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RECONSTRUCTING "YOUTH PROSTITUTION" AS THE "SEXUAL PROCUREMENT OF CHILDREN": A CASE STUDY

by

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ABSTRACT

On 15 October 1986 the Canadian government introduced Bill C-15, *An Act to Amend the Criminal Code and the Canada Evidence Act*, in an effort to combat child sexual abuse. Bill C-15 added section 212(4) to the *Criminal Code of Canada:*

> Every person who, in any place, obtains or attempts to obtain, for consideration, the sexual services of a person who is under the age of eighteen is guilty of an indictable offence and is liable to imprisonment for a term not exceeding five years.

Following its enactment on 1 January 1988, section 212(4) was rarely enforced. Only six charges were laid in Vancouver, British Columbia during the first six years after the new youth procurement law came into effect. Discontented service providers and community activists questioned why section 212(4) was not enforced, and they lobbied for greater protection of sexually exploited street youth.

Using Vancouver as a case study, this thesis combines 32 qualitative interviews with several archival sources to examine the evolution of section 212(4). I examine how "youth prostitution" was regulated and controlled prior to the enactment of section 212(4), and describe current debates about the need to protect "sexually exploited" youth.

Using the concept of "claimsmaking" as a general analytical framework, I find that lobby-group activity associated with s.212(4) acted as a catalyst for (re)conceptualizing "youth prostitution" as the "sexual procurement of youth." The term "youth prostitute" was discarded because it focused accountability on the youth; instead the terms "sexually procured youth," "sexually exploited youth," and "sexual abuse" were adopted because they described street youths as victims of "sexual predators." In the process the buyer was constructed as a "pedophile," the devil responsible for the sexual procurement of youth.

The discourse used during campaigns to have section 212(4) enforced created a frame of reference that was difficult for policy makers to ignore. Indeed, the provincial government responded to concerns about the "sexual procurement of youth" by establishing the "Provincial Prostitution Unit" and committing $1.9 million as part of the Vancouver Action Plan aimed at protecting sexually exploited youth. I conclude that reform efforts associated

with section 212(4) were expedited by a "rhetorical system" that conceptualized "youth prostitution" as "sexual exploitation." This discursive framework confirmed state and social services ownership of the sexual procurement of youth issue. The ensuing philosophical change in approaches to "youth prostitution" reflects a growing international construction of the "sexual exploitation of street youth" as a major social problem.

DEDICATION

For Ruth Ann Code

and

For My Parents

Margaret Mary Bittle

John Henry Blair Bittle (1937-1986)

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TABLE OF CONTENTS

Chapter 1

Re-constructing Youth Prostitution as the Sexual Procurement of Youth

> Every person who, in any place, obtains or attempts to obtain, for consideration, the sexual services of a person who is under the age of eighteen years is guilty of an indictable offence and is liable to imprisonment for a term not exceeding five years (Section 212(4) *Criminal Code of Canada*, R.S. c.19, s.9).

1) Introduction

In 1981 the Canadian government introduced the Committee on Sexual Offences Against Children and Youth (the Badgley Committee, 1984) in response to concerns about the sexual abuse of young people. The Badgley Committee was instructed to explore legal sanctions to help confront child sexual abuse and to make recommendations for protecting children at risk (Badgley, 1984; Hornick and Bolitho, 1992; Lowman, Jackson, Palys and Gavigan, 1986: xii/xiii). Because of a perceived increase in the number of youth involved in prostitution, "juvenile prostitution" was added to the Committee's mandate at a later date[1] (Lowman, 1986: 195). The Badgley Report contained 52 recommendations to help confront the sexual exploitation of youth, including conclusions and recommendations the Committee made following interviews with 229 "juvenile prostitutes" (Badgley, 1984: 967).

One year after the Badgley Report, the Special Committee on Pornography and Prostitution (the Fraser Committee) released its findings and conclusions. The federal government inaugurated the Fraser Committee after a growing dissatisfaction with prostitution-related legislation (Lowman, 1986: 195; Shaver, 1985: 493) and feminist concerns about pornography (McLaren, 1986: 40). The Committee was mandated to "...study the problems associated with pornography and prostitution, and carry out a program of sociolegal research to provide a basis for its work" (Lowman *et al*, 1986: xiii).

When it came to research and recommendations pertaining to "youth prostitution," the Fraser Committee largely deferred to the Badgley Committee. One important exception was that

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[1] I recognize that the terms used to describe youth involved in prostitution is contentious. For analytical reasons I refer to language predominately used during the time period I am discussing-- for example, when the literature or the person I interview use terms like "youth prostitution," "young prostitutes," "sexually procured youth," or "sexually exploited youth."

the Fraser Committee disagreed with the Badgley Committee's recommendation to criminalize young prostitutes as a means of preventing them from becoming entrenched in prostitution (Fraser, 1985: 658/59). Despite this disagreement, both Committees suggested that obtaining, or attempting to obtain, for consideration, the sexual services of a youth should be criminalized. In response, the Canadian government introduced Bill C-15 to combat child sexual abuse (Schmolka, 1992). Included within Bill C-15 was section 212(4) of the *Criminal Code of Canada*, thereby formally criminalizing purchasing, or attempting to purchase, the sexual services of someone under the age of 18. Section 212(4) came into force on 1 January 1988.

The objective of s.212(4) apparently had widespread public support. A study by Peat Marwick revealed that purchasing the sexual services of a person under the age of 18 should be criminalized (Peat Marwick, 1984). However, following its enactment s.212(4) was rarely enforced (Hornick and Bolitho, 1992: xxix). In Vancouver, British Columbia, discontented service providers and community activists questioned why s.212(4) was not enforced, and they lobbied for greater protection of sexually exploited street youth. For these services providers and community members the question became, why does the formal legal sanction against people who sexually procure youth fail to translate into substantive law enforcement?

Using Vancouver as a case study, and the notion that social problems are "made" by claims-making activities, this thesis examines the evolution of s.212(4). It begins by examining how "youth prostitution" was controlled before the introduction of s.212(4), and examines the forces leading to prohibition, and the reactions of various professionals and community activists to the perceived "failure" of the new law. I examine arguments in favour of suppressing and controlling "youth prostitution," and the philosophical shift from criminalizing "youth prostitutes" to criminalizing their clients. I describe how reformers in Vancouver discarded the term "youth prostitute" because it focused accountability on the youth; instead, the terms "sexually procured youth," "sexually exploited youth," and "sexual abuse" were adopted because they portrayed young persons who sell sex not as "prostitutes," but as victims of male "sexual predators." In the process, the buyer was constructed as a "pedophile," the devil responsible for the sexual procurement of youth.

Claimsmaking as a Catalyst for Political Action

To understand efforts to reform s.212(4) and approaches to the sexual procurement of youth, my thesis research uses a social constructionist perspective. In *Constructing Social Problems*, Spector and Kitsuse (1977) argue that social problems are *produced* through claims-making about which activities are socially problematic (cf. Best, 1997: 6). Constructing a "social problem" involves "the activities of individuals or groups making assertions of grievances and claims with respect to some putative conditions" (Spector and Kitsuse, 1977; as quoted in Unnithan, 1994: 63/4). Goode and Ben-Yehuda note that a "putative" condition becomes a social problem when, "...groups engage in claimsmaking activities with reference to that condition" (1994: 89). In general terms, then, a social problem exists when: "(1) a group of people recognize or regard something as wrong; (2) they are concerned about it; and (3) they urge or take steps to correct this" (Goode and Ben-Yehuda, 1994: 88/89).

Claimsmaking is an essential element in the process of naming or identifying social problems. Claimsmaking is an effort to convince policy-makers that a problem exists and there is a need to "...institute appropriate policies to address the problem" (Best, 1994: 9; Spector and Kitsuse, 1977). Claimsmakers help "shape our sense of just what the problem is" (Best, 1997: 8).

Claimsmaking occurs during the "discovery" of a new phenomenon or the "reorientation" of a familiar issue "...in the fresh light of a new perspective" (Best, 1987: 105). Claimsmakers frame issues by naming, or typifying them. Typification occurs when interest groups "characterize" the exact nature of a phenomenon (Best, 1997: 8; Jenkins, 1992: 8). My thesis examines how interest groups reconceptualized "youth prostitution" to be the "sexual exploitation of children," and how associated lobby efforts propelled reform in legal and social service approaches to the sexual procurement of street youth.

"Claimsmakers inevitably characterize problems in particular ways: They emphasize some aspects and not others, they promote specific orientations, and they focus on particular causes, and advocate particular solutions" (Best, 1997: 9). My thesis examines how reformers in

Vancouver relied on examples of "sexual abuse" and "sexual victimization" as a basis to their claims that more needed to be done to protect sexually procured street youth.

"Claims-making inevitably involves selecting from available arguments, placing the arguments in some sequence, and giving some arguments particular emphasis. These are rhetorical decisions" (Best, 1994a: 114). Ibarra and Kitsuse suggest the media, legal-political venues and academia are ideal claimsmaking "settings." For example, in legal-political settings claimsmakers infiltrate the "...courts, city council meetings...electoral campaigns, policy think tanks, public interest groups, and so forth" to deliver their message (1993: 54). When discontent emerged about approaches to the sexual procurement of youth, service providers lobbied for action: they demanded the enforcement of s.212(4), wrote letters about the need to protect sexually procured youth, created media awareness about the issue, talked to politicians and requested new governmental practices and policies (cf. Miller and Holstein, 1993: 6).

Claimsmaking often gives particular groups "ownership" of the phenomenon in question (Best, 1994: 12). Gusfield notes that effective claimsmakers frequently gain ownership of an issue through their "...ability to create and influence the public definition of a problem" (1981: 10; quoted in Best, 1994: 12). Goode and Ben-Yehuda note that:

> ...in the discovery of any condition and its advocacy as a social problem, we must be alert to the matter of whose interests are being advanced in the process. Asking who profits does not mean that, if such motivation can be found, the problem that is being attacked is therefore inconsequential and trivial. Pediatric radiologists were simultaneously advancing a worthwhile cause by diagnosing child-battering and their own interests in bringing child abuse to the fore. Locating special interests does not disqualify a claim - it only locates its source and dynamics (1994: 93/94).

2) Methods and Sources

A series of questions guide the research: (1) What was the impetus for the creation of s.212(4)? (2) What effect did the legislation generate? (3) How was section 212(4) enforced? (4) Are other measures used to prevent the sexual procurement of youth? (5) What change(s) do stakeholders believe need to occur for section 212(4) to be enforced? (6) Who is lobbying for

section 212(4) to be enforced? (7) What might occur if this legislation was to be enforced more vigorously? (8) What other steps might be taken to confront the sexual procurement of youth?

I address these questions by engaging a variety of sources, which were selected because of their ability to contribute to an understanding of the evolution of s.212(4). These include: (a) key informants; (b) statistics regarding the enforcement of s.212(4) in Vancouver and Montreal; (c) minutes of Vancouver Action Plan[2] meetings; (d) the report from a Ministry of Social Service-sponsored evaluation of the Vancouver Action Plan; (e) personal correspondence concerning the enforcement of s.212(4) written by a Vancouver service provider; (f) a review of selected Vancouver media coverage of issues related to the sexual procurement of youth; and (g) Lowman and Fraser's collection of prostitution-related newspaper items from the *Vancouver Sun* and *The Province* for the period 1986 to 1996.

A more detailed description of each of these sources follows:

(1) The primary source of information is semi-structured qualitative interviews with 32 key informants, including:

(a) Service providers from the British Columbia Ministry of Social Services and individuals employed by semi-private service agencies (13 service providers in total: 8 from semi-private agencies and 5 from the Ministry of Social Services).[3]

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[2] In 1994 the British Columbia government launched the Vancouver Action Plan (VAP), a $1.9 million initiative to strengthen support services to sexually procured youth (Province Of British Columbia News Release, 14 November 1994). The VAP is discussed in chapter 4.

[3] In Vancouver there are important differences between the type of agencies that deliver services to street involved youths. There are several semi-private/non-profit agencies that operate in a semi-autonomous realm from the government. These agencies rely heavily on provincial financing to sustain their services and they frequently lobby bureaucrats to bolster funding. The VAP was an important enhancement of the services offered by semi-private/community-based agencies in Vancouver.

Service providers also work directly for the Ministry of Social Services. Several government service providers noted that the issue of funding and allocation of resources from the VAP was not as important for them as it was for the semi-private agencies. In fact, the involvement of Ministry service providers in the VAP was limited to initial consultations and the contact they maintained with key players involved in the process.

To help maintain anonymity and confidentiality this thesis will not differentiate between the responses of semi-private service providers and those who worked directly for the Ministry of Social Service; both are referred to a service providers.

(b) Police officers and enforcement officials from Vancouver (6 in total). These included officers from the Vancouver Police Department's Vice-squad and Juvenile Services Division.

(c) One Lawyer from Crown counsel's office.

(d) Politicians, Committee members and Vancouver Action Plan participants (11 in total). These informants included government officials (politicians and bureaucrats) at the municipal, provincial and federal levels. Further, non-confidential interviews were conducted with the British Columbia Minister of Social Services (Joy McPhail) and former Fraser Committee member, Professor John McLaren.

(d) Parents groups One interview was conducted with an individual who headed an advocacy group for parents of sexually procured youth.

To avoid the risk in inductive research of wandering "aimlessly forever" (cf. Palys, 1997: 78), I developed a set of questions and probes to guide the research process (see Appendix I for interview schedule). This semi-structured interview format included open-ended questions that fostered the opportunity for, "...heuristic discovery and the flexibility to respond to new insights with unanticipated avenues of questioning" (Palys, 1992: 166/67). Each interview lasted for approximately one hour, with several running an hour and a half, and a few interviews lasting between 2 and 3 hours. Of the 32 interviews, 21 were tape-recorded and I took notes during 11 interviews.[4]

(2) Other sources of information include:

(a) A review of the minutes of the Vancouver Action Plan; I obtained the minutes of these meetings through the Ministry of Social Services.

(b) A review of the Ministry of Social Services-sponsored evaluation of the Vancouver Action Plan (CS/RESORS, 1996) (hereafter referred to as the Ministry evaluation). The

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[4] Some respondents either declined to have the interview taped, or I was unable to use a tape machine because the interview occurred in a public location (i.e., a coffee shop). Due to the limits of note-taking, I will not be able to directly quote every respondent I cite. Nevertheless, when paraphrasing I will reference the category of informant and the date of the interview.

VAP included a mandatory evaluation commissioned by the Ministry of Social Services that was tendered to CS/RESORS Consulting Limited on 30 November 1995. The evaluation focused on the following:

> 1. The efficacy and effectiveness of the process...development and implementation.
>
> 2. The outcome of the process.
>
> 3. What can be learned from this process that would facilitate future government and community partnerships (CS/RESORS, 1996: 2).
>
> Key sources of information for the evaluation included government employees, VAP participants, youth involved in the process, service providers, police, parents, and various supporting documents. A total of 75 informants were interviewed individually or as part of a focus group (CS/RESORS, 1986: 3). The final report included a history of the VAP, an explanation of VAP components, perspectives of key informants on the VAP process, a discussion of youth involvement, and a set of recommendations.

(c) A review of personal written correspondence by a Vancouver service provider concerning the enforcement of s.212(4).

(d) Newspaper articles from the *Vancouver Sun* and *The Province*. This portion of the research involved a thematic analysis of all articles relating to s.212(4) in the *Sun* and *The Province* for the period 1986 to 1996. This analysis uses Lowman and Fraser's database on newspaper coverage of prostitution-related items.[5]

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[5] This database is a comprehensive accumulation of newspaper items taken from a daily reading of the *Vancouver Sun* and *The Province*. I searched the items and specifically counted and analyzed articles that mentioned s.212(4). The years 1986 - 1996 were covered to ensure at least two years prior to the introduction of s.212(4) were included.

3) Outline of Chapters

Chapter Two/The Sex Buyer as Folk Devil: A Review of the Literature

Since Canada's confederation various rhetorics, or "persuasive communication" (cf. Best, 1994: 9), have justified the suppression and control of the exchange of sex for money. Historically, there has been a marked difference in the legal approach towards female prostitutes and their male clients. During the later part of the 1920s and early 1930s, there was an increase in the number of men charged with "ancillary" prostitution offences (Larsen, 1992: 148). However, for the most part, regardless of the justifications used to control the street trade, women involved in prostitution have generally been treated as the "deviants," and the main focus of law enforcement efforts.

Chapter two describes a shift in rhetoric from controlling and suppressing street prostitution to the client. The customer has become the folk devil responsible for propagating the street trade. In turn "young prostitutes" have been identified as "victims" that must be protected from sexual predators and pedophiles. Folk-devils are constructed as demons who pose a "threat to societal values and interests" (Cohen, 1972: 9). Their actions must be "neutralized" or stopped (cf. Goode and Ben-Yehuda, 1994: 29); folk devils stand as "visible reminders of what we should not be" (Cohen, 1972: 10).

Chapter Three: s.212(4) and Lobbying for the Protection of Sexually Procured Youth

The third chapter describes the history of s.212(4) enforcement, including the reasons given as to why it was rarely used and the ensuing lobby efforts to have it enforced. I describe how service providers -- followed by community members, police officers and government officials -- raised questions about the protection afforded to sexually exploited youth.

The language strategies used to challenge police policy related to s.212(4) charges helped reconceptualize "youth prostitution" as the "sexual procurement of youth." In turn, this "sexual exploitation" discourse initiated policy reform and helped forge a consensus that something much more must to done to combat the sexual procurement of youth.

Chapter Four/ The Politics of Reform: The Emergence of New Programs to Combat the Sexual Procurement of Youth

Chapter four describes the policy reform that stemmed from lobby efforts to increase the enforcement of s.212(4). The provincial government responded by launching the Vancouver Action Plan and a Provincial Action Plan.[6] In addition, the federal government took steps to amend s.212(4).

The language used by claimsmakers highlighted the "sexual abuse" of street involved youth; underlying political efforts to have s.212(4) enforced was a philosophical shift from asking how to address "youth prostitution" to what to do about the "sexual procurement of youth." This discursive formation provided a powerful frame of reference that propelled policy-makers to initiate reform.

Discourse produces truth-claims. It authorizes actors to speak about, and react to a particular issue (Ericson and Haggerty, 1997; Hunt and Wickham, 1994: 8). In this respect claimsmaking provides certain groups with "ownership" of the phenomenon in question (Best, 1997: 12). The fourth chapter describes how service providers struggled to gain control of the programs aimed at helping protect sexually procured youth.

Chapter Five: Reacting to the Sexual Exploitation of Youth

In the final chapter I show how reconceptualizing "youth prostitution" as the "sexual procurement of youth" produced a powerful frame of reference, or analytical space, that expedited policy reform. Reform occurred within a "rhetorical system" (cf. Valverde, 1991: 11) that defined "youth prostitution" as "sexual exploitation." The final chapter also notes that claimsmaking efforts confirmed state and social services ownership of the sexual procurement of youth issue. I conclude that this reconceptualization of "youth prostitution" is part of an international construction of the sexual procurement of youth as a major global social problem.

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[6] Following the VAP, the provincial government launched a Provincial Action Plan to combat the sexual procurement of youth on a province-wide basis. The PAP is discussed in chapter 4.

Chapter 2
The Sex Buyer as Folk-Devil: A Review of the Literature

> Until now, Canadian law as it affects juvenile prostitution has historically been uneven and discriminatory both in its spirit and enforcement, essentially punishing rather than protecting, without significantly affecting those who benefit from prostitution (Sullivan, 1986: 181).

1) Introduction

Throughout the twentieth century in Canada various special interest groups have provided the impetus for suppressing prostitution and for enacting and enforcing prostitution-related laws. Using various rhetorics, interest groups have suggested that prostitution is a "social problem" that must be addressed through various social and legal policies. There are examples of opponents who rejected prostitution on moral grounds because it encouraged sex outside marriage (Lowman, 1992b: 70/71; see also, McLaren, 1986; Rotenberg, 1974). At times epidemiological concerns propelled the enactment of anti-venereal disease legislation (Lowman, 1992b: 71; see also, Backhouse, 1985: 390; McLaren, 1986). At other times feminist groups rejected prostitution as an unacceptable form of exploitation of women (Lowman, 1992b: 71). From the mid-1970s through the early 1990s, the visibility of prostitution and its associated nuisances dominated debates (Lowman, 1992b: 71).

Multifarious in origin and influence these various reformist rhetorics -- or "vocabularies of censure" (cf. Lowman, 1992b: 70) -- intersect throughout history to produce a matrix of prostitution-related legislation. This chapter reviews that history.

2) Early Prostitution-Related Legislation

Vagrancy laws imported to Canada from England during the mid-1800s criminalized the status, "prostitute." Merely being a prostitute was sufficient to evoke a criminal charge (Shaver, 1993: 162; see also Backhouse, 1985: 389; O'Connell, 1988: 112). During this time a prostitute "...who could not explain her presence in a public place to a police officer (or any woman who could not give a 'satisfactory account of herself') was arrested" (O'Connell, 1988: 113). To be

identified as a "common" prostitute a woman was given a preliminary warning by police that she was suspected of prostituting; subsequently, if police laid a vagrancy charge the warning was used in court to establish that the woman was indeed a "common" prostitute (Lowman, 1991: 191/92). McLaren notes that prostitution-related laws enacted during this period (circa 1867) did not provide special protection for young prostitutes: "...children were seen as small adults who reached social and sexual maturity at an early age and were accordingly not entitled to special protection by the law..." (1986: 126).

During the later 1800s there was a marked difference in the philosophical approach to prostitution. There was a growing concern among several religious groups in Canada that an international "white slavery" trade had developed, involving trafficking of young women and children in prostitution (Backhouse, 1985: 393; O'Connell, 1988: 115). Special interest groups asked the government to enact laws to protect women and children who were believed to be duped into a life of prostitution (Backhouse, 1985: 393; McLaren, 1986: 135). McLaren (1986: 135) notes that reformers of the time wanted to protect women and children from the "...wiles of procurers, seducers and abductors by the enactment of stiff criminal law provisions."

In 1892 the *Criminal Code of Canada* included a series of laws to protect young women and children from "sexual predators" who led them into prostitution (McLaren, 1986: 135/36; O'Connell, 1988: 116). Backhouse (1991: 237) notes that moral reformers were outraged with the sexual exploitation of women and children and that some Christian women's groups wanted to publish the names of men who purchased sexual services. However, despite this rhetoric about protecting young women and children involved in the trade, laws that criminalized prostitutes continued to be enforced (McLaren, 1986: 139); reformers wanted male exploiters punished, but when it came to enforcement it was female prostitutes who were arrested (O'Connell, 1988: 116/117; Shaver, 1993: 162):

> Not only the prostitutes, but the procurers who set them up in a life of prostitution, the pimps who lived off their earnings, the owners and keepers of bawdy houses, and the men who frequented their establishments were all theoretically subject to criminal punishment. When it came time for enforcement,

> however, a completely male police force and judiciary applied the statutes almost exclusively against women (Backhouse, 1985: 388).

The turn of the century brought renewed efforts to protect young women and children from the exploitative aspects of prostitution (McLaren, 1986: 142). Sullivan (1986: 180) notes that several child protection statutes were enacted to prevent children from entering a life of prostitution (see also Backhouse, 1991: 243). Government officials had the power to detain children who were "wandering" or without a "settled place of abode" (Backhouse, 1991: 243) and those whose parents were deemed to be involved in sexually inappropriate behaviours (Sullivan, 1986: 180). However, many youths found themselves serving lengthy prison sentences under the guise of rehabilitation (Sullivan, 1986: 180). The actions of male customers and the conditions that led to youth prostitution, such as male sexual socialization and female poverty, were largely ignored (for discussions of the conditions faced by street involved youth during this period, see Nilsen, 1980; Rotenberg, 1974).

Further concerns surfaced at the beginning of the twentieth-century over the "white slave trade" in women and children. Various women's groups, social purists and religious organizations lobbied the federal government to enact laws to confront prostitution and criminalize the international trade of young women (McLaren, 1986: 147). In response to these concerns, during the early 1900s the government amended legislation pertaining to procuring and living on the avails of prostitution (Shaver, 1994: 128). Again, in 1913 the *Criminal Code of Canada* was amended to bolster procurement and bawdy house laws (Larsen, 1992: 140; McLaren, 1986: 149). In part, the changes were enacted to address the short-comings of earlier laws that discriminated against females involved in prostitution (Larsen, 1992: 139/140). However, legal amendments did not alter discriminatory law enforcement practices.

Following the 1913 changes there was an increase in the number of charges for procuring, pimping and living on the avails of prostitution (Larsen, 1992: 140; McLaren, 1986: 151). Nevertheless, it was mainly female prostitutes who were arrested:

> A complex of legal provisions which was designed primarily to attack exploiters of prostitutes was used predominately to harass and victimize the prostitutes

> themselves. True, for the first time prosecutions were brought in some numbers against the procurers and pimps, but their number pales into insignificance alongside the host of women charged with vagrancy and bawdy house offences (McLaren, 1986: 151).

Men who purchased sexual services did so with little fear of criminal censure (Larsen, 1992: 139).

Canadian legislators again singled out female prostitutes for criminal disapproval under anti-venereal disease legislation enacted during the First World War. The *Defence of Canada Act* made it illegal for women infected with venereal disease to have sexual relations with military personnel. The law was discriminatory because it applied only to women (Larsen, 1992: 141/142). Law enforcement officials had the authority to force women suspected of having the disease to take medical tests. "This could be done on the basis of mere accusation, and the women were detained until the tests were completed" (Larsen, 1992: 141).

The end of the First World War did not stop concerns about the spread of venereal disease by female prostitutes. The federal government amended the *Criminal Code of Canada* in 1919, making it an offence to spread, intentionally or inadvertently, venereal disease to another individual (Larsen, 1992: 143). To help quell public fear, women charged for vagrancy were also tested for venereal disease: "[w]hile the prevailing practice was to force all women charged with vagrancy to undergo VD testing, this procedure was rarely applied to the male customers" (Larsen, 1992: 145). Further, in the rare cases where clients were arrested, they could have their charges dropped if they agreed to "enter a treatment program" -- an option not presented to female prostitutes (Larsen, 1992: 145).

3) New Rhetorics and Shifting Priorities

Beginning in the 1970s, the academic literature describes two main developments in attempts to confront and suppress prostitution. First, as reflected in the enactment in 1972 of the soliciting law, there was growing concern with the visibility of street prostitution and its associated nuisances (Lowman, 1986). During this period, female prostitutes faced harassment by local residents and police who wanted prostitution removed from certain areas of the city.

Second, starting in 1980 there was an increased recognition of child sexual abuse and exploitation cases (cf. Hornick and Bolitho, 1992: xiv; Sullivan, 1986: 177). In response to concerns about the sexual abuse of youth, the federal government convened the Committee on Sexual Offences Against Children and Youth (Badgley, 1984), and soon extended their mandate to include research regarding youth prostitution (Badgley, 1984; Hornick and Bolitho, 1992; Lowman *et al*, 1986). What follows is an examination of the way these concerns affected prostitution-related legislation and law enforcement.

Nuisance Concerns

In 1972 the federal government repealed the vagrancy law and replaced it with legislation that criminalized public solicitation for the purposes of prostitution. Section 195.1 of the *Criminal Code of Canada* stated: "Every person who solicits any person in a public place for the purpose of prostitution is guilty of an offence punishable on summary conviction." Under this law, the section defining a prostitute as female was removed, and, at least theoretically, the actions of male customers were addressed (cf. Boyle and Noonan, 1986: 229/30; Lowman, 1991; 118).

Despite the gender-neutral wording of the soliciting law, the evidence suggests that prostitutes continued to be the main focus of law enforcement (Lowman, 1994: 154; Shaver, 1994: 132). Further, there was debate in the courts as to whether a male could even be charged with soliciting for the purposes of prostitution. The British Columbia courts ruled that a client could <u>not</u> be found guilty of soliciting, while the Ontario courts ruled they could (Lowman, 1994: 154). In this regard Boyle and Noonan (1986: 264) suggest that the gender-neutral wording of the soliciting law only veiled discriminatory practices embedded in law enforcement and judicial decision making.

Amidst confusion over the meaning and applicability of the soliciting law came a series of court decisions commonly thought to have rendered the law unenforceable (Lowman, 1992: 157). The main catalyst was the now infamous 1978 ***Hutt*** decision in which the Supreme Court of Canada determined that, for someone to solicit for the purpose of prostitution, their behaviour

had to be "pressing and persistent" (Lowman, 1994: 154). Some police spokesmen argued the decision emasculated the soliciting law and therefore made it difficult to control street prostitution (Lowman, 1986: 1). The perception at the time was that the number of adult and youth prostitutes working on the streets increased substantially following the court decisions. Upset residents and business owners in Vancouver responded by challenging the federal government to amend the law to allow police to control the streets (Lowman, 1986: 2).

In contrast to the events attributed to the *Hutt* decision, Lowman claims that, "...the evidence available does not appear to show that the Hutt decision had a significant impact on the geography of the city's [Vancouver's] prostitution 'strolls': at most it consolidated a pattern already well established" (Lowman, 1986: 2; see also, 1991). During the early 1970s prostitution had already expanded into new areas of the city:

> As early as 1972, journalists were starting to talk about the problems besetting Vancouver's West End, the most densely populated square mile in Canada, and one that hitherto had not been thought of as a red light district (Lowman, 1992b: 72).

Further, in 1975, three years before the *Hutt* decision, an investigation by the Vancouver police resulted in the closure of two prominent cabarets that acted as a place for prostitutes to meet their customers (Lowman, 1986: 8). The net effect of these closures was to displace prostitutes onto the streets (Lowman, 1992b: 73) and encourage the trade to expand into areas of the city that had not formerly contained prostitution strolls (Lowman, 1986: 8).

Similar patterns of displacement occurred in Toronto during the late 1970s when, in an effort to "clean up Yonge Street" (cf. Kinsman, 1994: 177), prostitutes were forced to turn to the streets to ply their trade (Brock, 1998: 43). Brock notes there were long-standing plans for a "...renewal of commercial development on Yonge Street" (1998: 32). As a result of this gentrification, certain resident groups and politicians wanted to clear the area of several massage parlours that served as meeting places for prostitutes and their customers (Brock, 1998: 31/32). During the attack on the Yonge Street sex industry, a twelve-year-old 'shoeshine boy', Emanual Jaques, was found dead next to a well-known massage parlour. "Emanual Jaques had been sexually assaulted and reportedly drowned in a sink during what *McLean's* described as a 12-

hour orgy of abuse by homosexuals" (Brock, 1998: 35). The ensuing public outrage led the police on a series of bawdy house raids that resulted in the closure of the Yonge Street massage parlours, and the subsequent displacement of prostitutes onto the streets (Brock, 1998: 43). In this regard, the Jaques case gave justification and focus to an already established agenda to clean-up Yonge Street (Brock, 1998: 35).

The evidence thus suggests the *Hutt* decision was not responsible for the expansion of the street trade, but that the court decision acted as a timely rationale for those who were demanding new laws to control and suppress the street trade (Lowman, 1988: 74). Indeed, it appears that the Vancouver police stopped enforcing the soliciting law to compel legislators to enact new laws. Larsen (1992: 173) notes that "...the Vancouver police clearly wanted tougher laws dealing with street prostitution, and it appears that their 'hands off' attitude was designed to instigate public pressure on politicians." In the process, the police helped construct the "public nuisance problem" as being central to the street prostitution debate (cf. Kinsman, 1994: 177).

The ensuing public furore adversely affected female prostitutes and sexually procured youth. By 1981, community groups like the Concerned Residents of the West End (CROWE) were demanding the removal of street prostitution from their neighbourhood. The group's position was single-minded; prostitution was a nuisance and it should be penalized as such (Lowman, 1992a: 7). In a move to appease special interest concerns, Vancouver City Council followed the lead of other Canadian cities by enacting a by-law that made it an offence to "...loiter for the purpose of prostitution or to offer to sell or purchase sexual services in a public place" (Fraser Committee, 1985: 445). The Vancouver by-law fell into disuse after the Supreme Court of Canada ruled, in *R. v. Westendorp*, that Calgary's by-law transgressed the Federal government's power to enact criminal legislation (Fraser Committee, 1985: 446). Following this, the British Columbia government initiated a court injunction that restricted prostitutes from working in the Vancouver's West End (Lowman, 1992a: 8). Male clients were not the subject of this injunction.

Some community groups confronted male customers as a technique to rid their neighbourhood of prostitution. In 1984 an organization called, 'Shame the Johns' picketed

prostitutes and wrote down the license plate numbers of customer's cars, "...threatening to picket the owners at their homes" (Lowman, 1992a: 8). "This was not a campaign to reconcile the rights of prostitutes and residents; rather, it was designed to ensure that residents' interests came first, even if that meant excluding...prostitutes rights:" (Lowman, 1992b: 75). Like CROWE, 'Shame the Johns' wanted prostitution out of their neighbourhood, without showing any concern for where it might end up (Lowman, 1992b: 75).

The Fraser Committee

Amidst concerns about the expansion of prostitution on certain streets, the federal government convened the Special Committee on Pornography and Prostitution (Fraser Committee, 1985). The Fraser Committee emerged in response to growing dissatisfaction with prostitution-related legislation (Lowman, 1986: 195; Shaver, 1985: 493) and feminist concerns about pornography (McLaren, 1986: 40). The Committee was instructed to examine pornography and prostitution and to recommend ways to address relevant issues (Fraser, 1985: 5). The Committee was to "...study the problems associated with pornography and prostitution, and carry out a program of sociolegal research to provide a basis for its work" (Lowman *et al*, 1986: xiii). The Fraser Committee released its recommendations on 23 April 1985.[7]

The Fraser Committee noted that the law failed to meet its "theoretical objective" of reducing prostitution and "...instead has operated in a way which victimizes and dehumanizes the prostitute" (Fraser, 1985: 533). The Committee called on the government to develop long-term programs to address the social and economic conditions faced by women involved in prostitution (Fraser, 1985: 525/26).

In the short-term, the Fraser Committee argued that street prostitution was not likely to disappear as long as the government refused to identify a location for it to go (Fraser, 1985: 534; cf. Lowman, 1992a: 10). The committee recognized the need to address the public nuisances associated with street prostitution by identifying (private) locations where prostitution could

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[7] For a critique of the Fraser Report, see Kanter, 1985; Lowman *et al*, 1986; O'Connell, 1988.

occur (Fraser, 1985: 534-540). To overcome this problem the Committee recommended comprehensive changes to the *Criminal Code*, including, among other things, repealing the bawdy house laws to allow one or two prostitutes over the age of eighteen to employ themselves in a private abode (Fraser, 1985: 538) and empowering provincial governments to license "small-scale" prostitution establishments (Fraser, 1985: 546): "[t]his approach suggested that better control of the public nuisance aspects of the trade would be best facilitated by curtailing the power of the criminal law over prostitution in private places" (Lowman, 1991a: 309).

When it came to research and issues pertaining to "youth prostitution," the Fraser Committee largely deferred to the Badgley Committee (1984). However, one notable exception was that the Fraser Committee (1985: 658/59) disagreed with Badgley's recommendation to criminalize young prostitutes as a means of protection; the Fraser Committee argued that creating an age-specific offence contradicted the spirit of the *Young Offenders Act*. Nevertheless, the Fraser Committee did agree that specific legislation should be created to criminalize those who purchase, or attempt to purchase, the sexual services of a youth (1985: 659):

> We think it is essential that the *Criminal Code* contain an offence specifically framed around sexual activity for reward with a person under 18...In our opinion, a person who is even approached by an adult should be able to invoke the law enforcement process. To await the completion of the sexual activity before triggering the criminal process is to lose a substantial portion of the deterrent value of this provision...The section is directed toward the party whom we think is more likely to be the "aggressor" in the contact between the user and provider of sexual services of youth.

The Badgley Committee

Emerging at the same time as campaigns to control street prostitution was a growing concern about the participation of youth in the trade. Brock notes that, "...a 'new' crisis had emerged: the exploitation of children and young people on the streets of Canadian cities" (1998: 101). The Canadian government had responded to fears about the sexual abuse of young people by launching the Badgley Committee (1984), but "youth prostitution" was not part of the Committee's original mandate. It was soon added, however; the Committee was instructed to

explore legal sanctions to help confront child sexual abuse and to make recommendations for protecting children at risk (Badgley, 1984; Hornick and Bolitho, 1992; Lowman *et al*, 1986: xii/xiii). The apparent growth of sexually exploited street youth garnered enough concern to have this issue included as part of the mandate (Lowman, 1986: 195).

Released one year earlier than the Fraser Report, the Badgley Report contained 52 recommendations to help confront the sexual exploitation of youth, including several conclusions and recommendations the Committee made following interviews with 229 "juvenile prostitutes" (Badgley Committee, 1984: 967).[8] The Badgley Committee's research data produced substantial biographical information about youth prostitutes in Canada (Clark, 1986: 106); before this, academic information concerning the dynamics of "adolescent prostitution" was mainly from the United States (for a review, see Weisberg, 1985). To date, the Badgley Report remains a "definitive and official source of data on the sexual abuse of children and youths in Canada" (Brock, 1998: 115).

The Badgley Report

The Badgley Committee found that a majority of young prostitutes were female (1984: 969). 27.6 percent of the females and 13.1 percent of the males they interviewed were under 16 years of age (1984: 984). The Committee also found that youth prostitutes came from families that represent a variety of social classes, although a "large portion" of youths were from "middle class" homes (1984: 973). Lowman (1987: 102) suggested the Badgley Committee's youth prostitution survey lacked the necessary detail to make conclusions about class background of youth prostitutes.

The Badgley Committee also uncovered important information about the home-life experiences of runaway youths prior to their involvement in street prostitution. For many youths the choice to runaway from home was created by home situations they described as intolerable:

> The National Juvenile Prostitution Survey's findings clearly show that running away from home was an experience shared by most of the youths who later

[8] For a critique of the Badgley Report, see Lowman *et al*, 1986.

> became juvenile prostitutes. For many of them, running away represented an immediate means of escaping from some aspect of their home environment with which they found it impossible to cope, rather than serving as an avenue through which to pursue some positive long-term goals (Badgley Committee, 1984: 983).

In general, a majority of youths characterized their childhood and teenage experiences as troubled and unhappy (Badgley, 1984: 985).

The Badgley Committee also determined that many males involved in prostitution ran away from home because they were ridiculed and ostracized for their homosexual preferences (1984: 969). With little support from family members and a homophobic school environment, many young males turned to the streets where they believed "...they could meet people of like sexual preferences, and where they could escape the hostility and derision of family and friends" (Badgley Committee, 1984: 970). In this regard, homophobic sentiments in "square society" propelled some young males to the streets where situational factors contributed to their decision to become involved in prostitution (Visano, 1987).

The Badgley Committee (1984) further found that youth prostitutes were relatively uneducated compared to other Canadians of the same age. The Committee noted that, once on the streets, available social services for youth prostitutes had been "...ineffective and had provided inadequate protection and assistance" (1984: 986). The Committee recommended the development of specialized services to assist young prostitutes and to prevent youths at risk from becoming involved in prostitution (1984: 986).

Youths interviewed for the Badgley Report were asked to recall their "early sexual experiences," including situations where they were sexually abused by family members (1984: 976). The Committee compared survey information from interviews with "juvenile prostitutes" with data obtained from the National Population Survey to determine if there was any relationship between previous sexual experiences and becoming involved in the sexually procured population (1984: 977). The comparison led the Committee to state that "...youths who later became juvenile prostitutes were at no more risk when they were growing up than other Canadian children and youths of having been victims of sexual offences" (1984: 978).

Several commentators have questioned the Badgley Committee's interpretation of its data about past sexual experiences (Bagley, 1985; Lowman *et al*, 1986). For example, Lowman (1986: 196) noted that the Badgley Committee used incommensurate data when it compared the Juvenile Prostitution Survey, which asked youths about unwanted sexual acts involving "threats or force" to which they had unwillingly submitted, and the National Population Survey that asked interviewees about their first unwanted sexual experience (Brock, 1998: 111/12; Lowman, 1987: 103). Further, interviews conducted for the Badgley Report included sexually procured youths under the age of twenty, while the National Population survey included people between 17 and 70 years of age. Lowman (1986) argued that age differences may have led respondents in the two studies to recall past sexual experiences differently (p.197). Further, "...young prostitutes, because of their street experiences, may interpret what constitutes an 'unwanted sexual act' quite differently from non prostitutes" (Lowman, 1986: 197). Finally, the National Population Survey used self-administered questionnaires, while survey data produced for the Badgley Committee came from face-to-face interviews. These different methods of generating data may produce different types of responses (Lowman, 1987: 104).

Lowman (1987: 103) challenged Badgley's interpretation of information on past sexual experiences by comparing categories from the National Population Survey and the Juvenile Prostitution Survey that focused on unwanted sexual experiences involving "threat or force."

> It appears then, that prostitutes were *twice as likely* to have experienced a first unwanted intrafamilial sexual act involving force or threats of force as other member of the Canadian population. The important statistic not provided by the Badgley Committee was the number of prostitutes whose first 'unwanted sexual experience' during childhood did not involve 'threats or force' (Lowman, 1987: 103).

However, not every youth prostitute experienced unwanted sexual acts while growing up (and, conversely, not every sexually abused youth becomes involved in prostitution) (cf. Brock, 1998: 113; Lowman, 1987: 104), but the Badgley Committee (1984) did underestimate this important factor related to some youths' decision to leave home at a young age, and their subsequent choice to live on the street and become involved in prostitution.

Furthermore, several Canadian studies report high levels of childhood sexual abuse among street prostitutes (see, for example, Bagley and Young, 1987; Earls and David, 1990; Gemme *et al*, 1984; Lowman, 1984). Earls and David (1990) conducted interviews with male and female "prostitutes" and "non-prostitutes" to compare early family and sexual experiences. Their results suggested a relationship between "sexual interaction with a family member" and becoming involved in prostitution: "Based on our results, it would thus seem that the probability of entering prostitution may be closely related to leaving home at an early age, having a history of sexual abuse, and, in the case of males, having homosexual preferences" (Earls and David, 1990: 10).

Badgley's Recommendations

The Badgley Committee (1984) offered numerous recommendations to address "youth prostitution." The Committee believed that the realities of youth prostitution justified the enactment of specific legislation aimed at customers (1984: 1055 / 56). The Committee (1984: 1056) further argued, "...[our] findings indicate that the clients of prostitutes pose at least an equal if not greater public nuisance than do the prostitutes themselves." They recommended legislation that would make purchasing, or attempting to purchase, the sexual services of a youth an indictable offence (Badgley, 1984: 1055/56).

The Badgley Committee also argued it was necessary to criminalize young prostitutes to keep them from a life of prostitution (1984: 1046). The Committee therefore recommended the enactment of a specific offence criminalizing people under 18 years of age who sell sexual services (Badgley, 1984: 95). However, as Brock notes:

> This measure for the 'protection' of young prostitutes was advanced in contradiction to the committee's statement that 'there is no desire on the part of the committee to affix a criminal label to any juvenile prostitute,' and its acknowledgment that criminalization would not serve as a deterrent to young persons entering prostitution (1998: 106).

Lowman (1986: 212) argued that the Committee's proposal to criminalize young prostitutes would only serve to entrench them in prostitution, and it would fail to address the factors that

help make prostitution a choice for some youth. In this case, to maintain its goal of protecting youth from "sexual harms" (Brock, 1998: 116), the Badgley Committee was not prepared to abandon the criminalization of youth in favour of focusing on their customers.

In general the Badgley Committee was criticized for ignoring many of the structural factors that propel youth prostitution. For example, Lorenne Clark (1986) criticized the Badgley Committee for its paternalistic tone and its inability to recognize male sexual socialization as a key factor in the sexual exploitation of children and youth:

> They [the Badgley Committee] feel no need to stop and reflect upon the fact that it is males who are overwhelmingly responsible for this state of affairs. Nowhere do they discuss why this is so and how it can be changed. They seem simply to assume that of course we realize this, as we all do: boys will be boys, after all (98).

Likewise, Brock and Kinsman (1986) criticized the Committee for obfuscating gender power relations that contribute to male sexual violence against children and youths (110 and 123). For Brock and Kinsman the Committee erased "...the historical process which has structured patriarchal relations, youth oppression and the present policies of sexual rule, thereby preparing us to deal with them as natural and thus confining our field of vision to a narrow, legally defined realm" (1986: 124). Further, Lowman (1986: 212) chastised the Badgley Committee for not addressing the "...structural context of youth prostitution." The Committee (1984) avoided detailed discussions of gender, class and power imbalances between adults and youths, all factors that help to generate the sexual procurement of youth (Lowman, 1986: 212).

Another criticism of the Badgley Committee centres on its construction of youth prostitution as "...a uniquely sexual problem..." (Brock and Kinsman, 1996: 110). The Badgley Committee,

> ...addressed prostitution involving young people by shifting state and professional discourse about the practice from juvenile delinquency to the sexual abuse of children. Through the committee's work process, juvenile prostitution was produced as a social problem, where prior to the release of the report, it had received little public and media attention (Brock, 1998: 117).

In terms of the "claimsmaking" language introduced earlier (see chapter 2), the Badgley Committee "typified" (cf. Best, 1994) responses to youth prostitution by claiming it was a sexual abuse issue that must be attacked through legal and social service frameworks. To uphold its protectionist mandate, the Committee recommended "...an expansion of criminal law and social services, despite the questionable adequacy of these measures in meeting the needs of young prostitutes" (Brock, 1998: 5). In this regard, by limiting its frame of reference to legal reform (cf. Sullivan, 1992: 80), the Badgley Committee sewed the seeds for legal authorities and service providers to request better tools to "protect" sexually exploited street youth (Brock, 1998: 135).

4) The Federal Government's Response to Badgley and Fraser

Following on the heels of the Badgley (1984) and Fraser (1985) Committees, the federal government initiated two important legislative changes. First, in December 1985 they enacted new legislation to confront street prostitution, and then, in January 1988, a new law was created to criminalize purchasing, or attempting to purchase, the sexual services of a youth.

The Communicating Law

On 20 December 1985 the federal government repealed the soliciting law and replaced it with legislation that criminalized public communication for the purpose of buying or selling sexual services. The new legislation ignored the Fraser Committee's recommendation that there be wholesale revision of Canadian prostitution law, although the revision made it clear that prostitutes and customers meeting on the streets were equally culpable under the law (cf. Lowman, 1991a: 301/302) and, by criminalizing public communications for the purpose of buying or selling sex, confirmed the federal government's commitment to confronting visible manifestations of prostitution (cf. Lowman, 1992b: 66) thus prioritizing concerns about the public 'nuisances' associated with the trade.

Initial survey data about the communicating law in some Canadian jurisdictions suggested that female prostitutes continued to be punished more frequently than male clients. Various regional assessments commissioned by Justice Canada (Brannigan *et al*, 1989;

Flieschman, 1989; Gemme *et al*, 1989; Graves, 1989; Lowman, 1989; Moyer and Carrington, 1989) revealed that enforcement patterns focused primarily on female prostitutes: "...data from nine of the ten Canadian cities studied indicate that more prostitutes than customers are charged and that their sentences are more severe" (quote from Shaver, 1994: 133; see also, Lowman, 1992b: 66; Lowman, 1994: 155; Shaver, 1993: 163;). However, Flieschman (1989: 41) noted considerable jurisdictional differences in charge rates for customers and prostitutes; in Vancouver and Montreal, a greater number of prostitutes were charged than customers. In Toronto the charge rates were close to equal. Further, youth prostitutes in Vancouver continued to be targets of law enforcement; in 1986 and 1987, ten percent of all communicating charges were levied against youths (Lowman, 1989: 200).[9]

Concern also surfaced about the role of the communicating law in perpetuating violence against female prostitutes (Lowman, 1989: 203; O'Connell, 1988: 142/43). Vigorous enforcement of the new law forced female prostitutes to meet their clients in more vulnerable and secluded locations of the city so as to avoid detection by authorities (cf. Lowman, 1989: 203).[10] Prostitutes were therefore exposed to dangerous situations because they had to meet clients in areas where there were no witnesses or police officers to help if clients turned violent.

One possible reason for the unequal treatment of female prostitutes and their customers under the communicating law relates to stereotypes of 'criminals':

> ...the differential emphasis of law enforcement in Vancouver also reflects the general feeling of police that most tricks are "square johns" who would not otherwise fall afoul of the law, while prostitutes are members of a criminal underclass whose lifestyle involves various types of law breaking (drug taking, petty theft, continuous street prostitution activity); they are perceived to be criminals and treated accordingly (Lowman, 1991a: 309).

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[9] Lowman (1989: 200) also reported that Aboriginal prostitutes were: "...charged at a rate that far exceeds their proportion in the population of lower Mainland British Columbia."

[10] Recent research points to high levels of violence against female prostitutes. Lowman and Fraser (1996: 116) state: "Preliminary analysis suggests that women known to have been involved in street prostitution are murdered at a rate somewhere in the region of sixty to one hundred and twenty times the rate at which non-prostitute women are murdered." They also suggest there may be an indirect relationship between the introduction of the communicating law and an increase in recorded cases of violence against female prostitutes (1996: 120/121).

There were also pragmatic limitations in Vancouver that perpetuated differential charge rates of prostitutes and their clients, such as the lack of "policewomen for decoy duty." (Lowman, 1994: 174). Nevertheless, until recent efforts to single out male customers, the gender-neutral wording of the communicating legislation, as with the soliciting law, was unable to overcome discriminatory law enforcement and judicial decision making.

Legislating Protection - Bill C-15 and the Introduction of s.212(4)

The second important legislative change occurred in 1986 when the federal government introduced Bill C-15 to help address the apparent increase of sexual offences against children and youth. The Bill was designed to help protect victims of child sexual abuse, raise the number of prosecutions of child sexual abuse cases, increase the severity of sentences, and improve conditions for child victims and witnesses (Hornick and Bolitho, 1992: xiv; Schmolka, 1992: 2). "By proclamation of this Bill, the federal government sent a clear message that the protection of children and youths was a priority in Canada and that sexual abuse of children was unacceptable and would not be tolerated" (Hornick and Bolitho, 1992: xiv).

Following the recommendations of the Badgley and Fraser Committees, Bill C-15 included provisions that criminalized the sexual procurement of youth. What is now section 212(4) came into force on 1 January 1988, marking the first time that the federal government enacted specific legislation to criminalize the sexual procurement of youth.

Despite legislative condemnation of customers who purchase sex from youths, this new legislation was rarely enforced (Hornick and Bolitho, 1992: xxix). Lowman and Fraser's research found that "...during the first six years of the new law's existence, there were apparently only six charges in Vancouver for offering to purchase the sexual services of a youth" (1996: 100). This pales in comparison to the approximately 7400 charges administered by Vancouver police under s.213 of the *Criminal Code* (the communicating law) during the first six years after its enactment.

Survey information produced for the federal department of Justice suggested that police officers across Canada experienced difficulty enforcing the new youth procurement law (Hornick

and Bolitho, 1992: 65). Police officers in Vancouver interviewed by Lowman and Fraser (1996: 100) argued that s.212(4) was difficult to enforce because, "...to achieve a conviction a youth who had been propositioned would have to testify against the accused. Youths would be reluctant to do this (why would they alienate their potential source of income?)." Since the person who sexually procured a youth had to be "caught in the act," many commentators concluded that "traditional policing methods" were inappropriate for enforcing s.212(4) (Hornick and Bolitho, 1992: xxv).

5) Focusing on Male Customers and People who Sexually Procure Youths: The Customer as Folk-Devil

Historically there has been a marked difference in the legal approach towards female prostitutes and their male clients. Regardless of age, female prostitutes have been subjected to discriminatory legislation and unequal enforcement. Even during periods where the protection of prostitutes was the paramount consideration of reform rhetoric, law enforcers focused their efforts on females involved in the trade (Backhouse, 1985, 1991; McLaren, 1986). In contrast to female prostitutes, male customers have enjoyed relative immunity from the law. During the 1920s and 1930s there was an increase in the number of men charged with "ancillary" offences, however, they were rarely prosecuted (Larsen, 1992: 148). In general, until 1986, men who bought sex from prostitutes and men who sexually procured youths were rarely arrested.

Despite a history of discriminatory prostitution-related legislation and law enforcement, there are signs of change (cf. Lowman, 1997). There are indications in the 1990s that discussions and efforts to suppress prostitution are shifting towards the male client and men who sexually procure youths. Data produced by the Canadian Centre of Justice Statistics suggests charge rates for prostitutes and customers are close to parity (Duchesne, 1997: 6; also see, Lowman, 1997: 8).[11] At the same time, national statistics suggest that youth prostitutes are not

[11] Lowman (1997: 8) cautions that the disparity in charge rates is greater than at first glance; "...some of the males charged were not customers, but transvestite or transgendered persons selling sex, or young 'hustlers' (males who dress as males when selling sex)." Nevertheless, he argues that enforcement patterns are much different from times where men could purchase sex on the street with little fear of being arrested.

being charged with communicating as frequently as they have in the past. In 1995, only 3% of those charged with prostitution-related offences were under the age of eighteen (Duchesne, 1997: 7). "The relatively small portion of youth (12 to 17 years-old) charged may reflect their frequent diversion to social service agencies by police" (Duchesne, 1997: 1).[12]

Further signs of change surfaced when the Vancouver Police Department announced its intention to focus enforcement of the communicating law against customers (Lowman, 1997: 12). Police officials announced:

> The root cause of Vancouver's street prostitution trade is the men who purchase or who recruit and control (pimp) juvenile or adult sex trade workers. Our limited resources are focused on pimps and "johns" and other abusers...If we can reduce the demand, the supply will decrease (quoted in Lowman, 1997: 12).

A police Inspector added: "In the past, prostitutes have been penalized, jailed, fined and shifted from neighbourhood to neighbourhood, but no concentrated effort was made to go after the customers, and we firmly believe that these men are predators" (quoted in Lowman, 1997: 13). In part, this change represents a recognition by law enforcement officials in Vancouver that enforcing laws against prostitutes will accomplish little until society addresses the root causes of the trade (cf. Lowman and Fraser, 1995: 110).[13] At the same time, however, the rhetoric used by police to describe customers is akin to the language used by moral reformers during early twentieth century social purity crusades (cf. McLaren, 1986).

Another example of the change in emphasis from prostitutes to clients is the emergence of "john school," a diversion program for customers of street prostitutes. In some Canadian jurisdictions, men charged with communicating can attend "john school", an "educational" seminar where they are informed about the risks and nuisances associated with prostitution (Lowman, 1997: 13). In September 1997, at a conference on street level prostitution (Best Practices Symposium on Street Level Prostitution, Ottawa, Ontario, 18-19 September 1997),

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[12] The next chapter will discuss how diversion programs are sometimes interpreted by youths as a form of punishment (cf. Lowman, 1987).

[13] Lowman and Fraser suggest: "Although there is still concern about the effect of street prostitution on neighbourhoods, more and more concern is being expressed about the conditions that lead to prostitution, exploitation of youths, exploitation of prostitutes, and violence in the sex trade."

many discussions focused on "john schools" and other techniques to confront male customers as the best means to control street prostitution.[14]

Service providers in Vancouver have questioned the virtual immunity enjoyed by men who sexually procure youths, and have criticized the enforcement of s.212(4) (Lowman and Fraser, 1995: 100). Many service providers complained that not enough was being done to protect street youth from "sexual abuse" and "exploitation." Service providers and some community members also raised concerns about the state of available services for sexually procured youth in Vancouver. Along with some local residents, service providers lobbied the government to enhance service funding to street involved youth. Overall, questions were raised about the general philosophy about how to approach the sexual procurement of youth.

During this shift in priorities the customer has become the focus of rhetorical battles to confront and suppress the street trade in general, and the sexual procurement of youth in particular. Men who purchase, or attempt to purchase, the sexual services of a youth have become the "folk devils" (cf. Cohen, 1972) responsible for this form of sexual abuse of children.

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[14] Lowman (1997: 14) criticizes "john schools" for advancing the debate to suppress street prostitution beyond the purpose of the law: "[b]y extending the "education" beyond nuisance, "john school" imposes on its conscript clientele a moral position that the law does not contain."

Chapter 3

s. 212(4) and Lobbying for the Protection of Sexually Procured Youth

1) Introduction

The last chapter described how discussions about "youth prostitution" have shifted to the role of the customer in propagating the street trade; people who purchase sex from street involved youth have been demonized by redefining their activity not as "prostitution," but as "the sexual abuse of children." It is from this frame of reference that service providers, community members, police and government officials in British Columbia lobbied for increased protection of "sexually procured youth."

Before the introduction of s.212(4) men sexually procured youth on the streets with relative impunity. Meanwhile, "youth prostitutes" were routinely arrested by police, a practice that service providers argued was unacceptable because it effectively blamed the youth for their own victimization (Lowman and Fraser, 1995: 100). More recent statistics suggest that fewer youths are charged under s.213 for communicating for the purpose of prostitution (Duchesne, 1997: 4). Nevertheless, the enactment of legislation censuring the sexual procurement of youth has translated into only a handful of charges.

This chapter describes the history of s.212(4), including reasons given for why it was rarely used, and the ensuing lobby efforts to have it enforced more vigorously. A series of claims and counter-claims raised questions about the protection afforded to sexually procured youth. I conclude that the discursive formations used to conceptualize the sexual procurement of youth produced a powerful frame of reference for policy reform, although the reforms have not satisfied the service providers who lobbied for changes. To begin I outline how reformers problematized existing approaches to the "sexual procurement of youth."

2) Other Measures used to Confront the Sexual Procurement of Youth.

Joel Best notes that claimsmakers frequently point to the inadequacy of existing policies as a way of promoting alternative programs or advocating new priorities (1987: 111). Claimsmakers use language strategies that place the onus on another party -- for example, the police and government officials -- to initiate reform.

Informants claimed that their concern about approaches to the sexual procurement of youth was heightened by the ineffectiveness of existing practices. One service provider noted:

> Without the law [s.212(4)] we are left trying to refer kids to use our services, and we try to exploit the hardships of being involved in the lifestyle; of being on drugs, being vulnerable, the demeaning aspects of being sexually exploited by adults. The services are often inadequate to accomplish this... (Respondent #6, 23 April 1996).[15]

Child welfare legislation has not been used to remove youths from the streets. There are difficulties "referring youths" to relevant services in a milieu that prioritizes fiscal restraint over the funding of social welfare programs. Further, s.213, or the 'communicating' law, has been enforced against sexually procured youths, thereby penalizing the "victims of sexual procurement" (cf. Lowman and Fraser, 1995: 100). Many key informants thought that it was not appropriate to criminalize the victims of "youth prostitution," which they perceive as a form of sexual abuse.

> ...we should treat it [the sexual procurement of youth] for what it is, child sexual abuse. The legal minds of this country need to write kids out of prostitution laws and apply it to child sexual abuse laws so these kids can be adequately protected (Service provider, R#3, 5 April 1996).

> A youth who has been sexually abused [on the street] believes that is all they are good at, because they have been told that all they are good at is sex, that their worth is based on sex and people can only relate to you based on sex. That is the message they [sexually procured youth] have always got... (Service provider, R#7, 23 April 1996).

> We need to take kids out of the communicating law. They are not criminals and we should not be charging them. Then if we could see them under the sexual

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[15] Remaining quotations or paraphrasing of interviewees' responses will state "R" for respondent, followed by the appropriate interview number (1 through 32), and the date of the interview.

> assault laws and see them as sexually assaulted, as opposed to communicating, then we could do something...(Service provider, R#11, 27 September 1996).

Overall, informants challenged the status-quo by problematizing existing tools for "...countering the problem in question" (Ibarra and Kitsuse, 1993: 43). The next section discusses these practices.

Child Welfare Legislation

Police officers, especially those from Juvenile Services, and service providers described situations where officers used sections of the *Family and Child Services Act* to detain a youth they believed needed "protection" or faced "immediate danger."

> ...the situation has to be one where the youth has to be in some kind of immediate danger, or in need of protection [to use the legislation]. So the act should be used sparingly...They [police and social services] have no authority to keep them [the youth] (Police Officer, R#29, 10 December 1996).

> The only times we do pick up a youth is if they are in desperate need of 10 minutes worth of counseling. We pick them up under the Child and Family Services Act...I never thought that I would have a hard time convincing a judge that the youth needed to be picked-up for their own protection. But most of the time we just asked the kid if they wanted to come along with us, not that we ever told them that they had a choice (Police officer, R#25, 4 December 1996).

> The police were bringing in youths to our office [using *Family and Child Services Act*], not under arrest, and then we would try to help; but the youth would leave before the officers. Vice [officers] did this, but it seems to be mostly beat police that are doing it now (Service Provider, R#14, 21 October 1996).

The *Act* gives authorities the power "...to intervene in cases where it is apparent that a child is in need of 'care and protection,' but only so as to remove them from their parents' or guardian's care in order to make them wards of the state" (Lowman, 1989: 141). Police officers would legally detain a youth and deliver them to the Ministry of Social Services, usually a Ministry group home or the Adolescent Street Unit, where service providers would try to persuade the youth to leave the streets.

However, concerns were frequently raised about the effectiveness of this practice. First, the power to detain ends once the police transferred custody of the youth to a service provider.

The youth would often leave the ministry shelter or group home before, or shortly after, the police departed.

> The police take the kids down to Adolescent Street Services and the kid is out the door before the cop is gone (Service provider, R#3, 5 April 1996).

> ...we want the police to bring in the kids again and again, so they [kids] get the idea that things are not bad here. As it is they leave shortly after the police, so the police and our social workers don't bring them in (Service provider, R#14, 21 October 1996).

Some informants expressed frustration with this "revolving door" whereby the same youth would continually pass through their hands.

> We sometimes use the *Child and Family Service Act* that allows us to bring youths to adolescent services, but the problem is that many times the youth is out the door before we are. It becomes a revolving door syndrome (Police Officer, R#20, 26 November 1996).

> The police are really cynical because they are in a very unenviable position since they have few tools to work with. For example, at Adolescent Services Unit there is a revolving door of kids (Service provider, R#6, 23 April 1996).

Also, detaining a youth through child welfare legislation may be interpreted by the youth as a type of punishment, and not as an attempt to help. Previous research has shown that many youths avoid social workers who represent a form of authority and control (Lowman, 1987: 105). Mullaly (1997: 181) points to the contradictory efforts of social agencies and services that limit "human liberation" while simultaneously trying to provide healthier life circumstances for clients: "[s]ocial agencies and services provide social care and social control at the same time."

Another concern relates to the application of child and family services legislation. One police officer from Juvenile Services suggested it is sometimes difficult to determine whether detaining a youth is warranted. It is easy to justify detaining someone who is 12 or 13, but is much more difficult with 17 or 18 year old youths who do not face "immediate danger." According to the officer, while most youths do not question police authority when detained under this legislation, he remained uncomfortable with the indiscriminate and unfair manner in which it may have been used (R#29, 10 December 1996).

Social Services

Language produces "assumptions or rules" that legitimize certain institutional responses: "[t]o understand knowledge claims it is necessary to take into account who has the right to make statements, from what site these statements emanate, and what position the subject of discourse occupies" (Gare, 1995: 67).

Service providers occupy a legitimized position that allows them to contribute to professional debates about the best way to address the sexual procurement of youth. In this vein, several informants talked about problems with existing social services for sexually procured youths. One service provider related how they attempted to deter youths from being on the streets by emphasizing its daily hardships, such as the dangers of using drugs and their exposure to sexual exploitation (R#6, 23 April 1996). A related measure was the non-punitive approach used by the Vancouver Police Juvenile Services (Car 278, or what is colloquially referred to as the 'kiddy car'), where the police and a probation officer provided youth with information about services that would enable them to leave the streets. This work was described as difficult and frustrating because of the challenges of establishing relationships with youth and the lack of available social services.

> There is only once vehicle devoted to youth prostitution, and that is car 278, the 'Kiddy Car', as it has been named. The idea with this vehicle is to provide a non-punitive approach for children in an attempt to get them off the streets. We just drive around and try to give the youth someone to talk to...we are a familiar face and it gives them someone to go to if they need help....However, it is frustrating that we can't do anything about this issue [youth prostitution]. We need to get these kids off the street and give them the counseling they need until they can make an informed decision about their life (Police officer, R#25, 4 December 1996).

Political Constraints on Service Providers

Claims about the inadequacy of existing social services emanates from structural constraints that limits service providers from carrying out their "professional" responsibilities. In research comparing approaches to street youth in Vancouver and Toronto, Hagan and McCarthy (1997) characterized Vancouver as a "crime-control" oriented city that lacked effective support

services for street involved youth; without proper resources, homeless youth spend extended time on the streets and, hence, are more likely to experience conflict with police (133). Service providers have tried to cope with poor resources in an era of "...growing poverty and a shrinking social safety net" (cf. Webber, 1991: 243). The conservative ideals of "Reaganomics" in the United States, "Thatcherism" in Britain and the new-right in Canada has put the welfare state into disarray (Bracken and Walmsley, 1992: 21; Mullaly, 1997: 6). Right-wing political agendas in Canada have forced social workers to provide "more with less" (Bracken and Walmsley, 1992: 23; see, also Mullaly, 1997: 13). Service providers therefore complain that "...there's never enough money to do what needs to be done" (Swartz, 1995: 89). Webber outlines the challenge of delivering services in Canada amidst conservative agendas:

> Despite discouraging odds, both established and fledgling programs operate in various cities across the country...By far, the majority are non-governmental enterprises [semi-private] so badly underfunded that their doors open and close - and sometimes reopen - according to the vagaries of short-term grants and fund-raising drives. They run on the dedication of underpaid and overworked staff, many of whom burn out within a couple of years...(1991: 244).

In a period of diminishing resources service providers have become increasingly political in their attempts to obtain funds and administer services (Swartz, 1995: 89) -- they strive to protect their profession. Reisch (1997) notes:

> Politics are no longer...confined to electoral campaigns, legislative hearings, or newspaper editorials. They appear openly in agency board meetings, in staff conferences, and, ultimately, in the day-to-day decisions that affect worker-client relationships and the quality of services that agencies provide (p.80).

In the process of ensuring funding stability, service providers must work in "unfriendly and hostile" environments whereby agencies compete for a dwindling pool of resources (Mullaly, 1997: 13).

The Communicating Law

Language strategies frequently employ specific terms to produce powerful images or knowledge claims. Words are imposed arbitrarily to produce "signs" or "impose meaning" on a

particular phenomenon (Henry, 1991: 73). "Each sign is made up of a *signifier* (sound or written image) and a *signified* (meaning)" (Weedon, 1997: 23). Lacombe notes that, "[l]iterary theorists, linguists, semioticians, and anthropologists have increasingly challenged the view that meaning resides in the signifier, and have emphasized instead the embeddedness of every utterance in particular social contexts" (1994: 39/40). Several informants drew from existing sexual abuse discourse to reframe the significance of the sexual victimization of street youth.

To destabilize existing approaches to youth involvement in prostitution, several informants emphasized how existing policies "victimized" sexually exploited street youth, and they claimed it was inappropriate to enforce s.213 of the *Criminal Code of Canada* against victims of sexual abuse. However, vice officers argued that the communicating law was a last resort to protect youths who appeared to be in "immediate danger," or if it was deemed "necessary." One officer described a case where he arrested a youth under the communicating law as a way to get them off the streets -- he believed the youth was going to die from a drug over-dose if he or she was left on the street. This officer also cited occasions where uniformed officers have arrested youths under s.213 following a nuisance complaint from a local business-person or resident. He expressed frustration with this practice because of the strain it created between vice-officers and young prostitutes. Vice-officers spend a considerable amount of time trying to develop "working relationships" with street youth and this dynamic is jeopardized when a youth is arrested by regular-uniformed officers (R#20, 26 November 1996).

A recent initiative by the Vancouver police indicates their intentions to enforce s.213 against customers, not against adult prostitutes or sexually procured youth. In February 1997 the Vancouver police announced:

> ...that they no longer intend to arrest prostitutes for communicating under section 213, except if they are working near schools and other sensitive locations, or to protect young persons. Instead, they plan to concentrate communicating law enforcement against clients. Vancouver's is the first and only Canadian police force to take this approach (cf. Lowman, 1997: 12).

Several service providers remained skeptical of using s.213 against youths in any circumstances. One service provider argued:

> ...if kids can't sign a contract, if kids can't consent, how the hell...[can]...they be charged under the 'communicating' law? (R#11, 27 September 1996).

This statement does not acknowledge that youths over thirteen years of age can legally consent to sex, however it emphasizes how some informants conceptualized sexually procured youth as victims of sexual abuse.

Several individuals pointed to an interesting paradox where s.212(4) was enforced rarely and s.213 was used against youth. One informant noted:

> In 212(4) you are led to believe that the implication is that children under the age of 18 are still developing and are yet able to give informed consent for sex with payment. However, in law 213 they are routinely arrested as they are equally consenting partners in prostitution. That philosophical contradiction is a fundamental problem (Service provider, R#3, 5 April 1996).

The frustration stemmed from the philosophical contradiction of prostitution-related legislation that criminalizes the same people it purports to protect.

Other service providers argued that, in combination, the non-enforcement of s.212(4) and the use of s.213 to arrest customers of adult prostitutes promote the sexual procurement of youth. If customers knew that s.212(4) was enforced rarely, then they could approach the youngest looking prostitutes and be confident they were not undercover surveillance officers enforcing s.213 (VAP participant, R#4, 12 April 1996).

Message Sent to Sexually Procured Youth

Several service providers pointed to the conflicting message sent to youths when they are arrested under s.213 while people who sexually procure youths enjoy relative immunity from the law. As one service provider bluntly stated:

> ...it reinforces the message they have had all of their lives, that no-one really gives a shit. I don't see how there could be any other message (R#5, 22 April 1996).

Another service provider argued that the general lack of respect that youths receive in our society only becomes amplified when they enter the sexually procured population.

> What it [lack of s.212(4) charges and enforcement of s.213 against youth] does say is that we are not really willing to protect youth. But I don't think that we value children in our society...I think that someone should tell youths at a very young age that they are going to spend most of the first part of their life getting no respect (R#27, 4 December 1996).

Lowman and Fraser (1996: 100) indicate:

> Service providers have expressed considerable reservations about the message sent out to street-involved youth in the process. Often homeless, in flight from conditions they describe as intolerable, they are further alienated from square society by a process of criminalization. Service providers point out that the message given to sexually procured youth in the process is that they are to blame for the circumstances confronting them.

For some interviewees there were further ramifications:

> The message sent to them day after day is the cops 'jack them up'...[constant harassment by police]...and they see the police unwilling to do anything about the daily violence they face. It shows them they are disposable and dispensable (Service provider, R#5, 22 April 1996).

This individual cited the murder rate of prostitutes as evidence that society doesn't adequately protect sexually procured youth. Lowman and Fraser's (1996: 10) analysis of the number of murders of prostitutes reported in the *Vancouver Sun* and *Vancouver Province* reveals that four sexually procured youths were murdered between 1974 and 1994. From their composite data, Lowman and Fraser argue that "...it would appear that at least 67 persons who had been involved in prostitution in British Columbia at one time or another were murdered since 1978, including sixty since January 1982" (1996: 115). The number of female prostitutes murdered was a great concern to many respondents who noted that most prostitutes become involved in the trade before the age of eighteen (for discussion of average age of entry into street prostitution, see Lowman, 1992b: 84).

Another concern with charging youths under s.213 was the message sent to sexually procured Aboriginal youth. More research is needed in this area, but there is little doubt that Aboriginal women are over-represented in street-prostitution and sexually procured youth populations (Lowman, 1991: 160). A 1993 report on violence faced by street-connected women

in Vancouver's Downtown East Side revealed that almost 70% of the women in their survey were Aboriginal (see Currie, 1995: 13).

One service provider argued:

> ...it was only when some of the kids from the 'burbs' got involved, and they were nice, white, middle-class kids, that all of a sudden people were outraged, horrified and shocked" (R#19, 22 November 1996).

Another service provider argued that the number of Aboriginal youth in the Downtown East Side arrested under s.213, while the men who purchase their sexual services are not charged under s.212(4),

> ...parallels the residential school scandals.[16] There are definite parallels to the lackadaisical attitudes that surround the dealing with this issue. If this was strictly white, middle-class kids, there would be public out-cry. Why don't we protect them, is it because they are Aboriginal, or is it because they are already damaged goods? (R#6, 23 April 1996).

This individual also suggested it was hypocritical that the government has launched a highly publicized provincial inquiry over the death of one child in a family setting, while they failed to address the numerous deaths of Aboriginal youths on the street. Another service provider argued that Aboriginal youth involved in prostitution are not adequately protected:

> If somehow it [the sexual procurement of youth] could have been exposed where a middle class child was, or middle class children were involved, then obviously that [public support] would have happened; rather than the poor Aboriginal kids in the Downtown Eastside, or poor kids coming from some other place, that doesn't have the same impact than if the child is a more prominent middle class citizen. So this has figured into the more general public response (R#28, 10 December 1996).

3) Enforcement of s.212(4)

Hunt and Wickham remind us that, "[d]iscourses have real effects; they are not just the way that social issues get talked and thought about. They structure the possibility of what gets included and excluded and what gets done or remains undone" (Hunt and Wickham, 1994: 8). The "sexual abuse" and "victimization" discourse was slowly becoming recognized as a

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[16] In British Columbia there has been a series of cases about residential schools during the 1950s. In residential schools, hundreds of aboriginal youth faced physical and sexual abuse at the hands of white male missionaries.

legitimate way to describe sexually procured youth. Framed this way, interest groups could demand a "crack-down" (cf. Best, 1994: 10/11) on men who sexually abuse street youth. Specifically, service providers raised questions about the accountability of police responsible for s.212(4) enforcement.

> I have heard all kinds of rationalizations to say we are not going to use s.212(4) because it does not work, by senior police. But how do you know until you try [to enforce it] (Service provider, R#10, 27 September 1996).

> We would have the police...who came to us with the same stories that it was hard to enforce, that you had to get them in the act, and you had to have the youth testify, all of those sort of things. And of course if you are going to approach it that way it is going to fail...There was always some sort of logical reasons as to why s.212(4) could not be enforced, but it did not help. People were still royally frustrated (Service Provider, R#32, 16 December 1996).

An early sign that this law was not effective came from a mandatory evaluation commissioned by Justice Canada that focused on the package of laws introduced in Bill C-15 (Hornick and Bolitho, 1992; Schmolka, 1992). The executive summary concluded that charges under s.212(4) were rare and that "charges under subsection 212(4) can only be laid if the 'john' is caught in the act...Thus traditional police methods are not effective for enforcing" this law (Hornick and Bolitho, 1992: 65). The executive summary did not describe in detail the shortcomings of s.212(4), but it was clear this legislation was not living up to its promise.

Information provided by the federal evaluations was not surprising to many informants in Vancouver. In an interview conducted in the fall of 1996, an official with the Attorney's General office stated that since its enactment in 1988 there were approximately nine successful s.212(4) charges in British Columbia.[17]

To illustrate the perceived difficulties with the enforcement of s.212(4), informants were asked to describe the circumstances where charges were laid. Charges and convictions were administered in three situations: (1) where the accused pled guilty after they were implicated in a

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[17] This informant could not provide the exact number of charges because there is no central source of data; The Uniform Crime Reports do not separate s.212(2) and 212(4). Further, the office of the Attorney General did not compile province-wide statistics on the number of s.212(4) charges. In any event, it is clear that the number is a small one.

series of prostitution-related offences; (2) cases where sexually procured youth provided evidence to justify an arrest and conviction; and (3) where police surveillance teams enforced s.212(4) by gathering enough evidence regarding an attempted sexual procurement to warrant an arrest.

Some men pled guilty to sexually procuring a youth after the police implicated them in a series of prostitution-related offences. In one case, following a police investigation a man was charged with nine separate offences and he pled guilty after the crown pursued charges under s.212(4).[18] The exact circumstances of this case were unclear, but the enforcement of s.212(4) in this situation was described as ineffective because charges were part of a general prostitution-related police investigation and not specifically focused on arresting men who sexually procure youth (Police officer, R#24, 30 November 1996).

Police officers in Vancouver have also relied on sexually procured youth to secure charges under s.212(4). In these cases a youth would "sign on" a client and provide key information to the police and courts. One veteran Vancouver Police officer noted that a man received a six month sentence after a youth testified in court (R#24, 30 November 1996). However, this was described as an ineffective way to enforce s.212(4) because, for reasons described later, sexually procured youth are reluctant to testify in court.

One police informant described how surveillance teams enforced s.212(4). A police unit would follow a man after witnessing a youth get into his car. Once the man and the youth entered a hotel room the police stood outside the door and eavesdropped on their conversation.

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[18] A summary of a police file reported by Lowman and Fraser (1995: 159) provides a summary of a newspaper description of one circumstance in which the accused pled guilty to s.212(4) charges (note this is not the case referred to in the text):

> Four female youth victims, all under MSSH (Ministry of Social Services and Housing) care. All lived in group homes. They were all described as "street smart." Victim #3 contacted the police on an unrelated matter, at which time the accused's name (in her phone book) came to the attention of the police. The accused was setting up encounters between oriental men and the four girls. One was a regular "client" of the accused, who received sex in exchange for setting her up with dates. Police arranged to tape phone calls from victim to accused to ascertain that he was procuring. Police also observed the goings on at the accused's residence.

The accused may have pled guilty to s.212(4) charges in this case. It also illustrates the ineffectiveness of this technique for enforcing this legislation, as it involves a burdensome and convoluted process.

After they believed they had enough information to warrant a charge the police entered the room and arrested the customer. The youth agreed to testify in court (Police officer, R#24, 30 November 1996). However, only one case of such a circumstance came to light during my interviews.

4) Why s.212(4) is not Enforced

Many informants attributed the enforcement problems of s.212(4) to difficulties with its wording. Former Fraser Committee member, professor John McLaren from the Department of Law at the University of Victoria suggested that Canadian law

> ...tends to tell you about the offences, it tends to tell you about the penalties, it tells you about the defences, but it doesn't tell you very much about how the system is going to work (R#15, 25 October 1996).

One government informant admitted, "I am not sure that the legislation was properly thought out" (R#2, 3 April 1996). In this vein, the police and some other informants cited several difficulties associated with the wording of s.212(4).

Police officers noted: (1) the problems associated with having to rely on a youth's testimony to secure a charge; (2) the problem that the police cannot use decoy officers to enforce s.212(4); and (3) that it is difficult to use surveillance teams to trail people who proposition a youth for paid sex. I discuss each of these in turn.

Problems with Relying on a Youth's Testimony

One limitation imposed by the wording of s.212(4) is that prosecutors have to rely on the testimony of a youth (Crown lawyer, R#22, 26 November 1996). However, police officers argued it was difficult for youth to provide information about one of their clients to police because they would effectively alienate a potential source of income (R#20, 26 November 1996).

Ibarra and Kitsuse note that claimsmaking inevitably involves counter rhetorical strategies:

> If rhetorical idioms render claims both symbolically coherent and morally competent, then auditors are obliged, as members of the same cultural community the claimant has invoked, to either convey sympathy or else have "good reasons" for refraining from doing so" (1993: 42).

Several informants provided "sympathetic counter-rhetorics" (cf. Ibarra and Kitsuse, 1993: 42) to police officers who claimed it was difficult to rely on a youth's testimony. One service provider noted that informal "rules of the street" make it difficult for a youth to testify against their clients; doing so would jeopardize their personal survival and safety by alienating themselves from other street youth.

> People [in Government] don't understand the issues. This is the eye of the storm down here [downtown Vancouver], and they don't know why kids are not leaving. They don't understand the pressures and the intimidation; they don't understand that turning in your johns [customers], and forcing a kid to testify in court, means you can't live back of the streets (R#11, 27 September 1996).

It is difficult for youths to turn on their clients because they would be involved in what is commonly referred to as 'ratting', a term the Webster's II New Riverside Dictionary (1984) defines as slang for betraying "...one's comrades."

Service providers also suggested that sexually procured youths are reluctant to testify because of their relationship with police.

> ...kids are afraid and intimidated about spending such a long time being questioned by police, and they are telling two male officers about a lot of intimate details. I think these kids get nervous and they really need someone there with them (R#14, 21 October 1996).

Many youths find it difficult to trust police -- it is, after all, the police who may lock them up. In this regard, several individuals noted how this puts the police in a difficult position by asking them to play the duel role of protector and enforcer.

> The police force has gotten away from the 'big Irish man' towards a more sensitive officer, more often with a university education. But now there seems to be a return to the more punitive approach...we are now having people [in the community] who were critical of the old style of policing asking us to get extremely punitive. It's asking us to balance a social conscience with the role of a bouncer (Police officer, R#25, 4 December 1996).

A related concern was the amount of time and emotional commitment necessary for a youth to provide testimony to prosecutors. One service provider stated that:

> ...the girls themselves that go to a safe-house or a woman's shelter...[while awaiting to testify]...are the ones that talk about being in jail because they are not safe and they have to wait six months to go to court. And that's just the preliminary inquiry (R#8, 26 April 1996).

Some service providers also suggested it was difficult for a youth to stand up in court and tell their life story -- what they were doing and having done to them -- and face the barrage of personal questions through cross-examination.

> Youth do not like to go to court to testify against anyone, let alone customers. There are informal rules of the street whereby no one particular kid wants to deal with the responsibility of turning in customers and then decreasing the number of customers for everyone else. Also, going to court while they are still working the street is difficult. There are several personal repercussions for the youth to stand up in court and say this is a bad thing that happened. It would be admitting a lot personally and most kids are not emotionally stable enough to admit this (R#7, 23 April 1996).

Many service providers argued that it is wrong to put the onus on the youth to prove the wrong-doing of the customer.

> I don't think you are protecting a child when you are asking them to go to court and to reveal their whole life on the stand. Then they are torn apart in court to the point that they will not trust anyone. There has to be a way to do it [bringing s.212(4) cases to court] without involving the youth (R#13, 10 October 1996).

Police Decoys

A second perceived limitation of the wording of s.212(4) is the inability to use decoy police officers to arrest male customers. Under the 'communicating' law, police use decoys to engage in a conversation with potential clients and/or prostitutes until they can arrest them "...for the purpose of engaging in prostitution or of obtaining the sexual services of a prostitute..." (s.213, Revised Statutes of Canada, 1985 Chapter C-46). Officers attempt to have the target mention sex and money in conversation, after which an arrest is made (Lowman, 1991a). Police officers argued it is impossible to use this technique with s.212(4). Even if the officer appeared

to be under the age of eighteen, the police would still face the difficulty of proving the male customer was attempting to purchase sex from a youth. In defence, customers would argue they were not attempting to purchase the sexual services of someone under the age of eighteen. One informant noted the difficulty of establishing *mens rea*, or a person's state of mind (R#22, 26 November 1996).

Police officials asked the Attorney General to hire youths under the age of eighteen to pose as young prostitutes to enforce s.212(4). The Attorney General rejected this approach because of potential safety issues; for example, some police informants noted it is unacceptable to place youths in a position where they would face men attempting to purchase sexual services from them. Some informants suggested this technique would put the onus on youths to prove the wrong-doings of men who sexually procure youths, when that is the responsibility of the state (R#24, 30 November 1996).

Trailing the Suspect

A third problem with the enforcement of s.212(4) is the difficulty of using surveillance teams to trail a suspect.

> The police have tried some crafty ideas around s.212(4), such as trailing the suspect and listening at the door [of the hotel where the sexual act was going to occur]. But most often the girl is in a secluded area and this makes it hard to listen into the conversation. Plus the girls always say they are 19, even if they are 16 (Government Official, R#17, 8 November 1996).

To gain sufficient evidence to warrant arrest, police officers have followed a vehicle and intervened after the sexual act has taken place. However, they expressed grave concern about the moral dilemma involved in allowing the act to take place and then intervening.

> There was a moral, legal and professional dilemma where we risked losing the kid. The way the law is worded meant that we had to watch the customer pick up the youth and then move in after the fact. But we started becoming concerned when we thought of what would happen if we lost the customer and the youth in the vehicle (R#24, 30 November 1996).

If police intervene before the act occurs -- for example, after a youth enters a client's vehicle -- they would have to rely on the youth's testimony to confirm the attempted procurement.

Problems with Crown Policy for Laying Charges

Some informants expressed concern with the evidentiary requirements demanded by the crown. One service provider complained that Crown attorneys,

> ...need a ninety percent chance of conviction and they don't think they will have enough evidence...[unless]...the victim is prepared to testify (R#11, 27 September 1996).

Another service provider expressed frustration with the need for there to be a "substantial likelihood of conviction" before a case is prosecuted, and that it appeared the Crown's office was unwilling to pursue s.212(4) charges (R#32, 16 December 1996). A government informant disagreed with these criticisms of the Crown's policy for laying charges:

> Crown are willing to push the envelop in terms of their charging standards, but they cannot defy their charging standards. They are obligated professionally to not bring forward a case that is going to be lost. It is not in anybody's interest to have a man in court when the case is going to be thrown out, and they can't bring forward cases that don't have a chance of a conviction (R#17, 8 November 1996).

There is evidence to suggest that crown officials had the ability to bring s.212(4) test cases to court. Indeed, the federal government took considerable steps with Bill C-15 to facilitate testimony from children and youth. Several jurisdictions across Canada have used closed circuit televisions in court to secure safe testimony of sexually abused youths (See, Schmolka, 1992: 64/65). Why not use similar techniques to secure charges under s.212(4), one commentator asked? To some service providers it appears that the crown, and indeed the entire Criminal Justice system, is unimaginative and unwilling to be innovative when it comes to prosecuting people who purchase sexual services from street youths.

One Crown official deflected responsibility for the lack of s.212(4) charges and convictions to expectations imposed by the judiciary (R#22, 26 November 1996). Another informant described a case in which the judge was unwilling to accept the written testimony of a youth who failed to appear in court. With a certain level of disbelief, the service provider noted:

> The judge's attitude was really frustrating. It just blew us away...You can't win under this law because of the archaic thinking. You come away thinking well what must be happening is that there must be a lot of consumers in this judicial system, but people just don't see this. How do they see these young girls as different from their daughters in their homes? (R#11, 27 September 1996).

Sympathetic Rhetoric

The various arguments about problems associated with the wording of s.212(4) deflected questions about police policy for laying s.212(4) charges by "declaring impotence, which entails registering one's moral sympathy while pointing to an impoverishment of resources [a poorly worded law] at hand for dealing with the issue" (Ibarra and Kitsuse, 1993: 43) Many informants claimed the wording of the new youth procurement law made it difficult for police to protect sexually exploited street youth.

> An enforceable s.212(4) would make a big difference. I think the police would be out there as fast as they could if they had a law that worked to protect kids. It would change the dynamic on the streets...I think customers would be much more cautious (Government Official, R#17, 8 November 1996).

However, the tone of any counter-rhetorics around s.212(4) remained "sympathetic" (cf. Ibarra and Kitsuse, 1993: 42); nobody refuted the idea that sexually exploited street youth must be protected from the men who purchase, or attempt to purchase, sexual services from them.

5) Perceived Problems with the Counter-Rhetoric About the Wording of s.212(4).

Against the view that s.212(4) was difficult to enforce, one service provider stated, "...if you approach it in this [negative] way, of course it is going to fail" (R#32, 16 December 1996). Many informants expressed outrage about the perceived difficulties of enforcing s.212(4).

> As far as s.212(4) goes, there is definitely a strong sense that it is wrong that this law is not enforced. No-one really cares, these are disposable youth (Service provider, R#10, 27 September 1996).

> The doorway to judicial decisions [on s.212(4)] is either blocked by law enforcement officials on the front line, or crown officials within the system who seem to weigh cases on their merits of gaining convictions rather than on whether or not justice has been served (Service provider, R#6, 23 April 1996).

In the face of police arguments that s.212(4) is difficult to enforce, service providers described a series of strategies that could be used to produce more charges, or help facilitate legislative changes.

Why not use Wire-Tap Provisions?

Several informants questioned why the police have not used parabolic microphones, or devices to eavesdrop on conversations between youths and people attempting to sexually procure them.

> I think it would be a good idea to use eaves-dropping technology; but some civil libertarians would probably say we could not use it because of the predators rights (R#6, 23 April 1996).

> We need to use the wire-tap provisions. How else are we going to hear the johns trying to pick-up the kids (Parent, R31, 12 December 1996).

Government informants argued they did explore this option and determined they would need changes to the wire-tap provisions to do this.

> Having s.212(4) written into the wire-tap provisions would allow us to get more convictions, and that was the recommendation that came from the Vancouver Police in their frustration over not being able to enforce this legislation [s.212(4)] (Government Official, R#17, 8 November 1996).

The current wire-tap law (*Criminal Code* section 184.2) mandates that peace officers obtain prior authorization from a judge to eavesdrop on private conversations. One police officer noted that judges will not allow the police to randomly listen to private conversations (R#29, 10 December 1996).

One informant suggested that a closer examination of the *Criminal Code* provisions related to intercepting private conversations does not support this argument. Section 184.4 of the *Criminal Code* states that under "exceptional circumstances" a peace officer may intercept a private conversation using a special listening device, if "...the peace officer believes on reasonable grounds that such an interception is immediately necessary to prevent an unlawful act that would cause serious harm to any person or property...."

Why Not Use Test Cases To Determine the Strengths and Weaknesses of s.212(4)?

In opposition to the Crown policy of only proceeding with cases when there is a high probability of conviction, some commentators argued that there are ways in which failed cases can be regarded as a "success." Service providers and other informants argued that the police and crown were remiss for not bringing test cases forward to determine the strengths and weaknesses of s.212(4). As one service provider suggested,

> who knows if it wasn't working, because they [police] never laid enough charges...to really set any kind of precedent as to what the evidentiary burdens were, and how they could be met....(R#19, 22 November 1996).

Service providers argued that charging customers and bringing them to court would have allowed everyone to build knowledge about acceptable procedures for enforcing s.212(4); in this regard, the failure of some s.212(4) cases in court would help authorities understand what procedures are acceptable.

> Give us some case law, so we can prove whether or not s.212(4) can work. At least show the effort. Like previous laws, give it a chance to work in the courts, or not to work (R#3, 5 April 1996).

> If you are serious about it, then run test cases in court to see how to use s.212(4). If you are not going to run test cases, then shut-up...Take the test cases to court, or shut-up about trying to protect youth (R#5, 22 April 1996).

One police officer from Juvenile Services agreed, but nevertheless expressed concern about relying on test cases as a way to deal with the sexual procurement of youth. Instead, he argued it would be prudent to wait for amendments to s.212(4) and, in the meantime, concentrate efforts elsewhere, such as developing adequate social services (R#29, 10 December 1996).

Action to Motivate Political Change

Several informants suggested using the same kind of tactic as when the old 'soliciting' law was perceived as inoperable. One service provider noted:

> Look at the movement with the old soliciting law. Everyone, including police forces nationally, communities, and the police association were lobbying to have that law changed. On the issue of s.212(4), they have been silent (R#19, 22 November 1996).

Lowman and Fraser (1996: 101) note that, "[w]hen police authorities across Canada experienced problems associated with the 'soliciting law' from 1978 to 1985, they were vocal in urging the legislature to change the evidence requirements of the street prostitution law so that they could get convictions." This tactic was thought to have played an integral role in forcing the federal government to review the law and enact new prostitution-related legislation.

One police officer suggested that police do not approach s.212(4) with the same intensity as the soliciting law, because there is no sustained public pressure for them to do so:

> There was public outcry then [with s.213 lobbying] because everyone became aware, it [prostitution] was visible in the West End. So it was in their face, it became an issue because it was in a residential area. Today it is not the same residential issue. It's hard to motivate change [to the law] when it is not an issue (R#24, 30 November 1996).

Police and the crown are not under the same pressure to bring s.212(4) test cases forward as they were during the mid-1980s when vocal resident groups were lobbying for changes to laws relating to street prostitution.

It is difficult to resist asking why the police and certain residential groups are not protesting s.212(4) when they were so vocal about the soliciting law. During the mid-1980s, Concerned Residents of the West End (CROWE) spent considerable time and energy "Shaming Johns", driving prostitutes out of their neighborhood and lobbying for new laws to control street prostitution (Lowman and Fraser, 1995: 108). However, similar groups have not surfaced to protest the inactivity around s.212(4). One service provider argued that the lack of public protest about s.212(4) compared to lobby efforts to amend the soliciting law leaves the impression that the police and the public in general do not care.

> Just look at the number of court cases and the lobby efforts involving s.213 versus s.212(4). This leaves one to conjecture about what is going on with s.212(4), that no-one cares (Service provider, R#6, 23 April 1996).

At the very least, it confirms that the visibility of prostitution on certain streets elicits more panic than the protection of youths from sexual exploitation.

Several service providers criticized politicians for only responding to ineffective prostitution-related laws when the public pressured them to act. One service provider asked,

> ...was the goal to protect youths, or was the goal to protect property values and to get this [sexual procurement of youth] irritating nuisance away? (R#5, 22 April 1996).

Another service provider concurred and also drew attention to systemic problems:

> ...I think it is only when there is public pressure put on them [police], and not just police, but everybody...[that change occurs]...I mean, we are the same way. I think that we as a Ministry are really poor in dealing with sexually exploited kids. I mean we don't do anything either, and lots of times we are useless at dealing with them [youths]. And I think that until we get the pressure put on us...[that we realize]...it is our legislation [s.212(4)] as well, and that a kid is being sexually exploited and needs protection (R#10, 27 September 1996).

A majority of informants remained hopeful that dissemination of information about youth prostitution to the general public would produce different responses. One service provider argued:

> If people realized that it was their husband, partner, neighbour that was going down and buying sex from kids, then we would being seeing things differently; then we would start to see some change (R#8, 26 April 1996).

Nevertheless, a lack of concern was cited as one of the main problems associated with s.212(4).

The Law Prohibiting the Sexual Procurement of Youth by Canadian Nationals Outside Canada

Some informants expressed concern about the federal government's decision to criminalize the purchase of sex from youths while traveling outside Canada. In April 1996, the Minister of Foreign Affairs announced the Canadian government wanted to prosecute "Canadians who buy sex from children while traveling in foreign countries" (Cox, 8 April 1996: A3; see, also Trickey, 28 August 1996: A12). Several service providers expressed outrage at the attention awarded to this Private Member's Bill when the government fails to enact effective legislation to protect youth inside Canada. As one service provider sarcastically stated, "it tells me that the Canadian government is saying 'buy Canadian'" (R#6, 23 April 1996).

Section 212(4) in the Media

Several informants complained about the general lack of concern for the sexual procurement of youth in newspaper coverage of s.212(4).

> The media is totally irresponsible in their reporting...The papers call these kids hookers and prostitutes, when they are actually sexually abused kids (Service provider, R#3, 5 April 1996).People in society don't realize the extent of the problem [the sexual procurement of youth], and they tend to buy into the media portrayal of the slut. They believe that she [youth] wants to prostitute, and it is her choice (Service provider, R#11, 27 September 1996).

The media plays an important role disseminating claims of political activists (Mulcahy, 1995: 451; Ibarra and Kitsuse, 1993: 54). For claimsmakers, news stories help "...shape our sense of just what is the problem, or what needs to be done about it" (Best, 1997: 14). Brock notes that the media frequently participates in, "...forming the contemporary public identity of the prostitute" (1998: 10). However, Kimberly Daum (1996) argues the media routinely fails to report the extent of the sexual procurement of youth:

> Media repeatedly reports on sexually exploited kids in unfair and inaccurate ways. Irresponsible reporting negatively skews public perception which further marginalizes and stigmatizes these kids. The kids are portrayed as to blame, the public complains only about the effect of the sex trade on their neighbourhood, and news agencies do nothing to put the onus where it belongs -- on the backs of the predators who make up the juvenile-sex-market (p.9).

Lowman and Fraser (1996: 101) compare media coverage of s.212(4) to that of s.213, the communicating law. During the two years following the introduction of the communicating law, the *Vancouver Sun* published a total of 254 items pertaining to prostitution. Of these, 86 (or 33.9%) refer to s.213. In contrast, between 1986 and 1993 only 6 out of 926 prostitution-related items (or 6.5%) mentioned s.212(4).[19] Lowman and Fraser (1995) also note that only one article specifically addressed the difficulties associated with enforcing this law; the remaining articles discuss the law in general terms. Overall Lowman and Fraser argue that "...news coverage of

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[19] Section 212(4) did not come into effect until 1988. However, Bill C-15, which contained s.212(4), was introduced in 1986; hence, news items dating back to 1986 were included to ensure that articles regarding this Bill were discussed.

s.212(4) provides a stark contrast [to coverage of s.213], given that it, too, is not 'working'"(1996: 101).

Below I update Lowman and Fraser's study of prostitution-related items appearing in the *Vancouver Sun* and *The Province*. To begin, I extended their analysis of the *Vancouver Sun* to cover prostitution-related items between January 1994 and December 1996. During this three year period a total of 307 prostitution-related items appeared in the *Sun*, of which 21 (or 6.8%) mentioned s.212(4); this was an increase in the number of items related to s.212(4) compared to coverage during the first seven years of its existence.

A closer look at the 21 *Vancouver Sun* items mentioning s.212(4) between January 1994 and December 1996 revealed that this legislation was not very newsworthy (21 items was only 6.8% of the total prostitution-related items from this period). A majority (15 of 21) of these items made only passing reference to s.212(4) as part of a general discussion of youth prostitution. For example, seven items refer to general legislative amendments tabled by the federal government that included changes to s.212(4). Four items mention s.212(4) when reporting the launch of the Vancouver Action Plan or the Provincial Prostitution Unit. One of these four items did mention the illegal status of the sexual procurement of youth (Pemberton, "Province Starts Campaign Against Child Prostitution," *Vancouver Sun*, 16 September 1996: A3). It described a public awareness campaign aimed at educating the public about the sexual procurement of youth: "[i]ts aim is to make the public aware that when an adult buys sex from a child, he is committing a crime." Finally, four items discussed rare cases across Canada that included charges against men who attempted to purchase the sexual services of a youth.

This means that only 7 of the 21 items comment on enforcement issues pertaining to s.212(4). Of these 7 items, one was an editorial, two were letters to the editor and one was written by freelance journalist Kimberly Daum ("Young prostitutes are our children: their customers are our predators," *Vancouver Sun*, 30 April 1996: A15), someone actively lobbying for legislative amendments. In general, the articles question the lack of s.212(4) charges and they discuss the need to protect sexually exploited street youth:

> Sexually exploited children deserve protection in the Criminal Code with all other children who are victims of sexual predators (Daum, "Young prostitutes are our children: their customers are our predators," *Vancouver Sun*, 30 April 1996: A15).
>
> So does it not make sense to revise this law [s.212(4)], so that we can protect, not prosecute the victims - the children (Turvey, Letter in Opinion Section, *Vancouver Sun*, 31 July 1996, A9).

Several articles discuss the perceived problems and possible changes to s.212(4). From this it is clear that items in the *Vancouver Sun* that questioned the lack of s.212(4) charges was due mainly to the campaign efforts of a select few people.

I also looked at the coverage of s.212(4) in Vancouver's other major newspaper, *The Province*, for the same eleven year period (January 1986 to December 1996).[20] This analysis yielded similar data produced by the analysis of the *Vancouver Sun*; out of a total of 1498 prostitution-related items appearing in *The Province*, only 20 (or 1.3%) refer to legislation aimed at customers who sexually procure youth. Again, *The Province* journalists did not find s.212(4) particularly newsworthy.

Seven of the 20 *Province* items either focus on the introduction of the package of laws that include s.212(4) or, a minor news clip about the rare court cases under the new law. Four items only briefly mention s.212(4); one article discusses the launch of the Vancouver Action Plan (Swanson, "$2m to assist sex-trade kids" *The Province*, 15 November 1994: A5), while another focuses on the announcement of the Provincial Action Plan and an acting troupe that performs at local schools about the dangers associated with prostitution (Hunter, "B.C. at war on child sex" *The Province*, 22 March 1996: A6). This left a total of 9 items that specifically focus on the perceived difficulties associated with enforcing s.212(4).

A majority of the nine items that focused on s.212(4) were written by two of the main campaigners to mobilize the enforcement of s.212(4). Two items were letters to the editor by John Turvey (executive director of Downtown East Side Youth Activities Society) (15 September 1991: 38; 18 March 1992: A28), one of the principal activists who struggles to have this legislation enforced. Freelance journalist Kimberly Daum, another advocate for

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[20] These articles were also taken from Lowman and Fraser's database mentioned in the previous footnote.

amendments to s.212(4), was the author of four items (6 February 1994: A29; 4 September 1994: A37; 25 September 1994: A31; 20 November 1994: A39). Both Turvey and Daum question the amount of protection afforded to sexually procured youth:

> It's unconscionable. The NDP are abandoning children and reducing sexual abuse to an evidence problem ...Lack of evidence is an obvious excuse, not a responsible explanation, for systematically surrendering kids to what are essentially legitimized pedophiles (Daum, "Letting the pedophiles have their way" *The Province*, 6 February 1994: A29).

> We still await charges to be laid against the adult males who purchase their services and sexually abuse these youth. Vancouver, as other major cities in Canada, seems to lack the "will" within the law enforcement structure to see this [s.212(4)] as a priority (Turvey, "Clamp down on hookers clients" *The Province*, 15 September 1991: 38).

Overall, the analysis of the *Vancouver Sun* and *The Province* reveals that from January 1986 to December 1996, 1.3% of *The Province's* prostitution-related items and 2.2% of the *Vancouver Sun's* prostitution-related items refer to the new youth procurement law. Nevertheless, starting around 1994 there was a slight increase in the number of newspaper items about the enforcement of s.212(4). Most of these items were written by activists who challenged the police about their use of the new youth procurement law. Unnithan reminds us of the difficulties with disseminating contemporary claims:

> There is competition and selection (among various social problems and specific definitions of them) in areas of public discourse. Since each area has a finite "carrying capacity" (e.g. newspaper space, legislative hearing time, budgets of nonprofit groups, etc.), problems selected for attention are those that are dramatic, reflect cultural themes, are politically acceptable, can withstand competition, and are in tune with institutional rhythms (e.g. elections, media production, and budgetary cycles) (1994: 64).

The lack of s.212(4) charges did not produce a "panic" in the news media. However, the fact that claims about the "sexual procurement of youth" made it into the news is evidence that the "sexual exploitation" of street youth was garnering more attention.

Enforcement of s.212(4) in Quebec

To further push their claims about the lack of protection afforded to sexually procured youth, several informants commented on s.212(4) charges in the province of Quebec, where there are considerably more than in B.C.

> There is around a 40% conviction rate [for s.212(4)] cases in Quebec. They [police] are looking for kids to sign-off [turn-in] on customers. There are many ways for a youth to exit the streets, but if they are going to use the police to exit, then it is an opportunity for law enforcers to get youths to sign-off on their customers and pimps. That is what they are doing in Quebec (Service provider, R#3, 5 April 1996).

Respondents asked why, if s.212(4) is so difficult to enforce, there are so many charges in Quebec? In 1993 Quebec officials laid a total of 71 charges under s.212(4), resulting in 29 convictions (Daum, 1996: 4).

In reacting to these arguments, several informants suggested that the enforcement of s.212(4) in Quebec is somewhat idiosyncratic, and could not be translated into more charges against men who purchase sexual services from children and youth in Vancouver. These commentators pointed out that almost 90% of the cases relied on male prostitutes under 18 years of age reporting their customers. Furthermore, a majority of charges were the result of 2 male youths supplying information -- they 'signed on' (i.e., signed a statement against) several clients. One officer orchestrated almost 50% of the charges.

Several informants suggested that sexually procured males have different street experiences than females. One interviewee argued that young males were in a better position to identify their clientele because they had a smaller and more regular customer base than young females. A member of a group for parents of sexually procured youth added:

> The Montreal cases involved boys. The reality is that boys don't have the same fear of signing-off on the customers because there is no pimp involved in the scenario, the control factor is not there (R#31, 12 December 1996).

Some informants suggested that the methods used to enforce s.212(4) in Quebec could not be applied the same way to people who sexually procure young females.

Another concern was the technique used by Quebec police to secure charges under s.212(4). Police arrested the youth under the communicating law and then coerced them to testify against their customers by agreeing to drop charges. One interviewee stated that,

> besides the fact that this was accomplished by actually arresting the kid...I think that some people...immediately jumped to the conclusion that the police in Montreal had a warm and fuzzy relationship with the kids. We have heard no evidence of that (Government official, R#17, 8 November 1996).

One service provider argued that the police were not totally aware of the stress a youth goes through when signing on their pimps or customers (R#3, 5 April 1996).

Against these arguments, several service providers argued the Quebec statistics prove that if there is a will to enforce s.212(4), there is a way. They suggested it did not matter that one officer orchestrated most of the charges since his detachment was on the main street-prostitution stroll; the concentration of arrests was therefore a logistical fact and not an individual aberration.

> The police are minimizing the effectiveness of what is going on in Quebec because it involves boys and mostly one youth. My response is 'so what'. Why are you not trying something similar, or at least coming up with creative ways to enforce this legislation and to make charges stick (Service provider, R#6, 23 April 1996).

> One officer is responsible for over half of all charges and convictions in Quebec; his detachment is located on the main stroll, so no-one can really take issue with this fact. In other words, it is reasonable for one officer to have this many charges. It would be the same situation in Vancouver if they proceeded with charges (Service provider, R#3, 5 April 1996).

Further, they suggested that the important point is the police in Montreal appeared to spend time encouraging youths to testify against their customers, a technique already used by Vancouver police to target pimps, but not to target men who buy sexual services from youths.

The Vice division of Vancouver Police spends considerable time contacting youth to help them testify against pimps. One service provider noted,

> You have got cops on vice that have worked successfully developing relationships with kids to the point that she feels safe and comfortable testifying against her pimp. So why don't they use the same skills getting her to testify against [customers] (R#11, 27 September 1996).

Some informants regarded this to be a matter of misdirected priorities rather than enforceability.

Vancouver vice-officers agreed they could use these techniques to arrest customers of youths. However it would be difficult, they claim, because their resources have been devoted to targeting pimps. They lack the necessary time to pursue charges under s.212(4). Also they suggested that in enforcing s.212(4), it would be difficult to use the same technique they used to arrest pimps because a young woman's relationship with her pimp is different than her relationship with her customer. Often they know who the pimp is, where he lives and who else works for him. In comparison, young females involved in prostitution know very little about their customers, and they see most of them only once (R#20, 26 November 1996; R#21, 26 November 1996).

Several informants sympathized with the police because of the difficulties they faced enforcing s.212(4). One service provider believed that some police officers would enforce s.212(4) if it was logistically possible -- although they also argued that some police just do not care.

> There are some asshole police who don't care about picking-up the customers, but there are also many good officers that would like to see these customers arrested. I do see the logistical limitations of the law and I do see the police side of things when they say that s.212(4) is unenforceable (Service provider, R#8, 26 April 1996).

Another service provider noted that, historically, the police chased prostitution out of certain neighbourhoods, thereby creating adversarial relations between police officers and street prostitutes and youths involved in prostitution.

> Historically, members of the street-level sex-trade community do not feel they can trust the police. Historically the police have chased prostitution into more and more dangerous areas, and then we expect the police to protect this population. This is a very difficult position to put police in (R#6, 23 April 1996).

While not relieving the police of their responsibilities -- this informant believed the community should confront the management of Vancouver Vice about the lack of enforcement -- this service provider argued the community should have demanded to know years ago why s.212(4) was not enforced.

The Quebec data suggests that s.212(4) could at least be used to charge people who purchase sex from male youth. However, it appears difficult to use this same technique for cases involving female youth. Nevertheless, the rhetoric surrounding the enforcement of s.212(4) in Quebec produced heated debate about police practices in Vancouver. Struggles to reconceptualize the sexual procurement of youth produced "politicized talk:" "[b]ecause power is located at the level of saying and knowing, it infuses all, not just some, aspects of social life (Miller, 1993: 353).

Sexist Nature of Criminal Justice System

Many key informants argued that the sexist nature of the criminal justice system perpetuated the enforcement problems that characterize s.212(4). One informant stated:

> What is wrong with s.212(4)? Men is what is wrong...influential, powerful men are what is wrong...There has been no male leadership, whether we are talking about Premier Harcourt, Collin Gabelman [former Provincial Attorney General], Dosanjh [Attorney General of BC], Glen Clark [current Premier] or Alan Rock [former Federal Minister of Justice]. There has been no real motivation or political will to make this as big of an issue as international trade or jobs or any other thing....Men have written this law, men are responsible for enforcing this law, and men are not doing either. They are not writing a good enough law and they are not interested in enforcing the law that exists. And that is the biggest problem...influential men, men that have power...[who are]...not using that power to protect children and not making child protection their paramount priority...that's the problem (Service provider, R#3, 5 April 1996).

This poignant message drew attention to gender-related concerns associated with the enforcement of s.212(4), as well as the entire criminal justice system.

Several informants said that male power precludes effective enforcement of s.212(4). Service providers noted that clients are from all sectors of society, including those in positions of power. One service provider noted:

> There is definitely a power issue. I am not naive where some of the users and buyers of street boys and girls are in positions of power. That's real (R#7, 23 April 1996).

The Badgley Committee (1984: 1050) reported that 96.9 percent of those who purchased sexual services from a youth were men (see, also Lowman, Atchison and Fraser, 1996).

Several service providers expressed concern with historically rooted beliefs that blame young prostitutes for the behaviour of men. One service provider noted that these are "throw-away" children -- low income and mainly Aboriginal youth that people don't "give a shit about" (R#19, 22 November 1996). Another argued:

> We choose to perceive them as sex-trade workers to be there [on the street] to fulfill male fantasies. We don't choose to view them as children... (R#6, 23 April 1996).

Some informants claimed that "sexist" characteristics of the criminal justice system preclude effective protection of "victims" of sexual procurement.

6) The Role of s.212(4) in Combating the Sexual Procurement of Youth

Some interviewees cautioned against the use of s.212(4) to confront the sexual procurement of youth. They argued that enforcing s.212(4) would have a limited deterrent effect and they suggested that the trade could be pushed underground if s.212(4) was enforced on a regular basis. Nevertheless, most informants suggested that s.212(4) should be embraced as a policy option to help bring about the demise of the sexual exploitation of street youth (cf. Best, 1987: 102).

Possible Deterrent Effect

Several key informants suggested that enforcing s.212(4) would deter people who sexually procure youth.

> The law would deter some people if there was an effective s.212(4), something that was enforceable could be beneficial. It is sort of my belief that if there is no customers, then there is no services needed. If we attack it from this side, if we get these guys, then we might have a chance of reducing the number of youths as well (Service provider, R#7, 23 April 1996).

One service provider said that enforcing s.212(4) would produce a lot of "bang for your buck" (R#6, 23 April 1996). Those who thought s.212(4) enforcement would not have a deterrent effect argued that the sexual procurement of youth was too complex to be addressed through the law.

> [People] are out to lunch in saying that arresting customers may reduce the number of youths involved in the trade by deterring the demand for the service. There is some failing to believing that any one of a number of men who are arrested are going to stop this particular process. It is a limited deterrent effect (Government official, R#2, 3 April 1996).

Many youths would still get involved in prostitution because of the myriad of issues that propel them to the streets.

Symbolic Function

Despite disagreement over the potential deterrent effect of s.212(4), there was some consensus about its symbolic function. Snider (1991: 254/55) differentiates between the instrumental and the 'symbolic' functions of the law:

> The symbolic level refers to the state's sending a signal on behalf of a "popular consensus" about the moral status of a particular act. In the case of criminalization, the message to be conveyed is that this particular act is abhorrent.

Several service providers argued that enforcing s.212(4) would send the message that society cares about sexually procured youth. One government official noted:

> It may be in fact that section 212(4), like a lot of sections that deal with all kinds of social issues...have more of a symbolic meaning than they have of a real meaning. In other words, it may be the criminal law saying this is a bad thing to do. And so we have a number of laws that are not particularly functional, but they want to make a statement anyway (R#2, 3 April 1996).

However, this same informant added, "...when you have a piece of legislation that you can't use, there is some question about how serious you are about this entire issue" (R#2, 3 April 1996). From this perspective, s.212(4) has to be enforceable if it's to appear to be more than simple window-dressing.

Driving the Trade Underground

Some informants cautioned that enforcing s.212(4) may push the sexual procurement of youth underground.

> One of the possible negative consequences of this legislation [s.212(4)] would be driving prostitution underground. This is a problem with any prostitution-related legislation. You are always going to have someone who wants to buy sex from young women. In this case, they will go where they have to in order to meet with them (Government official, R#1, 2 April 1996).

However, several service providers noted that if the trade went "underground" there would need to be a commitment to develop tools to expose its less visible manifestations.

> It [sexual procurement of youth] is already underground...Abuse goes on behind closed doors all of the time. We should chase it behind closed doors. Are we just going to let male sexuality go unchecked? (R#6, 23 April 1996).

> Girls in bawdy-houses is a distinct possibility [with the enforcement of s.212(4)], but this already happens. This would then become a matter of police intelligence and finding out where the houses are, and hit them hard, and follow them around wherever they go (R#19, 22 November 1996).

> Enforcing s.212(4) and having the trade go under-ground is only a possibility. The short end of things is that we are not protecting youths (Service provider, R#4, 12 April 1996).

Some police officers noted that they already experience difficulty dealing with youth prostitution in off-street locales (R#25, 4 December 1996).

7) Summary: The Goal of Protecting Sexually Procured Youth

Overall, numerous claims were made about the ineffectiveness of s.212(4) in particular, and with approaches to the sexual procurement of youth in general. Police officers spoke of the difficulties with enforcing the new youth procurement law, while service providers and other informants problematized these claims by arguing that protection of sexually procured youth required a more imaginative interpretation and application of the law. The key difference between the effectiveness of lobby efforts associated with s.212(4) and the results produced by activists who worked to reform the old soliciting law is the lack of intense public pressure, or political will.

In the process of lobbying for reform, a new discourse emerged to characterize the sexual procurement of youth. "Young prostitutes" were (re)considered "sexually exploited" street

youth, while "customers" were described as "sex abusers," "sexual predators" and "pedophiles." As Ericson and Haggerty remind us, "[k]nowledge is that which is objectified in institutional representations, a property and resource that provides a capacity for action" (1997: 83/84).

In many respects claims made about the sexual procurement of youth are an example of Wittgenstein's (1953, 1969) "language games." Miller and Holstein suggest that, "for Wittgenstein, language games are the diverse, concrete and culturally shared ways in which actors use language to organize situations and achieve practical ends" (1993: 14; also see, Ibarra and Kitsuse, 1993: 32). In essence language is "...part of the world, a kind of objects among objects..." (Valverde, 1991: 10). Language strategies related to the sexual procurement of youth produced a precursor to policy reform. Accusations that sexually exploited street youth were not being protected led to a growing consensus that something should be done to ensure their safety. In turn, expectations that the state should react were voiced more and more assertively (cf. Valverde, 1991: 167).[21] Policy questions shifted from developing ways to confront "youth prostitution" to taking action to protect "sexually procured youth."

"Claims-makers inevitably hope to persuade," and, to this juncture service providers and other informants had conveyed the message that problems existed with approaches to the sexual procurement of youth (Best, 1987: 102). The next chapter describes the changes that flowed from efforts to persuade police to lay more s.212(4) charges.

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[21] Valverde notes that "...we have come to expect the state to initiate both research and action on practically all...'problems'" (1991: 167).

Chapter 4

The Politics of Reform: The Emergence of New Programs to Combat the Sexual Procurement of Youth

1) Lobbying for More Enforcement of s.212(4)

Ibarra and Kitsuse (1993) note that claimsmakers infiltrate legal-political settings with the hopes of having their message heard. Not satisfied with arguments that s.212(4) is not enforceable, service providers on the Downtown East Side began to agitate for amendments to the law. Concern about the enforcement of the new youth procurement law surfaced in this community in late 1989. The first letter about s.212(4) (see *The Province*, 15 September 1991: 38) was written by John Turvey (the Executive Director of the Downtown East Side Youth Activities Society), who noted that "[w]e still await charges to be laid against the adult males who purchase their [youth] services and sexually abuse these youth." A subsequent analysis of Lowman and Fraser's database on newspaper coverage of prostitution-related news items (from 1986-1996) revealed that Turvey has published three letters about s.212(4); two in *The Province* (15 September 1991: 38; 18 March 1992: 18) and one in the *Vancouver Sun* (31 July 1995: A9). The letters all express Turvey's desire to protect "sexually procured youths" from men who "sexually abuse" them on the streets.

Further evidence of efforts to influence the reform of s.212(4) was found in the personal correspondence of a Vancouver service provider, which he permitted me to examine. Although the file of correspondence was not complete, the material revealed that from January 1990 to February 1996, this service provider wrote seventeen letters regarding the sexual procurement of youth and the enforcement difficulties associated with s.212(4) to newspaper editors, municipal politicians, provincial bureaucrats (such as the Provincial Ombudsman, the Attorney General and the Premier) and the Federal Minister of Justice. The tone these letters change over time as the author becomes more and more frustrated with the lack of s.212(4) changes. In one letter sent to a provincial government office on 15 January 1990, the service provider noted:

> Please consider this letter a "formal" complaint in regards to the numerous "prostitution" charges being leveled against youth; and the absence of charges against the adult consumers of their services.

A letter sent 30 May 1994 to a provincial government office again expresses this frustration:

> Little, or no relevant actions have been forth coming from your Ministry regarding the lack of enforcement of 212-4. Needless to say I am somewhat distressed by this fact...I would like to inquire if your Ministry has any intentions of trying to assist in the enforcement of this law?

It appears from his records that there were only four responses to the fifteen different letters he addressed to various Ministry offices.

A 1996 position paper on s.212(4) commissioned by the Downtown East Side Youth Activities Society stands as further evidence of this mounting frustration. Written by freelance journalist Kimberly Daum (1996), the report critically examined the Vancouver Police Department's enforcement of s.212(4) since its enactment. The report berated police, the courts and politicians for not acting quickly enough to protect sexually procured youth by either enforcing or fixing s.212(4). Daum wrote:

> All children and youth deserve protection from abuse and violence regardless of who they are or what they do to survive. However, politicians do not seem to share the public's concern for sexually abused and exploited kids. In 1984, we told politicians that we want sexual predators held accountable under an indictable law, and the federal government responded. **But time has proven that there is no real political will to protect kids from predators** (1996: 10 - emphasis in original).

Some informants believed the report garnered some political attention, but they remained pessimistic about the scope and speed of responses to the perceived ineffectiveness of s.212(4):

> [The report] got about a weeks worth of press, and then [the Attorney General] came forward and said that they had been working on s.212(4) for some time now. But not enough has happened to change the law (Service provider, R#19, 22 November 1996).

In March 1996 a Vancouver Television Cable station aired a program on the sexual procurement of youth. Throughout the program two participants, a service provider and police official, fundamentally disagreed over the problems associated with s.212(4). A portion of the show involved the service provider asking why s.212(4) was not enforced; the police official

offered various reasons why it was not. At times, each party offered emotionally charged questions and responses about the state of legislation pertaining to the sexual procurement of youth.

Starting on 22 August 1996 the *Christian Science Monitor* carried a series of articles that discussed the "child sex trade" on a global level. These articles included opinions of community members from the Downtown East Side, as well as quotes from Vancouver police representatives, that stepped-up efforts are needed to protect sexually procured youth (for example, see *Christian Science Monitor*, 5 September 1996; 13 September 1996). The prevailing theme of the coverage was the need to protect sexually exploited street youth from the abuses of customers. A Vancouver Vice-Squad officer was quoted as saying: "[w]e recognize that these children are victims - not perpetrators" (*Christian Science Monitor*, 5 September 1996).

2) Lobby Efforts

Lobby efforts produced substantial political talk about the need to initiate reform -- despite the absence of wide-spread support, a crisis emerged whereby something had to be done to prevent the sexual abuse of street youth. In this regard, "[t]here is clearly no correlation between the creation of moral panics and the degree of a situation. Urgent situations can be happening without a panic occurring" (Brock, 1998: 143).

Lobby efforts also identify who is responsible for addressing the sexual procurement of youth -- discourse produces actors and specified roles (Gare, 1995: 67; Hunt and Wickham, 1994: 8/9). Traditionally, the state and its agents have been responsible for responding to the sexual procurement of youth: "[i]nstitutional discourse serves to define message content in terms of the mandate and mythical functions attributed to or arrogated by the institution" (cf. Manning, 1991: 97). In the face of this well-orchestrated pressure, it was becoming increasingly difficult for the Ministry of Social Service and the Attorney General to ignore their duty to protect sexually exploited street youth.

3) The Reaction of the Ministry of Social Services

Numerous informants drew attention to the limits of the law in addressing the sexual exploitation of youth.

> We...looked ahead and said...suppose we get the law [s.212(4)] changed, suppose we get johns arrested and hopefully convicted...what about the kids...we need some place to put them, to deal with them (Service provider, R#28, 10 December 1996).

Several individuals argued that, historically, women have been unfairly treated by prostitution-related legislation. One service provider stated:

> Fuck legislation; show me any section [of the *Criminal Code*] that works. Do you want the criminal justice system dealing with this issue, or do you want to develop adequate social services and programs? (R#5, 22 April 1996).

Professor John McLaren, a former member of the Fraser Committee, also recognized the limits of legal approaches:

> I have very, very serious difficulty with the way in which the law has traditionally played out, and continues to be played out, in terms of the inequalities with its application in this area [prostitution]. But I don't think the answer is the need for more criminal law and putting more people in the net, because this is often the easy way out and it does not address the real issue (R#15, 25 October 1996).

Police officers also claimed that it was erroneous to think that charging customers would, by itself, solve the problem. The Federal-Provincial-Territorial Working Group on Prostitution (1995: 10) noted: "[t]he need to develop social intervention alternatives which take into account the youths' lives...part of the solution lies in education, social services, juvenile protection, and similar approaches." In fact, almost all informants argued for a multi-pronged approach in which legal action is coupled with adequate social services.

> We should use youth designed services to draw kids in, coupled with legislation that hammers the shit our of customers, then we might gain some ground. This would be sending an entirely different message to the kids involved (Service provider, R#3, 5 April 1996).

> I don't believe that charging customers under s.212(4) is going to eradicate the problem; kids would still go out there [on the streets]. A more balanced approach would be better. There has to be better services too (Police officer, R#29, 10 December 1996).

Several members of the Downtown East Side community approached the Minister of Social Services to draw her attention to the lack of s.212(4) charges. They wanted to impress upon the Minster that s.212(4) was part of her Ministry's responsibility because a large number of sexually exploited street youth were wards of the state. Soon after, there was a series of community-based meetings involving community members, service providers, sexually procured youth and the Minister of Social Services, Joy McPhail (see, also CS/RESORS, 1996: 6). During these meetings, concerned individuals outlined the woeful state of services available to sexually procured youth and the lack of s.212(4) charges. Service providers argued that the Ministry of Social Services avoided its fiduciary responsibilities by not protecting sexually-exploited street youth.

As well as discussions with the Minister of Social Services, several service providers and community members voiced their frustrations regarding approaches to the sexual procurement of youth to the Interministerial Street Kids Committee (ISKC), a group of ministerial assistants, law enforcement representatives and service providers who address problems faced by street-connected youth. One service provider noted that s.212(4) was discussed frequently by the ISKC since it was established in 1988 (R#32, 16 December 1996). The Committee transmitted their concerns to relevant government Ministries.

The minutes from one committee meeting (31 August 1994) revealed a plan to develop a project that addressed both short-term and long-term concerns related to the sexual procurement of youth. Community members from Downtown South and the Downtown East Side identified housing, individualized support for harm reduction, employment opportunities, monthly information sheets and front-line services as essential resources that needed enhancing. There was also discussion about arresting customers of sexually procured youth as a short-term plan, and the need to approach this issue as child sexual abuse, not as a prostitution-related problem.

The provincial government responded to community-based concerns about the protection of sexually procured youth by developing an action plan to improve existing services. The motivation for the government's response was a point of some debate; some informants wondered if it was linked to the fact that two of the communities involved in the process were the

provincial ridings of the Minister of Social Services and the provincial Premier. Nevertheless, "[i]n July, 1994, the Deputy Ministers' Committee on Children, Youth and their Families directed the Child and Youth Secretariat (CYS) to develop a short-term Action Plan dealing with issues of sexually exploited youth in Vancouver" (CS/RESORS, 1996: 6). On 14 November 1994 the B.C. government announced the commitment of 1.98 million dollars to confront the sexual exploitation of street-involved youth. The announcement marked the launch of the Vancouver Action Plan (see Appendix II for summary of resources allocated to the VAP).

In September 1996, the B.C. government launched another action plan aimed at addressing the sexual procurement of youth on a province-wide basis (the Provincial Action Plan). The Provincial Action Plan included the Provincial Prostitution Unit, which was responsible for, among other things, helping communities throughout the province develop techniques to enforce s.212(4).

The Vancouver Action Plan

Claimsmaking led to the deployment of more resources for service providers. Language that described "youth prostitution" as "sexual abuse and exploitation" produced "truth-certifying procedures" (cf. Ericson and Haggerty, 1997: 51), whereby service providers had their authority to respond to the sexual procurement of youth reaffirmed.

Many informants claimed that the VAP was a positive development because it enhanced services for sexually exploited street youths:

> The programs that have come out of the VAP are really beneficial. It [VAP] has provided safe houses, extra detoxes, media campaign, and funded an outreach program where someone goes out every night to make significant contact [with youths] (Service provider, R#5, 22 April 1996).

> ...the very fact that the $1.9 million was made available was seen as a strength of the VAP. All respondents felt that more money is needed to provide better prevention programming and direct services and that the VAP made a substantial contribution to meeting these needs (CS/RESORS, 1996: 33).

The creation of safe houses, detox programs, a media campaign and outreach services were cited as essential services provided by the VAP.

The VAP represented a "new" way to develop and administer social services to street involved youth. Previous government-sponsored initiatives in British Columbia to create or bolster social services were characterized by a top-down approach where provincial bureaucrats would impose their ideas and direct funding to particular communities and service agencies (interview with Joy McPhail, Minister of Social Services). In turn, service agencies would receive their funding and then deliver the finished product to the client. The logic of this argument was that, "services are developed by providers, using specialized knowledge and tools of the profession, and based on the provider's understanding of the client's needs" (Jarvis, Shear and Hughes, 1997: 721).

The VAP attempted to depart from traditional government-imposed frameworks by initiating a more community-based approach to enhancing services. In this regard, the VAP was purported to be a "community-led action plan" that brought various key individuals and groups together to allocate program resources aimed at "...reducing the number of children being sexually exploited on the street" (CS/RESORS, 1996: 1).[22] Many VAP participants cited its community-centred approach as a strength of the process (see, also CS/RESORS, 1996: 32), because it forced key players to work together, and included the community in deciding how to allocate resources to address the sexual procurement of youth. Prior to the VAP, several community members and service providers from semi-private agencies working independently from each other spent considerable time lobbying the provincial government for program funding. Bringing the service- providing community together allowed key individuals to become familiar with each other and created possibilities for future cooperation.

Several service providers and community members appreciated that the Minister of Social Services (Joy McPhail) had listened to the community and helped develop a community-based plan to protect sexually procured youth (see, also CS/RESORS, 1996: 32). McPhail noted that her goal was to avoid a process where the government imposed its ideas upon the

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[22] The term community in this context includes those who were involved in the VAP: Downtown Eastside, Granville South, Mount Pleasant and the aboriginal community. From each community, youth representation was pinpointed as essential, as well as representation of service providers and citizen groups.

community (interview, December 1996). McPhail's approach elicited several positive comments:

> I think Joy really deserves a pat on the back taking a risk with the process...with the community. I think it really looks good on her because too often we just get lip service paid to us [by the government] (Service provider, R#6, 23 April 1996).

> Getting involved with prostitution, especially where it involves youth, is not necessarily a political winner because at the end of the day you are probably not going to stamp out prostitution or exploitation of kids [through this process]. So to take that [VAP] on I think takes a certain temperament or courage [on behalf of McPhail] (Government Official, R#16, 25 October 1996).

> I don't know that this kind of approach to anything has been tried before in quite this way. And I think that in a way that this particular government should be commended for doing that. [McPhail] went out there and asked everyone what they wanted and then tried to pull stuff out of that and then said O.K. here is the money, now you decide how it is you want to spend it (Service Provider, R#8, 26 April 1996).

> A While back, Ms. McPhail introduced a $2 million initiative for street youth that involves youth, community individuals and agency representative in the process of allocating these funds. Throughout this process Ms. McPhail has kept her word, been accessible and taken the time to personally involve herself in the process, including attending sometimes difficult community meetings (Letter by John Turvey to *Vancouver Sun*, 10 February 1994: A10).

The VAP's Media Awareness Campaign

The inauguration of the VAP stood as a reminder that the sexual procurement of youth was increasingly being perceived as an issue in need of urgent action. This message was confirmed in the VAP's public awareness campaign that denounced the sexual victimization of street youth. The campaign contributed to the reconceptualization of "youth prostitution" as "child sexual abuse."

Part of the VAP was a "community driven public awareness campaign" aimed at educating people of the sexual procurement of youth (Provincial Government News Release, 14 November 1994). As the minutes from one VAP meeting (23 June 1995) noted:

> Different messages will be covered throughout the campaign using the various media listed (newspaper ads, poster, bus shelters, radio spots, TV spots, etc.) For

example, educating the public on the limits of the law will be done via media coverage, such as radio interviews and feature articles.

The campaign budget of 150,000 dollars was divided into two phases: phase one was the poster campaign; phase two expanded into other media (Minutes of VAP Meeting, 23 June 1996; CS/RESORS, 1996: 28).

Presented as a "youth driven" initiative, the campaign produced a series of posters to display throughout Vancouver. The campaign's information sheet noted:

> This series of six posters was developed by a committee of youth, community residents, service providers, and parents, in partnership with the provincial government. The youth who worked on the campaign spent nine months developing a campaign that delivers the hard-hitting message that sex is being bought from a child right now and it is child abuse.

The posters included youth models posing as young prostitutes and the following captions:

- She's only 12. She's not the Youngest.
- She Lived. Some Don't.
- She Believed His Promise of Glamour and Love.
- He Does it For Food. For Survival.
- She Came From a Good Home. It Still Happened.
- He [the customer] is a Criminal in this Transaction.

The bottom of each poster stated that the campaign was "a message from youth who've been there" and that "Sex is Being Bought from a Child Right Now. It's Child abuse.".

Several informants complained that the poster campaign failed to connect with issues related to s.212(4), and that the posters should have portrayed Aboriginal youth because they are over-represented in the sexually procured population. Some informants argued the youths who participated in the process decided not to include Aboriginal youth on the posters because they feared it would perpetuate certain stereotypes (R#30, 11 December 1996). One service provider added that some of the VAP participants were unclear about their position:

> Some very vocal people said we don't want Aboriginal youth identified in the posters. When the posters came out the same people were saying why the fuck are there no Aboriginal kids on the posters. So I get confused and pissed off when

> they say one thing and then do another. And that is why you get the confusion about what went on...(Service provider, R#13, 10 October 1996).

Finally, for some participants it was a non-issue:

> There was a lot of complaining afterwards as to whether or not there was enough colour in the posters...For me it was never an issue because I see kids as kids. I don't care if they have polka dots, I see kids as somebody's offspring. What happened to them I don't know, but they are on the streets and it pisses me off (Service provider, R#28, 10 December 1996).

Regardless of questions over the failure to portray Aboriginal youths in the media campaign, it is clear that sexually procured youth were portrayed as victims of "sexual abuse" and "sexual exploitation." The message that purchasing sex from a youth is "child sexual abuse" was not questioned. In many respects the sexual abuse discourse had produced a frame of reference -- or analytical space (cf. Foucault, 1979) -- within which discussions about the "sexual procurement of youth" would occur.

The Vancouver Action Plan as a Vehicle for Claimsmaking

Claimsmaking continued within the VAP process about who "owned" the sexual procurement of youth issue (cf. Best, 1994; Gusfield, 1981). Once a condition is defined, claimsmakers will continue to lobby for control of the technical or practical means for addressing the phenomenon. Debates will occur about how to implement responses to an identified problem, and agents will emerge to claim they are the best candidate for carrying out the prescribed tasks. Goode and Ben-Yehuda note that "organizational self-interests" are commonplace in the process of defining social conditions (1994).

Ownership claims are not necessarily conscious manipulations of language to gain power and control over the stated problem, although, in this case there is little doubt that service providers wanted more resources to address the sexual procurement of youth. "This means that speech cannot be read as a distinct mirror to thought, intentionality, or presence" (Troyer, 1993: 124). "Ownership" stems from "truth claims," or the dominant rhetoric about the best "...solution to that problem..." (cf. Best, 1987: 102). For example, the prevailing discourse of

many VAP participants centred on the protection of "victims of sexual exploitation" from "sex abusers" and "sexual predators." One service provider noted:

> We had to have a strategy that includes resources for pulling kids off the streets [the VAP]. And they [youths] have to be protected, they have to have safe places to live, and we have to protect them from predators and pimps (Service provider, R#11, 27 September 1996).

Ensuing claims and counter-claims uphold this protectionist rhetoric to ensure that the sexual procurement of youth is dealt with accordingly by service providers.

Several informants offered examples of claimsmaking that occurred within the VAP process. For many informants the differences and conflicts experienced throughout the VAP came down to issues of ownership of the problem.[23] Nevertheless, almost everyone agreed that VAP participants are committed and compassionate in their desire to protect sexually procured youths. One service provider noted:

> Some of these people are the most caring, non-judgmental people around youths, but with adults it is slice-and-dice, it's vicious. I can possibly rationalize it through the stresses...it is not easy work, especially with the death and dying issue. We have all had to go through formal debriefing just because we lose so many kids (R#10, 19 November 1996).

Several informants argued that comments and actions became hurtful when the input and perspectives of certain individuals and communities were ignored. One VAP participant noted,

> We say we want different communities involved, but when we go out there [back to the community] we always say what a bunch of 'assholes' they are. To me that is where it is wrong (R#13, 10 October 1996).

A service provider suggested that no-one is "truly" committed to working together, because, despite what they might say:

> ...I don't think there is anyone who is taking on all of the organization of this [dealing with the sexual procurement of youth]. And I think the biggest problem is there are so many people involved and nobody really connects with anyone else. There is everyone trying to do their own little bit and no-one does it very effectively...and I think the kids are the ones who end up sitting out there forever (R#10, 27 September 1996).

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[23] Similar concerns were raised in Calgary where a survey concluded that no-one "owns" the issue of the sexual procurement of youth (cf. Handbook for Action Against Prostitution of Youth in Calgary, 1996: 14).

Struggles over resources produced several examples of claimsmaking, including debates about who should be included in the process, arguments over the definition of "sexually procured youth," and philosophical struggles about the best way to approach the sexual procurement of youth.

Struggling for Resources: The Internal Politics of the VAP

Several informants claimed that certain VAP participants tried to control the process to ensure their agencies received a majority of the funding. Some complained that it was problematic that the government put the money in front of the communities and asked them to divide it among themselves:

> They [the government] thought they could put the money out and have the community involvement without having any idea of the process and without any idea of the communities they were dealing with. They thought they [the communities] would gleefully come together (VAP participant, R#18, 19 November 1996).

Some participants believed it was a contradiction to have community members who were applying for funding also participate on the committee deciding how to allocate the resources (CS/RESORS, 1996: 33/34). Other VAP participants noted there was constant conflict among the various communities over the allocation of funding. This process created a competitive and uncomfortable atmosphere and it helped drive the perception that many individuals involved were "money grabbers".

> Everyone is competing for dollars, so everyone competes for money. With the shrinking dollar and the 'I want to do it my way' attitude, we are going to see a lot of problems (Government official, R#12, 7 October 1996).

> Most of these people [involved in the VAP] have to grab for every cent that they get, and they brought this attitude to the [VAP] table (VAP participant, R#18, 19 November 1996).

Several VAP participants referred to the "back-room politics" that occurred throughout the process (see, also CS/RESORS, 1996: 36). There was a general perception that certain groups and individuals worked behind the scenes to ensure certain decisions and outcomes.

These "back-room" activities created a tense atmosphere where certain individuals and groups banded together, thereby alienating others. The Ministry evaluation observed:

> Respondents noted that without clear-cut roles and mutually agreed upon responsibilities and authority, there was a greatly increased likelihood of "back-dooring," that is, of people not going through the rather tenuous channels of communication and decision-making that were operating at a given point. The "squeaky wheel" effect, or the greater influence of those with stronger ties with government ministries or political representatives were seen to be affecting decisions (CS/RESORS, 1996: 36).

VAP participants were not the only ones thought to be involved in "back-room politics." One participant noted that some government representatives had clear ideas about how the VAP should unfold and they made subtle hints to ensure certain outcomes. They regretted that nothing was done to confront the activities that occurred behind the scenes.

> Everyone played political games and extracurricular activities. I had one [government official] tell me who exactly they wanted the money to go to...It was difficult because we did not say to ourselves, 'if you have something to say, say it here to my face'. But a lot of people ended-up talking in back rooms, and that went for everyone. It was a good example of a bad process (VAP participant, R#18, 19 November 1996).

Participation and Representation During the VAP

Mariana Valverde notes that, "...discourses are not an absolute beginning point but are themselves shaped by pre-existing social relations (mainly of gender, race, and class)" (1991: 10). Along these lines, several participants voiced concern about the under-representation of Aboriginal people.

> When considering that 35-40% [of sexually procured youth] are Aboriginal youth, there was never clear and adequate representation of Aboriginal people at the [VAP] table. Everyone is aware and talks about Aboriginal over-representation on the streets, but no-one seems prepared to act on it (Service provider, R#13, 10 October 1996).

One informant noted that the issue of Aboriginal youth representation was an "unanswered conundrum" throughout the process (VAP participant, R#18, 19 November 1996). Many Aboriginal youths believed they were not wanted at the VAP table and some very hurtful

comments were made about who should be included as being "Aboriginal" and how they should be treated. The ensuing frustration led some Aboriginal youths to quit the process (VAP participant, R#18, 19 November 1996; Service provider, R#3, 5 April 1996).

Philosophical Claims

Several respondents offered examples of philosophical debates about the sexual procurement of youth that occurred during the VAP. The Canadian Association of Social Workers' *Code of Ethics* recognizes that the social service profession is characterized by a variety of contesting and contradictory philosophies (cf. Mullaly, 1997: 26). While many of the agencies across the country share a similar clientele, the services they offer and the philosophies they espouse are often at odds with each other (Webber, 1991: 244). "There is no consensus within social work with respect to the ideal nature of society, or the nature and functions of the welfare state, or the nature and political consequences of social work practice" (Mullaly, 1997: 23).

Service agencies in Vancouver who deal with sexually procured youth reflect the philosophical diversity that characterizes social services in general. As a result, service providers often disagree about the best way to approach the phenomenon in question. While conducting field research for the Fraser Committee, for example, Lowman (1984: 172) identified several Vancouver service providers who wanted to transcend the "reactive" styles of social work that dominated the field, in favour of techniques that "proactively" identified clients in need of assistance:

> ...what this study generally indicates is that there is a sense in which social workers feel they need more power to intervene in the lives of juveniles, and there would be universal agreement on the need for more funding to intervene, but opinions diverge when it comes to the style of intervention" (Lowman, 1984: 173).

Several informants noted that some community representatives involved in the VAP had exclusionary attitudes and were difficult to work with. For example, some groups believed they had the best formula for dealing with sexually procured youth and all others were wrong.

> ...part of the inability of [one community] to get along with other communities has to do with their desire to argue for every dollar available, they are just very territorial. They think they know what is 'best' for sexually procured youth. They have been here for the longest time and they think they know what is best (VAP participant, R#9, 29 April 1996).

One service provider noted:

> I think there was geographical differences in terms of attitudes, then there were special interest [philosophical] differences and attitudes. People tend to think that street kids from the Granville South area would probably have the same kind of attitudes and the same kind of values...and needs as street kids in this area. Well, often the only thing they have in common is their youth...(R#28, 10 December 1996).

Another participant noted:

> The VAP was really difficult because there is a lot of turf things...it is sad there are so many turf things between organizations that are all serving children, but there was at that point in time some significant philosophy differences. I think some [different] understandings [about] what was happening to kids on the street, the entrenchment dynamics and how services can actually keep kids on the streets as opposed to moving them off (R#11, 27 September 1996).

One VAP participant argued that demographics created philosophical conflicts and that divisions existed between individuals who adopted different "schools of thought" (R#5, 22 April 1996).

In general there were complaints that conflicts and differences produced unstructured and unmanageable meetings, and individuals were allowed to act inappropriately.

> Many respondents talked in terms of being traumatized, shocked, disillusioned about the behaviour exhibited and allowed there...They commented that the meetings were not what they had expected or hoped that a community-based, government-supported initiative would be. Many say they still carry emotional scars from this experience (CS/RESORS, 1996: 36).

One participant thought that the difficulties between communities were problematic:

> I felt that bringing in the different communities was too broad...I think it brought a lot of unnecessary tension and politics to the table (R#19, 22 November 1996).

Minutes of one VAP meeting also provides evidence that the process was difficult:

> This process is time consuming [and] taxing...It is suggested that to make this process more bearable, we divide up the money now and then each group work together in their community to come up with proposals for that allocated funding.

> That way the issue of money is done away with and the committees can move on with the process (Meeting of 16 February 1995).

For others, the difficulties and tensions were part of the process, and it was beneficial to try working through the problems. Some participants claimed that expediting the process was necessary to avoid wasting valuable time. Service providers were aware of what to do and it was simply a matter of dividing the resources and returning to their respective communities to deliver the services to sexually procured youth (R#6, 23 April 1996). In this regard, increasing the timeline would not have helped the process; on the contrary, it may have exacerbated the existing tensions and conflicts by prolonging arguments over how to allocate the resources.

Claims About Youth Participation in the VAP

The Provincial government news release for the VAP identified youth participation and consultation as integral to the process (14 November 1994). The Minister of Social Services suggested that despite the problems with accessing the street youth population, and the most exploited youth in particular, it was important to have youths involved in the process. Several informants further discussed the importance of youth participation in helping to develop social services:

> If they [youth] are not at the table you get a very different plan. Being at the table does not mean they have to sit through unending, boring, stupid meetings. But if they are not where the action happens you get a different plan. I am convinced of that (VAP participant, R#18, 19 November 1996).

> There are ways to...giving youths a voice, and not just a token voice, but a real baseline voice...[and] this is the stuff I don't see us doing here, the real partnerships with youth. We are friendly and all of that, but where is the real and not the tokenism and let's get it in as a process (Service Provider, R#10, 27 September 1996).

Jarvis *et al* (1997) articulate the difficulty of developing a framework that incorporates youth input in a meaningful way:

> ...roles for young people did not happen at once, or in a smooth progression. Ageism is so thoroughly rooted in the mental models of our culture that we frequently trip over it as we move forward. The involvement of young people has

> made a critical difference in our organization. It has helped us to recognize when we have tripped, and how to appreciate how much the characteristics and contributions of young people can offer. The primary mental model shift moves us from adults teaching young people to youths and adults learning together. Much work lies ahead to actualize the new story in which young people are truly resources (p.733).

Previously, some communities included youth in their decision-making processes, but the VAP differed in that it brought youths from various communities together to help make programmatic and funding decisions. One service provider noted that since the VAP, "...there are kids now that I see on the street, that were part of the process, that I am friends with now...I wouldn't have known them otherwise" (R#28, 10 December 1996).

Several informants raised questions about what population of street youth benefited from the VAP. Many informants claimed the VAP did not focus on sexually exploited youth, but expanded to include all street youths.

> There was a strong representation of youth, but I don't get as to why there was representation of street kids, and not just sexually procured youth. There is a big difference between street kids and sexually procured youth (Service provider, R#5, 22 April 1996).

For many participants there are fundamental differences between the two populations; sexually procured youths sell sex for survival purposes and have less access to social services, while other youth have more options for leaving the streets and do not rely on selling their sexual services as a source of income. This distinction is important because youths who are entrenched in survival sex require different services than other street involved youths; for example, the types of outreach and counseling services would be different for the two populations.

Several individuals noted that youth involvement in the VAP was limited to "professional" or "high-function" youth, and included street youths who were not sexually exploited, or who no longer lived on the streets. One service provider contrasted "high-function" youth who understood five syllable words with those entrenched in the sex industry for survival purposes. The more "professional" youths denounce sexual procurement as a source of income, while the more entrenched youths have fewer options (R#27, 4 December 1996).

Informants were concerned that youths entrenched in prostitution never really got to speak about their needs. One service provider noted, the participating communities had to "beat the shit out of each other" before they focused on sexually procured youths (Service provider, R#6, 23 April 1996). Another participant argued they failed to distinguish between the needs of various youths; for example, sexually exploited youths from the Downtown East Side have different needs than youths from Downtown South.

> To some extent what happened was that the process started out focusing on sexually procured youths only, but this was eventually spread out to the point that other street youth became involved. For example, the kids from the Downtown South seem to be there [on the streets] more for the adventure than anything else. I wanted a study that went around to find out what the different geographical needs of Vancouver are around the issue of demographics, but also around the issue of what happens to kids in each area and how they get where they are. I don't think anyone would dispute the fact that the kids in the Downtown South have different needs, but not necessarily less important, than kids in the Downtown Eastside (Service provider, R#28, 10 December 1996).

Some informants pointed out that youths from the Downtown South region, and Granville street in particular (Granville is an active tourist street in Vancouver's downtown), are transient street youth who occasionally become involved in prostitution for food or money, but they do not rely solely on their sexual procurement for subsistence. In contrast, youth from Vancouver's Downtown East Side, one of the poorest neighbourhoods in Canada, are frequently Aboriginal and often entrenched in street life, survival sex is their only means of subsistence, or they need the money for drugs.

Several informants complained the youths were controlled, intimidated and exploited throughout the VAP process. Some informants argued the youths were controlled by adults who told them what to say at the meetings:

> the youths were set up to say they were speaking for youth issues, but it was plain to see that they were set-up by the adults and told how it should be said (Service provider, R#13, 10 October 1996).

Another informant noted:

> ...I think there is a lot of expertise...[among]...all of those workers [service providers] and they need to have a forum, but they drown out the kids...and the

needs of the agency became the most pressing thing (Service provider, R#11, 27 September 1996).

The Ministry evaluation (CS/RESORS, 1996: 37) echoed this sentiment, "...youth who were brought to the process through agency programs in which they were participating were sometimes expected to reflect the interests of the agencies rather than their own interests." The pressures were too great for some youth who abandoned the process (Service provider, R#3, 5 April 1996).

One service provider suggested that the youths were not listened to; were not really involved in any of the process; and were exploited by revealing their names, faces and stories to a group of people with whom they were only remotely familiar. This service provider also suggested that an agenda for the VAP was pre-set by the adults involved in the process and the youths were only "along for the ride" (R#27, 4 December 1996). Another service provider discussed the funding provided to youth as an example of how there was no real avenue for youth participation:

> I talked to two young women who said the word was out that if you came to these meetings you would get [money]. And these kids are desperate, so they would come and they wouldn't say a word, they wouldn't understand the process and what had been going on. But they would be there, and they do these things for an hour, and then they would get paid (R#32, 16 December 1996; also, see CS/RESORS, 1996: 37).

Some VAP participants expressed concern that "...youth may have been inhibited in their participation, that they may not have been completely heard, and that some were simply put off by the process and withdrew from it" (CS/RESORS, 1996: 37).

In general, to many informants, the VAP was an intimidating and controlling process for the youths:

> We didn't protect the youth that came to the meetings. I think we abused them...we verbally abused them. We didn't think of a value that should have been respected...We didn't respect the youth at the table (Service Provider, R#13, 10 October 1996).

> There was one meeting, and I remember it vividly, where one of the service providers just tore into some kid. And the poor kid was just sitting there saying,

> 'that is not what I meant, that is not what I meant'. The service provider was just vicious... (VAP participant, R#18, 19 November 1996).
>
> There was certainly times throughout the process that they [youth] did not feel that it was an even playing field for them, that they were confused with what was going on and it was a struggle for them to understand the process, their role and those kind of things (Service Provider, R#30, 11 December 1996).

Institutional discourse produces and excludes actors. Those who do not advance the dominant rhetoric are marginalized (cf. Smart, 1989: 9-11).

4) The Role of the B.C. Ministry of Attorney General

Lobby efforts to address the sexual procurement of youth extended beyond complaints to the Ministry of Social Services. The discourse to protect sexually procured youth, and especially complaints about the lack of s.212(4) charges, were also directed to employees of the Ministry of Attorney General.

Several service providers suggested that employees with the Attorney General of British Columbia were not doing enough to encourage the enforcement of s.212(4). Several individuals argued their ideas and concerns related to s.212(4) were not heard by the Attorney General and his employees. Service providers believed their concerns were not addressed and that they were not informed about important initiatives because the Attorney General had better relations with some service providing communities than with others.

> Is there truly good will here [to do something about the sexual procurement of youth], or is it just a public relations exercise? Until partnerships are formed between the ministry and the community, little will be done. As it is, the Attorney General [office] gets along better with other communities...(Service provider, R#6, 23 April 1996).
>
> We are not really respectful of the Attorney General for what they have done. [The Attorney General] said he would come down here and work with the community, and we have never seen any of them down here (Service provider, R#11, 27 September 1996).

One informant also believed that some Attorney General employees lacked an understanding of community involvement and were not committed to addressing the sexual procurement of youth (Service provider, R#11, 27 September 1996).

Employees with the Attorney General of British Columbia argued the difficulties associated with s.212(4) were being addressed, and they resented the suggestion they lacked commitment to protecting youth from sexual exploitation. One Ministry employee noted that the A.G.'s office started talking to people in Vancouver about s.212(4) in 1992 and that police, the crown and government officials started brainstorming over what to do about the ineffectiveness of the legislation at that time:

> Lobbying has been steady and persistent. The police and the Crown have continued to put pressure on the federal government through us [the Attorney General]. The Minister has written I don't know how many letters and has had personal talks with Alan Rock [then Federal Minister of Justice] saying this section needs to be changed. So the pressure has been quite persistent, quite steady and quite vocal. Alan Rock has heard the message (Government Official, R#17, 8 November 1996).

In October 1994, the Attorney General formed an Assistant Deputy Ministers Committee to look at s.212(4) issues on a province-wide basis. One informant noted:

> We decided to focus on enforcement and getting the communities involved to address safety and nuisance issues and strategies to get youth off the street...as well as developing strategies to effectively target pimps and johns...I guess I have a problem calling it a Provincial Action Plan. In essence I think originally it was hoped it would be this massive plan dealing with street issues for youth across the province...unfortunately that money was not there. So I call it the next approach in the province's approach...and this one focuses on enforcement and community involvement (Government Official, R#16, 25 October 1996).

The notes from one VAP meeting (13 December 1994) revealed that the Child and Youth Secretariat would follow the lead of the VAP by developing a prevention and education program at the provincial level. During the spring of 1995, the Ministry of Attorney General initiated a consultation process on prostitution with various communities throughout British Columbia.

> The consultation was designed to provide information on the characteristics of prostitution, service needs and gaps, and law reform and enforcement issues. It was intended that consultation results would be used to make recommendations for *Criminal Code* amendments to the Federal/Provincial/Territorial (F/P/T)

> Committee on Prostitution, co-chaired by British Columbia and Justice Canada. It was also intended that the results would provide direction for the design of new provincial strategies and initiatives (Ministry of Attorney General, Communications and Education Division, March 1996).

The Provincial Action Plan

In September 1996 the provincial government launched the Provincial Action Plan (PAP) to combat the sexual procurement of youth on a province-wide basis. The goal of the PAP was to provide "tougher enforcement against pimps and johns, and more support for sexually exploited youth..." (News release, Province of British Columbia, Ministry of Attorney General, 21 March 1996). The information sheet produced by the Ministry of Attorney General, Youth Programs Division noted,

> The provincial plan supports specific actions that: take tougher enforcement actions against pimps and johns; raise public awareness about sexual exploitation and victimization of youth involved in prostitution; work with neighbourhood groups to develop strategies to make their communities safer; provide parents, teachers and others who work with children with the skills to identify high risk and vulnerable youth; and, support and protect sexually exploited youth by linking them with the appropriate community resources (September, 1996).

The Premier of British Columbia claimed that, "the provincial plan...reflects the continuing commitment of the province to work in partnership with communities on this issue [the sexual exploitation of youth]" (News Release, Province of British Columbia, Ministry of Attorney General, 21 March 1996).

The Provincial Prostitution Unit

> Part of the Provincial Plan was the Provincial Prostitution Unit (PPU), dubbed as an,
>
> ...innovative, coordinated justice response to the sexual exploitation of children and youth in prostitution. The Unit consists of three full-time, vice officers, a dedicated Crown Counsel, and a provincial coordinator to link justice personnel and the community (Information sheet produced by the Ministry of Attorney General, Youth Programs Division, September 1996).

The PPU was instructed to provide educational information and support to communities throughout British Columbia who were developing "...prevention, education and social intervention strategies to address the sexual exploitation of children and youth in their own community" (Information Sheet, Ministry of Attorney General, July 1997). In addition, the PPU was mandated to develop intelligence on techniques to enforce prostitution-related offences in British Columbia.

> The enforcement role of the Unit is to develop innovative techniques and strategies for use in investigation and enforcement of prostitution related offences, particularly those involving the sexual exploitation of youth, and to provide training to police regarding prostitution enforcement. Members of the Unit are available to assist local police agencies (both municipal police departments and RCMP) across the province by providing information on enforcement and by helping police plan and implement enforcement projects (investigations and arrests) for the prosecution sections of the Criminal Code (Information Sheet, Ministry of Attorney General, July 1997).

In November 1996 the Attorney General sent the PPU to deliver a presentation to the Federal Justice Minister about the need to amend s.212(4). To date the Unit continues to develop intelligence on ways to enforce legislation against people who sexually procure youth.

Some informants believed that the Provincial Prostitution Unit was a step in the right direction. While there was wide-spread agreement among many informants that problems existed with the province-wide plan, such as the under-representation of women on the Provincial Prostitution Unit, they suggested that its community-driven approach would help confront the sexual exploitation of street youth.[24]

> The Provincial Prostitution Unit is not a big government approach, but a community level response. This is not to be run by the government, therefore the program will not be so much at the whim of the government, to the same extent (Government Official, R#23, 28 November 1996).

> I believe that once people see the Unit [PPU] is working...that they will see things are going to change. But some people just don't want to listen...Quite simply, the politics need to end so we can all work together (Police officer, R#20, 26 November 1996).

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[24] At the inauguration of the PAP, I observed several critics arguing that there were no women on Provincial Prostitution Unit. They suggested that including women on the unit was necessary to develop ways to arrest men who sexually procure youths.

> The new Provincial Prostitution Unit is a good idea, but I think they are missing some important points. They are focusing on prevention and education about the law at some of the schools, when we need to go out and latch onto some of these kids right away...So they are missing the mark, they should be focusing on what needs to be actually done and go out and do the hard work and enforce this law (Service provider, R#14, 21 October 1996).

Some community members complained that they were not included in the process of developing the PAP. In response to suggestions that the Attorney General was working to enforce s.212(4), one service provider stated,

> I don't think that there is anything to see here because he is not listening. It is hard to work on a partnership when people are not listening to you. I think some very knowledgeable people in the community...have an understanding of what goes on here, and [the Minister] hasn't heard us (R#19, 22 November 1996).

Other service providers argued that the Attorney General had too much control of the Provincial Prostitution Unit; one service provider stated her agency did not become involved in the Provincial Action Plan (PAP) because it was totally controlled by the Attorney General's office. Another service provider noted:

> It [PAP] was done in isolation. Although the Attorney General...will say that they consulted with these people...and people who work with street youth, that's bull-shit because I know the people they consulted with and I know what they consider consulting and what consulting is...I know that the person they consulted with...went to three meetings and had no clue what was going on...The problems I have with the process is that they called it a process that was very Interministerial when I have spoken to several people who they supposedly consulted with and these people have a blank look on their face and they have no idea what they were consulted about. So I think some of the people responsible for implementing it don't have a clue about the area. I think it ends up being political (R#7, 23 April 1996).

One informant wondered if the Attorney General would be sensitive to social service initiatives. Another informant argued the Provincial Action Plan would be ineffective until the federal government amended s.212(4) to make it enforceable.

Further claims were made that the PAP and the VAP were not adequately coordinated with each other. Despite the theoretical connection between the VAP and the PAP, several respondents remained skeptical about the lack of cooperation between the two sponsoring

ministries. Some VAP participants argued they were not concerned that the VAP did not link-up with issues associated with s.212(4). They did not believe it was important to combine the two initiatives.

> The Vancouver Action Plan was a social response to the issue of the sexual procurement of youth. It was not a forum to discuss the criminal response. I have never seen the two [legal and social service initiatives] meet properly around this issue, so I am very leery about the combination of the [VAP] with the law. The law only ends up being repressive (Service provider, R#5, 22 April 1996).

Nevertheless, several informants expressed frustration because they believed they had to advocate for changes to s.212(4) on their own.

> There was no money in the VAP for s.212(4) [issues]...212(4) was not seen as a MSS [Ministry of Social Services] issue, it was an A.G. [Attorney General] issue. So [we] found ourselves doing our own campaigning over the lack of enforcement (Service provider, R#6, 23 April 1996).

Some participants argued the confusion over the connection between the VAP and s.212(4) spoke volumes about the government's inability to address the sexual procurement of youth. However, according to one service provider, the lack of cooperation was not surprising:

> There is no context to anything [related to social services], and there still isn't. So there is no central direction and there is not central leadership...there is no authority. I am not saying I am all hurrah for authority, but there is no central direction, and that just perpetuates the turf wars, the fighting over the same dollars, that kind of stuff (R#10, 27 September 1996).

The Federal/Provincial/Territorial Working Group on Prostitution

Amidst initiatives sponsored by the British Columbia government to address the sexual exploitation of youth, the Federal/Provincial/Territorial Working Group on Prostitution (F/P/T) was conducting nation-wide consultations to examine policies and practices related to street prostitution and youth involvement in the trade (F/P/T, 1995: 1). The F/P/T was formed in 1992 by the Federal-Provincial-Territorial Deputy Justice Ministers, at the encouragement of the British Columbia provincial government. The F/P/T was co-chaired by a representative from the B.C. Ministry of Attorney General (F/P/T, 1995; R#17, 8 November 1996).

5) Amendments to s.212(4)

During the interview process, Canada's Minister of Justice tabled two changes to s.212(4). On 14 December 1995 the Canadian government introduced Bill C-119 to combat male violence against women and children. Included was an amendment to s.212(4) that added the phrase, "who that person believes was under the age of eighteen years." The purpose of this change was to give police an advantage by empowering intelligence officers to pose undercover as a youth (Department Of Justice, Canada, News Release; 14 December 1995).

Immediate questions surfaced over possible court challenges should the proposed amendment be accepted. A government official expressed concern about possible challenges through the *Canadian Charter of Rights and Freedoms* (R.S.C. 1985, Appendix II, No. 44):

> The problem with that particular section is that we have had [some] Charter people tell us it will not work...that it is not a section that could be used (R#2, 3 April 1996).

Some service providers in Vancouver argued that, regardless of what the decoy said, an accused would claim in court that they did not actually believe the individual was under 18 years of age (and, in fact, they would not be).

Bill C-119 died on the order table. However, the federal government promised to re-introduce similar legislation, and, on 18 April 1996, the Minister of Justice tabled Bill C-27, which again proposed new wording of s.212(4). The Department of Justice news release stated (18 April 1996) that the changes:

> ...would make it easier to apprehend customers of young prostitutes by amending a *Criminal Code* provision to make it illegal to attempt to procure the sexual services of someone who is under the age of eighteen or who the customer believes is under that age."

To facilitate the arrest of people who sexually procure youths, the federal government introduced s.212(5) to help strengthen the legislation:

> For the purposes of subsection (4), evidence that the person from whom the sexual services were obtained or attempted to be obtained was represented to the accused as being under the age of eighteen years is, in the absence of evidence to the contrary, proof that the accused believed, at the time the offence was alleged to have been committed, that the person was under the age of eighteen years.

This addition was made to address police concerns by allowing undercover surveillance officers to present themselves as being under the age of eighteen to people who propositioned them.

Most informants familiar with Bill C-27 were skeptical of its potential to allow more charges. For example, provincial government officials I interviewed opposed this addition in favour of amendments agreed upon by the Federal-Provincial-Territorial Working Group on Prostitution (1995: 1).

> We feel in B.C. that it [amendments] does not fix the problem. They [federal government] heard the outrage about 212(4), so they brought in 212(5), but we still think that this does not fix the problem. All an adult has to do is say, 'I didn't believe she was under 18, and offer some reasonable reason for that, and then the case goes down (Government Official, R#17, 8 November 1996).

The Working Group (1995: 13) noted:

> Support was strongest for adding the following words to the definition: "a person who holds himself or herself to be under the age of 18 years." (Currently, the age definition is "a person who is under the age of eighteen years.") This would allow police to use adult decoys to obtain evidence that an adult attempted to procure a youth. There was less support for including the phrase "a person who appears to be under 18." While this wording would broaden the type of evidence regarding age that could be obtained, it was considered too vague and difficult to enforce.

Discontent about the proposed changes to s.212(4) were expressed by some service providers in Vancouver. They argued that the enforcement problems were not addressed adequately and that the proposed changes by the federal government and the Federal-Provincial-Territorial Working Group provided the accused with an escape clause. The police would only arrest an accused after an undercover intelligence officer communicated that they were under eighteen years of age. Customers would quickly learn not to approach anyone who mentioned their age (communication with R#5 after initial interview and following proposed changes). Further, there was concern that the proposed changes were only suitable for police "sting" or "intelligence" operations to lure potential procurers into incriminating situations. Service providers argued that any amendment to s.212(4) should give all police officers the ability to enforce this law using wire tap provisions.

> The proposed changes to the laws are just additions to a weak law that is poorly written. Even if the changes worked, the law would only be useful in 'sting'

> operations. It does not help other cops in the province where there is no vice squad. We want to be able to give the beat cop the tools to enforce this legislation (Service provider, R#3, 5 April 1996).

The struggle continued to define the sexual procurement of youth as "sexual abuse" and "exploitation," and to hold people accountable who purchase, or attempt to purchase, the sexual services of a youth.

6) Arguments for Reform

Notwithstanding the launch of the VAP and the PAP to address the sexual procurement of youth, the debates continued. Several informants continued to argue that not enough was done to protect sexually exploited street youth.

> I, like others, think prostitution should be taken out of the *Criminal Code*, but the government is not likely to do this...There is such a double standard in the way that we have dealt with prostitution laws...If we take it out of the *Criminal Code* and emphasize the victimization of children...If you are going to have anything in the *Code*, then make sure it is weighted for the children by focusing on those who victimize them (R#28, 10 December 1996).

For many service providers there are fundamental problems in the overall approach to the sexual procurement of youth. Several commentators want to transcend arguments over how to make s.212(4) enforceable by turning instead to child sexual abuse and exploitation legislation. The Federal-Provincial-Territorial Working Group on Prostitution (1995: 11) reported similar claims: "[s]ome respondents suggested the *Criminal Code* provisions dealing with youths involved in prostitution should be repealed and that the child sexual abuse provisions should be resorted to instead."

Service providers suggested this approach would make it easier for the police, Ministry of Social Service employees and the community to co-investigate men accused of sexually procuring youth. One service provider argued that community members could testify in court if they watched someone break into a neighbours home, and questioned why a similar technique was not used to confront men who sexually exploit youth.

> I suggested [using] sexual exploitation laws, then one [police and service providers] would be obligated to go and do an investigation when they got a report of a john with a kid. They [government] responded by saying they did not have enough people [staff] to do this. But we said just call up the john and say they are under investigation, as a deterrent (R#11, 27 September 1996).

This informant further argued that sexual abuse investigations would act as a deterrent for men attempting to sexually procure youths because of the strong social stigma attached to the issue.

Some respondents claimed that using sexual exploitation legislation would not change the limitations that law enforcement officials face. One police officer argued that problems would persist with the collection of evidence and that they would still have to rely on a youth's testimony to secure a charge. It wouldn't matter if a community member witnessed a youth enter an individual's vehicle, the police would still need to prove the attempted procurement took place. Unlike witnessing someone break and enter into a house, entering a vehicle does not constitute a breach of the law (R#29, 10 December 1996). In this regard the 'circumstantial' evidence of witnessing a youth entering a customer's car would not provide direct evidence that an offence had taken place.

Some respondents complained that in any other social situation this dynamic -- an adult male having sexual relations with a youth -- would be tantamount to child sexual abuse.

> We have identified that sexual abuse of children behind closed doors is a no-no, and we are willing to go to the wall to prosecute that. But once it moves out on to the street and children portray themselves as 'sex-trade workers', then there seems to be a real lack of political will. I think this has to do with the predominant male attitude and the way that we choose to perceive these children. We choose to perceive them as sex-trade workers to be there [on the street] to fulfill male fantasies. We don't choose to view them as children. So again, we make that kind of jump, and the loser in that jump of course is the children (Service provider, R#6, 23 April 1996).

However, this would only apply to situations where the youth was under the age of fourteen, otherwise it's legal for someone over fourteen years of age to consent to sexual relations (as per *Criminal Code* s.150). Some informants wanted to raise the legal age of sexual consent from fourteen years of age to sixteen or eighteen years to facilitate the use of sexual exploitation laws.

> In Canada, the legal age of sexual consent is 14, and the average age of entry into prostitution is 14...This is because pimps know this and recruit them at this age (Member of group for parents of sexually procured youth, R#31, 12 December 1996).

However, once again, this would not give police officers any advantage when confronting the sexual procurement of youth on the streets; legal officials would still have to prove that the attempted procurement took place.

The Success of Claimsmaking

The claimsmaking launched by service providers and community members, followed closely by the counter-claims of the police and government officials, helped propel changes and policy reform in numerous ways: the provincial government launched the VAP and the PAP, the Federal/Provincial/Territorial Working Group made recommendations concerning s.212(4) and youth involvement in prostitution, and the federal government took steps to amend s.212(4). These changes represent growing support for a sustained attack on the sexual procurers of youth. Further, the reconceptualization of "youth prostitution" as "sexual abuse" is a change in philosophy from previous initiatives that "criminalized young prostitutes" under the guise of protection (see, for example, the Badgley Committee, 1984).

Throughout the claimsmaking process some groups appeared to be more active than others, with the main difference between front line workers, who appeared panicked over the sexual procurement of youth, and provincial bureaucrats, who confront the issue from a more removed position -- usually from a government office that is isolated from the daily hardships of the streets. From my perspective, neither party had much sympathy for each other's position; provincial bureaucrats were not sympathetic to service providers who are impatient with the lack of s.212(4) charges and service providers were not sympathetic to the process of legislative change. Service providers desire immediate results to help them confront the sexual exploitation of youth on the streets, while ministry employees, though not necessarily less concerned, are immersed in a bureaucratic process that is slow to change. Nevertheless, by 1996 everyone agreed that protecting "sexually exploited street youth" is a laudable goal.

Chapter 5

Reacting to the Sexual Procurement of Youth

1) The Claimsmaking Process

Throughout this thesis I have described the politics of reform whereby service providers in Vancouver lobbied for increased protection of "sexually exploited street youth." I cited several factors that contributed to the (re)conceptualization of "youth prostitution" as the "sexual abuse of youth." In the second chapter I asserted that part of this reconceptualization involves treating male customers as "folk-devils" responsible for the sexual exploitation of street youth. Within this context interest groups in Vancouver raised questions about the reasons why men who purchased, or attempted to purchase, the sexual services of a youth were rarely charged.

To understand efforts to reform approaches to the sexual procurement of youth I focused on claimsmaking activities, or the process of naming and identifying social problems (Best, 1994; Spector and Kitsuse, 1977). Best describes how claimsmakers attempt to influence reform:

> Claims-makers inevitably hope to persuade. Typically, they want to convince others that X is a problem, that Y offers a solution to that problem, or that a policy of Z should be adopted to bring that solution to bear. While the success of claims-making may well depend, in part, on the constellation of interests and resources held by various constituencies in the process, the way claims are articulated also affects whether they persuade and move the audiences to which they are addressed (1994a: 105).

Service providers in Vancouver lobbied the provincial government to consider the "sexual abuse" of street-involved youth as a serious problem that needed to be addressed.

The third chapter of my thesis described the language strategies that service providers used to advance claims that more needed to be done to protect sexually procured youth. In advocating for a new approach service providers highlighted the inadequacy of existing practices to combat the sexual procurement of youth (Best, 1987: 111). Claims were made about the deficiencies of child welfare legislation for removing youths from the streets, the impoverished state of existing social services, and that the criminalization of sexually procured youth was

unacceptable because it blamed youths for their own victimization. In general, service providers argued that the term "youth prostitution" was, itself, part of the problem. Instead of talking about "youth prostitutes" they would refer only to "sexually procured youth."

Claimsmakers complained about the lack of charges under the new law that censured men who purchased, or attempted to purchase, the sexual services of a youth. Service providers argued that police and government officials should put more effort into developing ways to enforce s.212(4) in particular, and techniques to deal with the sexual procurement of youth in general. In response, counter-rhetorics emphasized the limitations imposed by the wording of the legislation. However, none of the claims challenged the underlying assertion that the "sexual abuse" and "exploitation" of street involved youth must be addressed. In this respect something was identified as wrong, people became "concerned," and measures were taken to "correct" the problem (Goode and Ben-Yehuda, 1994: 88/89; Unnithan, 1994).

In the process of lobbying for reform to s.212(4) a new discourse emerged that redefined "young prostitutes" as "sexually abused youth," while "customers" were reconstructed as "sexual abusers," "sexual predators," and "pedophiles." This discourse about the sexual procurement of youth mobilized policy reform. Claims that sexually exploited street youth were not being protected led, in part, to a growing consensus that something must be done to ensure their safety. Hunt and Wickham remind us that "[d]iscourses impose themselves upon social life, indeed they produce what is possible to think, speak and do" (1994: 9).

Claimsmakers eventually hope to affect social policy (Best, 1987: 101). The fourth chapter of my thesis described how service providers pressured the provincial government, and particularly the Ministry of Social Services and the Attorney General, to take steps to protect sexually procured youth. Not satisfied with arguments that s.212(4) is difficult to enforce, service providers agitated for amendments to the law. The provincial government reacted to concerns about the sexual procurement of youth by launching the Vancouver Action Plan, the Provincial Action Plan and the Provincial Prostitution Unit, and they provided some of the impetus for the formation of the Federal/Provincial/Territorial Working Group on Prostitution.

In addition, the federal government has initiated amendments to the wording of s.212(4) hoping to make it easier for police officers to enforce.

Once a condition is defined, claimsmakers will continue to lobby for control of the technical or practical means for addressing the phenomenon. Best (1994) characterizes lobby efforts as providing claimsmakers with ownership of the issue. My research revealed that during the VAP claimsmakers struggled over resources, debated who should be included in the process, argued over the definition of "sexually procured youth," and launched philosophical debates about the best way to approach the sexual procurement of youth. The claims and counter-claims that occurred during the VAP reinforced the idea that the sexual procurement of youth must be dealt with according to the logic advanced by service providers. In this respect "organizational self-interests" are commonplace in the process of defining social conditions (cf. Goode and Ben-Yehuda, 1994).

Overall, the discursive formations used to conceptualize the sexual procurement of youth produced a powerful frame of reference for policy reform, although the reforms have not satisfied the service providers who lobbied for changes. Service providers in Vancouver continue to lobby for greater protection of sexual procured youth. They struggle to control rhetoric about the sexual procurement of youth. The process of typification helps to exclude counter-rhetoric about youths involved in prostitution "as politically incorrect, almost unthinkable" (cf. Goode and Ben-Yehuda, 1994: 119).

Rhetorical Idioms and the Politics of Reform

In *Rhetoric in Claims-Making: Constructing the Missing Children Problem* (1987), Best notes that, "...constructionist studies outline the claims being made, but most researchers pay far more attention to the process of claims-making and the people who make claims than to the claims themselves" (p.101). Language gives meaning to a phenomenon. It is the "...place where actual and possible forms of social organization and their likely social and political consequences are defined and contested" (Weedon, 1997: 21). Discourse is a "...property and resource that provides a capacity for action" (Ericson and Haggerty, 1997: 84). The sexual abuse discourse

used to describe the sexual procurement of youth produced "truth-claims" and an "analytical space" (cf. Foucault, 1979) that dictated the character of reform. Richard Brown Reminds us that:

> This rhetorically constructed narrative unity provides models of identity for people in particular symbolic settings or lifeworlds. It also guides individuals and groups in knowing what is real and what is illusion, what is permissible and who is proscribed, what goes without saying and what must not be said (1994: 234).

To resist this goal, or to challenge the idea that sexually procured youth were "victims of abuse," was unthinkable. In this regard the seeds for reform were sewn by the sexual abuse discourse. The devil responsible for the sexual procurement of youth was the customer and the "sexual abuse" they inflicted upon innocent street youth.

The discourse used to conceptualize the sexual procurement of youth was protectionist in its scope: "sexually procured youth" were conceptualized as in need of "protection." Claimsmakers in Vancouver demanded that police and the Ministry of Social Services provide more protection to sexually procured youth. In the process these demands challenged state institutions conceptions of youth involvement in prostitution, thereby preventing alternative strategies.

The Context of Claimsmaking

"Claims do not emerge from a social and historical vacuum" (Best, 1994: 114). Claims about the sexual procurement of youth in Vancouver are similar to the rhetoric used by the Badgley Committee (1984). However, contemporary reformers in Vancouver would disagree with Badgley's decision to criminalize young prostitutes to keep them from a life of prostitution (Badgley, 1984: 1046). Nevertheless, Brock reminds us that the Badgley report's "...central concern with the protection of young people from sexual abuse was an uncontested one" (1998: 115). The language strategies used by service providers in Vancouver are a reorientation of the Badgley Committee's "...'raison d'être'...to protect young people from sexual harms..." (cf. Brock, 1998: 116).

Furthermore, claims made about sexually procured youth in Vancouver have become part of an international debate on the sexual exploitation of youth. On 22 August 1996 the *Christian Science Monitor* started a series of articles that discussed the "child sex trade" on a global level. Included in the articles were the opinions of community members from the Downtown East Side, and quotes from Vancouver police representatives, that emphasized the need to step-up our efforts to protect sexually exploited street youth (for example, see the *Christian Science Monitor*, 5 September 1996; 13 September 1996). This rhetoric is part of a growing world-wide effort to protect sexually exploited youth:

> This child saving rhetoric is in keeping with a movement washing across many parts of the world to combat traffic in women and children, and particularly the sexual exploitation of children. In 1996 the Swedish government, in cooperation with other government and non-government groups, sponsored the World Congress on the Commercial Exploitation of Children (Lowman, 1997: 9).

More recently, there was an International Summit of Sexually Exploited Youth in Victoria, B.C. (Halldorson-Jackson, 1998). It would thus appears that a philosophical change in approaches to "youth prostitution" reflects a growing international construction of the "sexual exploitation of street youth" as a major social problem.

Where to From Here

Because this was a study of claimsmaking activities, I did not interview street connected youth. My thesis research focused on the process of change, therefore I bypassed "...the 'actual' lived experiences" of the "victims" (cf. Michalowski, 1993: 378) of sexual procurement. However, my choice to focus on those empowered to confront the sexual procurement of youth should not be taken to mean that youth's voices do not count - they do. This is a separate and much needed study. Future research should examine disqualified or "subjugated knowledges" (cf. Foucault, 1980: 82) by talking with "sexually procured youth" in Vancouver about their perception of the claims being made about them. In addition, youths should be asked what role, if any, the law and social services should play in addressing the "sexual procurement of youth," whether youths believe they need "protection," and if so, what sort of measures should be used.

As Gail Pheterson notes, this is important because, "...control is clothed in language of "protection," "prevention," "re-habilitation" of "victims" but the message is consistently a prohibition of self-determination" (1996: 97).

Future research should also examine the effectiveness of policy reforms propelled by claimsmaking in Vancouver. It is important to examine the effectiveness of the Vancouver Action Plan, the Provincial Action Plan and section 212(4) to determine how they affect the sexual procurement of youth, and the new "other," the men who are conceptualized as the "folk devils" responsible for the sexual procurement of youth. Research should also focus on what could be done to confront some of the factors that makes "prostitution" a choice for some youth, such as youth employment structures and intra-familial violence.

APPENDIX I

INTERVIEW SCHEDULE

The following questions were used in a semi-structured interview format. Key informants did not address every topic. The information obtained hinged on the informants knowledge of specific issues, and their decision to focus on certain information. In addition to the nine main questions, I developed a series of probes that were used to gain a respondent's perspective. The probes appear below each main question.

Question 1: What was the impetus for the creation of section 212(4)?

- What were the main factors contributing to the introduction of s.212(4)?

- Who lobbied for the introduction of s.212(4)?

- How did s.212(4) fit into the Bill C-15 package that was introduced to confront sexual offences against children and youths?

- What role did the Badgley Committee (Committee on Sexual Offences Against Children and Youths) play in the introduction of s.212(4)?

- What role did the Fraser Committee (Special Committee on Pornography and Prostitution) play in the introduction of s.212(4)?

Question 2: What effect did the legislation generate?

- What happened after the introduction of s.212(4)?

Question 3: How was section 212(4) enforced?

- How s.212(4) is enforced? How is a charge obtained?

- What evidence is needed to secure a charge under s.212(4)?

- What factors contribute to the non-enforcement of s.212(4)?

- What are the perceived problems with the enforcement of s.212(4)?

- Is s.212(4) enforced in the area of Vancouver known as 'Boystown'?

- Is there any concern with enforcing s.212(4) enforced in off-street locations?

- What message does the lack of s.212(4) charges send to sexually procured youth?

- Are you aware of the enforcement of s.212(4) in other Canadian cities?
    - if yes, what is happening?
    - if yes, what are these other cities doing to enforce section 212(4)?

- What are your overall impressions as to why section 212(4) is not being enforced?

Question 4: What change(s) do stakeholders believe need to occur for s.212(4) to be enforced?

- What role have the police played in lobbying for changes to s.212(4)?

- What techniques have been used to try to enforce s.212(4)?

- What role has the Canadian Association of Chiefs of Police played in lobbying for changes to s.212(4)?

Question 5: Are other measures used to prevent the sexual procurement of youths?

- What measure were used to confront the sexual procurement of youths prior to the introduction of s.212(4)?

- Why are youths charged under s.213 (the communicating law)?

- Does charging youths entrench their alienated status?

- What procedures do police follow when using section 213 to arrest youths?

- What are the reactions of youths who are arrested under section 213?

- What role does Child Welfare legislation play in confronting the sexual procurement of youth?

- What message do youths receive when they are arrested for a prostitution-related offence?

Question 6: Who is lobbying for section 212(4) to be enforced?

- Who is lobbying for changes?

- What are reformers doing to promote change to s.212(4)?

- What are your impressions of some of these initiatives?

- What are your impressions of the recent amendments proposed by the federal department of Justice?

Question 7: What might occur if section 212(4) was enforced?

- What are the benefits if s.212(4) was enforced?

- What are the negatives if s.212(4) was enforced?

- Would the enforcement of s.212(4) deter customers?

- What do you expect from the enforcement of s.212(4)?

- Do sexually procured youth rely on prostitution as a source of income?

- What are your overall impressions of s.212(4)?

Question 8: How does the Vancouver Action Plan Address the Sexual Procurement of Youth?

- What is the role of the Vancouver Action Plan?

- What is the history of the Vancouver Action Plan?

- Who was responsible for initiating the Vancouver Action Plan?

- What are the goals of the Vancouver Action Plan?

- Who is involved with the Vancouver Action Plan?

- What is your involvement with the Vancouver Action Plan?

- What role do sexually procured youth play in the Vancouver Action Plan?

- What do you think about the poster campaign launched through the Vancouver Action Plan?

- What are your overall impressions of the Vancouver Action Plan?

Question 9: What other steps might be taken to confront the sexual procurement of youth?

- What services do sexually procured youths need?

- What are your impressions of the Provincial Action Plan and the Provincial Prostitution Unit?

Conclusion: Overall, is there anything that I left out that you would like to add?

APPENDIX II

SUMMARY OF RESOURCES ALLOCATED TO THE VANCOUVER ACTION PLAN

On 14 November 1994 the B.C. government announced the commitment of 1.98 million dollars to confront the sexual exploitation of youth on the streets. Dubbed as a community-based initiative, the government's goal was to help "...children victimized by the sex trade," and confront "pimps and johns" (British Columbia Government News Release, 14 November 1994: 1). The government set aside the following funds (CS/RESORS, 1994):

- $700,000 for a Safe House to provide beds, including space for children under 16 years of age.
- $350,000 for a resource centre to provide services to street kids.
- $600,000 for youth detox services.
- $150,000 for development of a community-led public awareness campaign.
- $50,000 for services of parents of sexually exploited kids and for educational material targeted at young people.
- $55,000 each for two coordinators to work with the community to coordinate the implementation of this initiative and to develop longer term solutions.
- $10,000 each from the street kid resources network and the street youth housing registry.

After the government's announcement a series of meetings occurred to outline the scope and direction of the VAP. These meetings included the following communities: Downtown East Side, Granville South (or the Downtown South), Mount Pleasant and the aboriginal community (Minutes 13 December 1994). Youth representation was pinpointed as essential to the process, as well as representation of service providers and citizen groups.

To facilitate the VAP process, a Steering Committee was formed to help allocate the resources. The Ministry evaluation (CS/RESORS, 1996: 8) noted:

> As for the scope or purpose of the Steering Committee, it evolved that the Committee saw itself as making recommendations about precisely how the

> government funds would be allocated, in terms of the design of services within each budget category and who would be responsible for delivering the given service or activity. The Steering Committee would make its decisions and these would be communicated as recommendations to the ADM [Assistant Deputy Minister] ofFamily and Children's Services for approval.

The Steering Committee then held several meetings to decide the final allocation of resources (cf. CS/RESORS, 1996: 10-12):

> (1) Approximately $600.000 for several agencies to provide detox services. This included resources for an evaluation of the programs.
>
> (2) $690,000 for Safe-housing for sexually procured youth.
>
> (3) $10,000 for enhanced Housing Registry.
>
> (4) $55,000 for the coordination of the VAP.
>
> (5) $55,000 for the coordination of the Aboriginal Community.
>
> (6) $350,000 for the development of resource centres / store fronts for sexually procured youth. To help provide essential services to youth.
>
> (7) $50,000 for prevention and education. An acting troupe was developed to present to youths at school about the risks associated with becoming involved in the sex trade. Directed by a representative from the Attorney General.
>
> (8) $10, 000 for street kids resource network.
>
> (9) $150,000 was identified as charge-back from CGO. This amount was sent to the Minister of Finance for processing and $25,000 was set aside for the evaluation of the VAP process (CS/RESORS, 1996).

Also included was funding for an outreach worker in the Mount Pleasant community and a media awareness campaign to educate the public about the sexual procurement of youth (CS/RESORS, 1996: 10/11).

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