



Canadian Association of Chiefs of Police

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to advance the safety and security of all Canadians.

Presentation to the House of Commons' Standing Committee on Justice and Human Rights

Study of the Protection of Communities and Exploited Persons Act

Remarks by:
Superintendent Lisa Byrne
(Member of the CACP Law Amendments Committee)

Representing:

Canadian Association of Chiefs of Police

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Good afternoon and thank you for the opportunity to address this committee on behalf of the Canadian Association of Chiefs of Police.

Human trafficking investigations and prosecutions require significant victim participation. This leads to the re-victimization of individuals who have to re-tell their stories and re-live their experiences on multiple occasions.

While police in Canada focus on trauma-informed practices, the nature of the system required to hold offenders accountable is adversarial, difficult for victims to navigate, and is not victim-centered.

The primary goal should be to fully support victims who are often children and vulnerable individuals. This may include helping the victim leave the exploitive situation, but this often happens in the absence of criminal charges or offender accountability. A significant strategy employed by police to combat sex-related human trafficking is to hold offenders accountable in court by relying more on corroborative evidence and less on direct victim testimony.

The Commodification of Sexual Activity and related sections of the *Criminal Code* are useful for police to combat sex trafficking. For example, in 2018, the Vancouver Police used section 286.1(2) [obtain sexual services for consideration from persons under 18 years of age] to arrest and convict 24 individuals who made efforts to purchase sex from children. In 2020 and 2021, the Ontario Provincial Police charged 26 males and 2 females with a variety of offences related to sex trafficking including Trafficking in Persons (s. 279.01 and s. 297.011), Material Benefit (s. 286.2), Procuring (s. 286.3) and Advertising Sexual Services (s. 286.4).

Police agencies use these offences to focus on offenders, often the buyers of sex and profiteers of human trafficking victims.

These offences may or may not require evidence in the form of victim testimony. They are often supported by corroborative evidence that the police can obtain via the use of search warrants, production orders, and other evidence gathering techniques.

For example, I am aware of an investigation in southwestern Ontario in which a 17-year-old victim of sex trafficking never provided a statement to police. Despite offers of support to the victim, the combination of her fear and personal vulnerabilities prevented her from ever giving a statement.

However, police were able to collect sufficient evidence to arrest the accused. A warrant was obtained to search a phone that the accused had in his possession upon his arrest. The evidence contained within it, along with corroborative evidence from the victim's mother, were sufficient to prove the procuring charge. The offender pleaded guilty and received a jail sentence.

The offences in section 286 of the *Criminal Code* led to this offender accountability, whereas the same evidence, without victim testimony, would not have been sufficient to prove a human trafficking charge to the requisite standard in criminal court.

In addition, where human trafficking and offences from section 286 are laid in the same case, the legislation being studied provides much-needed flexibility in developing a prosecutorial strategy when victim testimony is, or becomes, unavailable for a variety of reasons.

The *Criminal Code* also provides exceptions to those who provide their own sexual services, whether independently or cooperatively, as long as the only benefit received is derived from the sale of their own sexual services. The exceptions codified in law under sections 286.2 (4) and 286.5 extend to those who assist others in the sale of their own sexual services (for example by keeping them safe) and derive a financial or material benefit as long as there is no exploitative relationship. As a result, police are not laying charges in these circumstances.

The Ontario Court of Appeal recently upheld the constitutionality of the relevant offences and further defined the exceptions in *R. v. N.S.*, 2022, ONCA 160. I encourage the Committee to reference this case as part of your decision-making process.

The law as is does not permit the police to target individuals who provide their own sexual services and those who receive a financial or material benefit from non-exploitive situations.

The focus of the police has been to target predatory offenders and organized crime groups who exploit vulnerable victims. The legislation being studied is an essential tool for police to ensure the safety and security of children, vulnerable adults, and victims of crime and, where appropriate, to prosecute offenders who exploit them.

The CACP recommends that the current statutes be maintained and is not advocating for change.

Thank you.