (2016) explain, sex workers who “challenge this orthodoxy are first dismissed as a token ‘few’ [...] before their ability to consent is simply negated” (p.9).

While this thesis has looked at the challenges that street-based sex workers in Ottawa face while on the job (such as disinterest in working in the sex industry, working to purchase drugs, extreme violence)⁵², the participants have also shared their agency, resistance and resilience in

⁵² While the participants in this study spoke of the challenges they confront, this does not, of course, mean that every street-based sex worker in Ottawa finds the same challenges. Moreover, while all the participants in this study self-identified as drug users, not all street-based sex workers are drug users.

the face of these trials – while these women have been victimized, their master status is not that of victim. Indeed, the epistemological positioning of this thesis, standpoint feminism, meant that every participant in this study was able to share their own truth about their experiences.

Accordingly, each participant was adamant about “*resent[ing]*” the label of victim, and differentiated their work from women who are being sexually trafficked:

That’s so sad! I know they lump us up with women being trafficked. It’s completely ridiculous. I think it blows. If you’re being trafficked, it’s a whole different ball game and sure, they should be protected if they’re being forced to do it against their will. Absolutely. But in most cases that I know of, they’re not being forced! We’re doing it because we need the money and we want to do it for whatever reason. (Jessie)

Participants reject the conflation of sex work and human trafficking by drawing attention to their ability to choose, explaining that they are “*willing to do it and so are they [clients].*” As Anna explains, street-based sex workers are actively “*getting into their [client’s] car*” and “*asking for money,*” therefore, it is illogical to criminalize clients as the transactions are consensual.

Every participant supported this rationale – that sex work in itself is victimless because it is consensual, while human trafficking is facilitated by coercion:

Well, we’re not victims! They’re not victims. It’s an agreement that two adults – consenting adults – make! Unfortunately, for most part, I don’t have a place to bring my clients to, so you’re taking a risk in their car and so on, but I think the police should have better things to do with their time than chase sex workers and so called “Johns,” because there is so much crime going on in the city now and so many other things that should be looked after than them chasing us (Amber).

It is clear that the participants do not agree with the new legal regime. This is not a surprise because, sex workers and many sex worker rights groups and allies were not provided with the opportunity to share their input in the Supreme Court of Canada’s hearing (Maggie’s, 2013; Salerno, 2013), nor afterwards during former Justice Minister Peter Mackay’s Canadian roundtable discussions.

2. Moving Forward

This research study came at a moment where Canada has entered into a new regime for regulating adult prostitution. I feel privileged to have had the opportunity to contribute to the preliminary stages of research regarding Ottawa's sex industry after *PCEPA*. While this research is unlikely to condition or influence an alternative approach to prostitution in Canada, or even in Ottawa, it is a small stepping stone that may be used to link past and future literature on prostitution in Canada's capital. It is vital that future research on sex work in the city, and in the country, takes into consideration all sectors of the industry. This is particularly important for hypothesizing on whether or not *PCEPA*'s third objective, ending the prostitution industry, has been achieved, and whether or not sex workers as a whole are experiencing improved safety or increased risk.

To conclude in the words of my colleague, while I have never been involved with sex work, I hope that "my politics and my research stand in solidarity with my sisters in sex work" (Lonergan, 2016, p.118), and that my research complies with my venture to abide by Hubbard's (1999) principles of conducting research about prostitution and with the epistemological positioning of this thesis, standpoint feminism. I would like to end this thesis with the takeaway that Canada is far from providing every citizen the "right to life, liberty and the security of the person" (*Charter*, 1982, s.7). Stigmatic assumptions about "Othered" populations continue to plague our country and work to deny basic rights of those who live here. While I do not have a solution to offer, I will end by suggesting that the road to equality may begin with a simple approach shared by Tracey:

People judge a book by its cover. I don't think that people should do that. They should just give me a chance.

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Appendix A: Prostitution Laws Pre and Post PCEPA

PRE PCEPA

POST PCEPA

<p>Keeping common bawdy-house 210 (1) Everyone who keeps a common bawdy-house is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years. (2) Every one who (a) is an inmate of a common bawdy-house, (b) is found, without lawful excuse, in a common bawdy-house, or (c) as owner, landlord, lessor, tenant, occupier, agent or otherwise having charge or control of any place, knowingly permits the place or any part thereof to be let or used for the purposes of a common bawdy-house, is guilty of an offence punishable on summary conviction. <i>common bawdy-house</i> means, for the practice of acts of indecency, a place that is kept or occupied or resorted to by one or more persons;</p>	<p>Keeping common bawdy-house 210 (1) Everyone who keeps a common bawdy-house is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years. (2) Every one who (a) is an inmate of a common bawdy-house, (b) is found, without lawful excuse, in a common bawdy-house, or (c) as owner, landlord, lessor, tenant, occupier, agent or otherwise having charge or control of any place, knowingly permits the place or any part thereof to be let or used for the purposes of a common bawdy house, is guilty of an offence punishable on summary conviction.</p>
<p>Transporting person to bawdy-house 211 Every one who knowingly takes, transports, directs, or offers to take, transport or direct, any other person to a common bawdy-house is guilty of an offence punishable on summary conviction.</p>	<p>Transporting person to bawdy-house 211 Every one who knowingly takes, transports, directs, or offers to take, transport or direct, any other person to a common bawdy-house guilty of an offence punishable on summary conviction.</p>
	<p>Obtaining sexual services for consideration 286.1 (1) Everyone who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person is guilty (a) an indictable offence and liable to imprisonment for a term of not more than five years and a minimum punishment of, (i) in the case where the offence is committed in a public place, or in any place open to public view, that is or is next to a park or the grounds of a school or religious institution or that is or is next to any other place where persons under the age of 18 can reasonably be expected to be present, (A) for a first offence, a fine of \$2,000, and (B) for each subsequent offence, a fine of \$4,000, or (ii) in any other case, (A) for a first offence, a fine of \$1,000, and (B) for each subsequent offence, a fine of \$2,000; or (b) an offence punishable on summary conviction and liable to imprisonment for a term of not more than 18 months and a minimum punishment of, (i) in the case referred to in subparagraph (a)(i), (A) for a first offence, a fine of \$1,000, and (B) for each subsequent offence, a fine of \$2,000, or (ii) in any other case, (A) for a first offence, a fine of \$500, and (B) for each subsequent offence, a fine of \$1,000.</p>

<p>Procuring 212 (1) Everyone who (j) lives wholly or in part on the avails of prostitution of another person is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.</p>	<p>Material benefit from sexual services 286.2 (1) Everyone who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under subsection 286.1(1), is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years.</p>
<p>Procuring 212 (1) Everyone who (a) procures, attempts to procure or solicits a person to have illicit sexual intercourse with another person, whether in or out of Canada, (b) inveigles or entices a person who is not a prostitute to a common bawdy-house for the purpose of illicit sexual intercourse or prostitution, (c) knowingly conceals a person in a common bawdy-house, (d) procures or attempts to procure a person to become, whether in or out of Canada, a prostitute, (e) procures or attempts to procure a person to leave the usual place of abode of that person in Canada, if that place is not a common bawdy-house, with intent that the person may become an inmate or frequenter of a common bawdy-house, whether in or out of Canada, (f) on the arrival of a person in Canada, directs or causes that person to be directed or takes or causes that person to be taken, to a common bawdy-house, (g) procures a person to enter or leave Canada, for the purpose of prostitution, (h) for the purposes of gain, exercises control, direction or influence over the movements of a person in such manner as to show that he is aiding, abetting or compelling that person to engage in or carry on prostitution with any person or generally, (i) applies or administers to a person or causes that person to take any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower that person in order thereby to enable any person to have illicit sexual intercourse with that person, or</p>	<p>Procuring 286.3 (1) Everyone who procures a person to offer or provide sexual services for consideration or, for the purpose of facilitating an offence under subsection 286.1(1), recruits, holds, conceals or harbours a person who offers or provides sexual services for consideration, or exercises control, direction or influence over the movements of that person, is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.</p> <p>Advertising sexual services 286.4 Everyone who knowingly advertises an offer to provide sexual services for consideration is guilty of (a) an indictable offence and liable to imprisonment for a term of not more than five years; or (b) an offence punishable on summary conviction and liable to imprisonment for a term of not more than 18 months.</p>
<p>Stopping or impeding traffic 213 (1) Everyone is guilty of an offence punishable on summary conviction who, in a public place or in any place open to public view, for the purpose of offering, providing or obtaining sexual services for consideration, (a) stops or attempts to stop any motor vehicle; or (b) impedes the free flow of pedestrian or vehicular traffic or ingress to or egress from premises adjacent to that place. (c) stops or attempts to stop any person or in any manner communicates or attempts to communicate with any person</p>	<p>Communicating to provide sexual services for consideration 213 (1) Everyone is guilty of an offence punishable on summary conviction who, in a public place or in any place open to public view, for the purpose of offering, providing or obtaining sexual services for consideration, (a) stops or attempts to stop any motor vehicle; or (b) impedes the free flow of pedestrian or vehicular traffic or ingress to or egress from premises adjacent to that place. 213 (1.1) Everyone is guilty of an offence punishable on summary conviction who communicates with any person — for the purpose of offering or providing sexual services for consideration — in a public place, or in any place open to public view, that is or is next to a school ground, playground or daycare centre.</p>

DO YOU HAVE 60 MINUTES?

Are you a female sex worker?


Are you over the age of 18?

Want your opinion heard?

This is your chance to have a say!



I am conducting a research study that gathers the opinions of female street-based sex workers and their view on the change in law after Bill C-36.

Call  arrange a short 45-minute interview with Yadgar Karim, University of Ottawa Graduate student – confidentiality and anonymity is ensured.

\$10 Giant Tiger gift card is available for each participant as a thank-you and participants will be chosen on a first-come first-served basis.

Appendix C: Oral Consent Form

Street-based Sex Workers and the Criminal Justice System: Interactions under the new legal regime

I am invited to participate in the abovementioned research study conducted by Yadgar Karim, Master's student from the University of Ottawa. The purpose of the study is to address how the new legal regime on prostitution impacts street-based sex workers.

My participation will be one interview lasting 60 minutes where I will be asked a series of questions that will revolve around interactions I have had during the course of my work with police and the criminal justice system. I will also be asked questions around the impact of law on interactions with clients during the course of my work, with particular attention paid to my experiences after Christmas 2014.

My participation in this study means that I may discuss areas where I might feel emotional and/or psychological discomfort, distress or anxiety from reflection on past experiences or memories. The researcher has assured me that every effort will be made to reduce these risks as I am asked about questions surrounding my work experiences. I have also been advised that I am able to withdraw consent at anytime, or refuse to answer any questions, without facing any consequences. I will be given a list of available services within the community if I require any support or assistance.

My participation in this study will be beneficial as it will be used as a way to provide expertise on my experiences and interactions as a street-based sex worker. It is a platform from which I am able to safely provide an opinion on the characteristics of my life and labour.

I have received assurance from the researcher that the information I will share will remain strictly confidential. I have been given assurance by the researchers that no identifiable information (such as name, address, family status, etc.) will be collected and that any potentially identifiable information that I provide (such as names of places or people) will be deleted or altered during transcription.

I have also been assured that the data collected (digital interviews, transcripts) will be kept in a secure manner. During data collection all digital data will be stored in Yadgar Karim's password protected computer in a password protected file. Once the digital data has been transcribed it will be destroyed to protect participants. Transcribed files will be transferred to the possession of Chris Bruckert, Associate Professor in Criminology at the University of Ottawa in a safe in her locked office. The material will be kept for a period of 5 years and then destroyed.

I understand that the information I share will be used for a Master's thesis, as well as for presentations, public education material, chapters and journal articles by the principle researcher and possibly co-authored with her supervisor, Chris Bruckert.

I will be given a gift in the form of a Giant Tiger gift card with the value of 10\$ at the beginning of the interview, which I have been advised is mine to keep whether or not I choose to continue with the research process.

Finally, 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 destroyed.

If I have any questions about this study, I may contact the researcher or supervisor:

Yadgar Karim (Researcher) Department of Criminology, Faculty of Social Sciences, University of Ottawa: ([REDACTED]

Chris Bruckert (Thesis Supervisor) Department of Criminology, Faculty of Social Sciences, University of Ottawa: 613-562-5800 ext. 1814 bruckert@uottawa.ca

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 154, Ottawa, ON K1N 6N5

Tel.: (613) 562-5387

Email: ethics@uottawa.ca

There are two copies of the consent form, one of which is mine to keep and the other will be kept by the researcher.

Consent will be orally given by responding “yes” to the following question

I agree to participate in the above research study conducted by Yadgar Karim. The goals of the research have been explained to me, the consent letter has been reviewed orally and I have had the opportunity to ask questions and receive clarification regarding research goals, methods, researchers’ obligations and the rights of the participants or any other concerns. I have been given a copy of the consent letter.

I agree to be digitally recorded for the purposes of this interview.

I, (Yadgar Karim) am administering this interview and I hereby attest that oral consent has been given

Signed

Date

Appendix D: Resource List

Amethyst Women's Addiction Center Ottawa: Resource for women who are facing addiction and would like support, treatment or to be in a program where prevention exists. This program emphasizes healthy living and promotes healthy lifestyle changes.

Services provided: Free intensive program, sexual abuse support program, problem gambling program and a program for early child development for those who are pregnant and facing addiction, or who have children under the age of 6.

Telephone: (613) 563-0363

488 Wilbrod Street Ottawa, ON K1N 6M8

info@amethyst-ottawa.org

Empathy House of Recovery: A resource that is a long-term housing facility for women who face addiction with a goal for independent, sober living.

Services provided: Individual and group counselling, crisis counselling, AA/NA meetings three times a week, therapy and psychoeducational groups.

Tel: (613) 730-7319

360 Sunnyside Ave, Ottawa, ON K1S 0S4

empathyhouse@bellnet.ca

The Elizabeth Fry Society of Ottawa: Resource for women who are involved or at risk of coming into contact with the law and the criminal justice system.

Services provided: Individual and group counselling, relapse prevention program, support, health promotion, peer and court support.

613-237-7427

211 Bronson Ave., Suite 309, Ottawa, ON K1R 6H5

info@efryottawa.com

Housing Help: Resource for those who require assistance in finding housing and who are homeless or at risk of being homeless.

Services provided: information and referral, self-help housing search facilities, housing search, housing information, housing loss prevention, rooming house outreach, newcomers, casework advocacy and assistance, community activities, and off-site services.

613-563-4532

309 Cooper Street, Suite 502, Ottawa, ON K2P 0G5

info@housinghelo.on.ca

Minwaashin Lodge: Resource and shelter for Aboriginal women and children who are survivors of domestic abuse and other forms of violence.

Services provided: Counselling, crisis counselling, culture program, employment and training readiness program, Oshki Kizis Lodge (shelter), sex trade outreach mobile, transitional support and housing program and various other cultural programs.

Crisis line 613-789-1141

613-741-5590

100-1155 Lola Street, Ottawa, ON K1K 4C1

info@minlodge.com

OASIS Program at Sandy Hill Community Center: Resource for those affected or at risk of HIV/AIDS and Hep. C, or who are involved with narcotics, the sex trade or are affected by homelessness and mental illness.

Services provided: drop-in centre, medical staff, counselling, street health outreach, an experienced dietitian, needle exchange services and complementary care.

613-789-1500

221 Nelson Street Ottawa, ON K1N 1C7

info@sandyhillchc.on.ca

Ottawa Addictions Access and Referral Services (OAARS): Bilingual resource for those who are concerned and require aid in addressing their drug or alcohol use.

Services provided: guidance, assessment, referrals, information and general support.

613-241-5202

1777 Montreal Rd, Ottawa, ON, K1J 6N1

Navigator1@mri.ca

Ottawa Inner City Health: Resource for those who are chronically homeless or at risk of homelessness and require health care provision that is on par with any other Canadian.

Services provided: Various medical procedures, group sessions, and primary care.

(613) 562-4500

G-500 Old St. Patrick St, Ottawa, ON, K1N 9G4

info@ottawainnercityhealth.ca

Planned Parenthood Ottawa: A pro-choice resource for those who seek information regarding healthy sexuality, informed sexual and reproductive choices, counselling, information and referrals.

Services provided: education, counselling, referrals and contraceptives.

613-226-3234

2197 Riverside Dr., Suite 403, Ottawa, ON K1H 7X3

ppottawa@ppottawa.ca

Ottawa Rape Crisis Center: Resource for those that are victims of sexual assault and abuse.

Services provided: Crisis Line, counselling program, and public education.

24 hour Crisis Line: 613-562-2333

Office Line: 613-562-2334

Ottawa, ON K1N 9P4

Ottawa Salus Corporation: Resource for those who are recovering from mental illness and are on a journey of well-being and independent housing.

Services provided: Bilingual support services, equal treatment and services to the differently abled, and housing that varies from transitional rehabilitation homes to social housing.

613-729-0123

2000 Scott Street, Ottawa, ON K1Z 6T2

Ottawa Withdrawal Management: Resource for those who are unable to stop the use of drugs and/or alcohol on their own and would like support in a non-medical setting.

Services provided: Meals, laundry, daily activities, self-help groups, standardized assessments, psycho-educational group facilitations, motivational counselling, discharge and referrals and beds.

613-241-1525

1777 ch. Montréal Road, Ottawa ON K1J 6N1

Sexual Assault and Partner Abuse Care Program: Resource for those who require confidential services and medical care when intimate partner violence and/or sexual assault have been experienced within the past 90 days (three months).

Services provided: Documentation/photograph of injuries, risk/threat assessment, trauma and crisis counselling, pregnancy testing and prevention, STI testing, and anonymous police reporting.

The Ottawa Hospital - Civic Campus

613-798-5555 x 13770

1053 Carling Avenue

Ottawa ON K1Y 4EY

Sexual Assault Support Centre: Resource for women who are survivors of sexual abuse and harassment.

Services provided: Crisis line, individual and group support, advocacy, and drop-in.

24-Crisis line: 613-234-2266

Office: 613-725-2160

TTY: 613-725-1657

Ottawa, Ontario, CANADA K1S 5B4

Email: info@sascottawa.com

Sexual Health Centre: Resource for those who require anonymous testing and counselling in regards to sexually transmitted diseases, pregnancy and treatment.

Services provided: healthy sexuality counselling, STI testing (including a rapid HIV test with appointment), pregnancy testing and free or subsidized contraceptives, PAP tests, and Hepatitis A & B immunization.

613-234-4641

Main location: 179 Clarence Street, Ottawa, ON K1N 5P7

Victim Services Ottawa: Resource for those who have been victimized or traumatized.

Services provided: Emotional support, practical assistance, advocacy and referrals.

613-238-2762

250 City Centre, Suite 600, Ottawa, ON K1R 6K7

vcars@ovs-svo.com

Appendix E: Interview Guide

Introduction

Hello, I am conducting this research in order to identify the challenges and positives regarding the new legal regime's effect on street-based sex workers and their interactions with the criminal justice system.

Demographics

In a few moments, I will be asking if you can describe for me your work in the sex industry. First, however, I will begin by asking you some basic information about yourself.

1. How old are you?
2. How do you self-identify in terms of gender?
3. Have you always lived in Ottawa?
 - A. If no, where else have you lived?
4. What is your housing like? (i.e. an apartment, house, independent housing, community housing, etc.)

Work History

Now we are going to move onto your history in the sex industry:

1. Can you describe for me your work in the sex industry?
(Ask the following only if they have not already spoken of them)
 - A. How long have you worked in the industry for?
 - i. How old were you when you first started working in the industry?
 - B. Full-time? Part-time?
 - C. Besides street-based sex work, have you ever worked in other areas of the industry (i.e. indoor, stripping, massage)?
 - i. If yes, can you please describe why you have worked in this area?
2. Before we continue on to the rest of the interview, is there anything you would like to add about your work history?

Interactions with Clients

We are now going to move start the interview itself. We wanted to begin by asking you a couple of questions about your interactions with your clients:

1. How would you describe your relationships with your clients?
(Ask the following only if they have not already spoken of them)
 - A. Some sex workers speak of being assaulted by clients (or by individuals posing as clients). They mention things like physical assault, sexual assault; being confined, stalked or having clients film them.... have you experienced these sorts of things?
 - i. If yes could you, please discuss this?

- B. Some sex workers speak of being health concerns such as clients refusing to wear condoms, or trying to negotiate unsafe sex practices. Have you experienced these sorts of things?
 - i. If yes could you please discuss this?
 - C. Some speak of clients who refuse to pay, who steal from them or who try to bargain a lower price; have you experienced these sorts of things?
 - i. If yes could you please discuss?
 - D. Some sex workers speak of clients who treat them badly, disrespect them and so on, have you experienced these sorts of things?
 - i. If yes could you please discuss?
 - E. Some sex workers speak of clients who have gone above and beyond to ensure a positive relationship with one another. Some things mentioned are being driven home or to appointments, having groceries provided, etc. Have you experienced any of this?
 - i. If yes could you please discuss?
2. Have you noticed any difference in clients after Christmas 2014?
- A. Any difference in behaviour?
 - B. In interactions with you?
3. Before we leave this section is there anything you would like to add about clients, your relationship to them, problems, challenges, or positives they pose or anything else?

Policing of Street-based sex work

I now want to discuss your experiences with the police specifically and with the law more generally:

- 1. Can you describe for me what the policing of street-based sex workers in Ottawa looks like?
 - A. How does policing effect what you do?
 - D. Has the policing of street-based sex workers changed since Christmas 2014?
 - i. Any difference in behaviour?
 - ii. Any difference in patrolling?
- 2. Do you use any strategies to avoid coming to the attention of the police and being criminally charged for sex work?
 - A. If yes, can you discuss these strategies and how they impact on you and your work?
- 3. Ottawa police has focused their attention on clients. Has this affected your work?
 - A. If yes, please explain how.
 - B. If no, please explain why.

Interactions with Police

- 1. How would you describe your relationship or interactions with the police?
[Ask for the following only if they have not already spoken of them]

A. Some sex workers speak of experiencing violence or threats of violence from the police; or of having the police be aggressive when they are arresting them. Have you experienced these sorts of things?

i. If yes could you please discuss this?

ii. Who do you turn to when you have been victimized by a police officer?

iii. Why do you turn to this person/people?

iii. Have you ever complained to the police? *[if required, i.e. laid a complaint)*

If yes what was the response?

If no, why not?

B. Some sex workers speak of being harassed by police when they are working and even when they are not, have you experienced these sorts of things?

i. If yes could you please discuss this?

ii. How do you deal with this? *[if required, do you report this?, to who?, why do you do that?..]*

C. Some sex workers speak of having the police abuse their authority by, for example, arresting them without charging them, taking their property, searching them, taking their things, of charging them with things like loitering, have you experienced these sorts of things?

If yes could you please discuss this?

If yes how do you deal with this? *[if required, do you report this?, to who?, why do you do that?..]*

D. Some sex workers think the police do not take violence against them seriously and some speak of being charged and/or held when they report their victimization, have you experienced these sorts of things?

i. If yes could you please discuss this?

ii. How do you deal with this? *[if required, do you report this?, to who?, why do you do that?..]*

2. Have you ever been stopped and questioned by the police?

If yes, please:

A. Discuss how the officer treated you?

B. What were the implications of the stop? *Probe for details*

C. Was the stop before or after Christmas 2014?

3. Some sex workers report that they have had positive interactions with police officers. For example, some have reported that they have been given drives home or have been able to rely on specific officers for support. Have you experienced these sorts of interactions?

A. If yes, describe how.

4. Before we leave this section is there anything you would like to add about police, your relationship to them, problems, challenges, or positives they pose or anything else?

Knowledge & Experience with Law

We are now shifting to questions of the law and the regulation of the industry:

1. Can you describe the laws regulating street based sex work right now?
2. Are you familiar to the laws regulating street-based sex work since last December? Christmas 2014?
 - A. If yes, can you describe these laws?
3. Have you ever been criminally charged for sex work?
 - If yes, please:*
 - A. Discuss how the officer treated you?
 - B. Did you have access to a lawyer?
 - i. If yes, how were you treated by the lawyer?
 - C. What were the implications of the charge? (i.e. **fin**es, **red zone**) *probe for details*
 - D. Was the charge before or after Christmas 2014?
 - If no:*
 - A. Would you have access to a lawyer if you were arrested/charged? Discuss.
4. Do you have a criminal record for sex work?
 - A. If yes, has that affected you? Explain
 - B. How did the judge treat you? *Probe for details*
 - C. How did the court system in general treat you? *Probe for details*
 - D. What are the repercussions for you from having a criminal record due to your work?

Victimization & Support

We are now moving into the section about victimization and support. I know we have already touched on these issues in regards to police and clients but it is such an important issue that we want to make sure that we cover it well:

[probe for the following only if they have not already spoken of them]

1. Some sex workers speak of violence, robbery or harassment from people in the neighbourhood where they work or where they live. Have you ever experienced these sorts of things?
 - A. If yes, please describe/discuss.
 - i. *Probe and ask if anything has changed after Christmas 2014.*
 - B. If no, do you take measures to avoid such violence, robbery or harassment?
2. Have you ever turned to people in the neighbourhood where you work or where you live when you felt you were in danger or when you were being attacked?
 - A. If yes, what was the response?
 - i. If no, could you explain why not
 - B. Have you ever turned to people in the neighbourhood where you work or where you live after being in danger, attacked or threatened?
 - i. If no, could you explain why not

3. Have you ever turned to the police if you felt you were in danger or when you were being attacked? *If necessary: by a client, a partner*
 - A. If yes what was the response?
 - i. If no, why not
 - B. Have you ever turned to the police after being in danger, attacked or threatened?
 - i. If yes what was the response?
 - ii. If no, why not
4. Before we leave this section is there anything you would like to add about victimization and support?

Identity & Label of Victim

We are now going to move onto the final section on how being labelled a victim of sexual exploitation interacts with personal identity and get your perspective on this:

1. Some sex workers report enjoying working in the sex industry, while some others only work to make a living. Can you describe how you feel about your position in the work that you do?

Probe for details about why they feel a certain way

2. The opinion of the law is that sex workers are victims of their clients, and therefore, must be protected from them. Can you describe what your opinion is on the position of new law?

Probe for these only if they have not been answered:

- A. Does this law reflect your reality?
- B. Does the new law affect your ability to work safely?
- C. What would your ideal law on sex work be?

3. Some sex workers report that they are treated poorly (i.e. ignored, harassed, verbally attacked, etc.) when people learn about their work in the sex industry. Have you experienced something similar to this?

- A. If yes, please describe.
- B. Are you treated poorly when you come into contact with police? With the court system? With doctors? With strangers?
- C. Has anything changed after Christmas 2014?

4. Some sex workers say that people around them focus only on their work as a sex worker and ignore other important roles and identities. Have you experienced something similar to this?

If yes,

- A. Describe your experience
- B. Do you think your job as a sex worker conflicts with your role as a friend, family member, partner, volunteer, etc., to those around you?

5. Before we leave this section is there anything you would like to add about identity and labels?

Wrap-up

This is the final section of the interview. Here I am asking you to take a step back and think about these things more broadly

1. We have discussed a lot of issues that might be of concern to sex workers. Are there any issues we have missed? If yes, could you please discuss them

Of all the things we have spoken about police and the law, clients, violence and safety, victimization and identity [*here add things that the participant raised specifically*], what would you say is your top couple of preoccupations?

Appendix F: Ethics Review Board Certification

File Number: 05-15-08

Date (mm/dd/yyyy): 06/01/2015



Université d'Ottawa
Bureau d'éthique et d'intégrité de la recherche

University of Ottawa
Office of Research Ethics and Integrity

Ethics Approval Notice

Social Science and Humanities REB

Principal Investigator / Supervisor / Co-investigator(s) / Student(s)

<u>First Name</u>	<u>Last Name</u>	<u>Affiliation</u>	<u>Role</u>
Christine	Bruckert	Social Sciences / Criminology	Supervisor
Yadgar	Karim	Social Sciences / Criminology	Student Researcher

File Number: 05-15-08

Type of Project: Master's Thesis

Title: Ottawa Street-based Sex Workers and the Criminal Justice System: Interactions under the new legal regime

<u>Approval Date (mm/dd/yyyy)</u>	<u>Expiry Date (mm/dd/yyyy)</u>	<u>Approval Type</u>
06/01/2015	05/31/2016	Ia

(Ia: Approval, Ib: Approval for initial stage only)

Special Conditions / Comments:
N/A



Université d'Ottawa **University of Ottawa**
Bureau d'éthique et d'intégrité de la recherche Office of Research Ethics and Integrity

This is to confirm that the University of Ottawa Research Ethics Board identified above, which operates in accordance with the Tri-Council Policy Statement (2010) and other applicable laws and regulations in Ontario, has examined and approved the ethics application for the above named research project. Ethics approval is valid for the period indicated above and subject to the conditions listed in the section entitled "Special Conditions / Comments".

During the course of the project, the protocol may not be modified without prior written approval from the REB except when necessary to remove participants from immediate endangerment or when the modification(s) pertain to only administrative or logistical components of the project (e.g., change of telephone number). Investigators must also promptly alert the REB of any changes which increase the risk to participant(s), any changes which considerably affect the conduct of the project, all unanticipated and harmful events that occur, and new information that may negatively affect the conduct of the project and safety of the participant(s). Modifications to the project, including consent and recruitment documentation, should be submitted to the Ethics Office for approval using the "Modification to research project" form available at: <http://research.uottawa.ca/ethics/submissions-and-reviews>.

Please submit an annual report to the Ethics Office four weeks before the above-referenced expiry date to request a renewal of this ethics approval. To close the file, a final report must be submitted. These documents can be found at: <http://research.uottawa.ca/ethics/submissions-and-reviews>.

If you have any questions, please do not hesitate to contact the Ethics Office at extension 5387 or by e-mail at: ethics@uOttawa.ca.

Signature:

