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**From:** McPhail, Roxanne <Roxanne.McPhail@york.ca> on behalf of Regional Clerk  
<ClerkGeneralLine@york.ca>  
**Sent:** Monday, March 28, 2022 1:53 PM  
**Subject:** Regional Council Decision - Sex Trafficking: Legislation, Jurisdiction, Enforcement and Victim Support  
**Attachments:** Sex Trafficking - Legislation, Jurisdiction, Enforcement and Victim Support.pdf

**CAUTION:** This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.

On March 24, 2022 Regional Council made the following decision:

1. The Regional Clerk forward this report to the local municipalities, York Regional Police and the Regional Municipality of York Police Services Board.

The original staff report is attached for your information.

Please contact Dan Kuzmyk, Regional Solicitor and General Counsel at 1-877-464-9675 ext. 71401 if you have any questions with respect to this matter.

Regards,

**Christopher Raynor** | Regional Clerk, Office of the Regional Clerk, Corporate Services

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Our Mission: **Working together to serve our thriving communities – today and tomorrow**

# **The Regional Municipality of York**

Committee of the Whole  
Finance and Administration  
March 3, 2022

Report of the Regional Solicitor

## **Sex Trafficking: Legislation, Jurisdiction, Enforcement and Victim Support**

### **1. Recommendations**

The Regional Clerk forward this report to the local municipalities, York Regional Police and the Regional Municipality of York Police Services Board.

### **2. Summary**

This report responds to a motion of Council at Committee of the Whole on October 14, 2021, for a staff report in relation to sex trafficking which:

- (a) Considers potential revisions to Federal and/or Provincial legislation
- (b) Clarifies enforcement jurisdiction
- (c) Considers any further measures York Region, York Regional Police or local municipalities could implement.

The report first reviews Federal, Provincial and municipal spheres of jurisdiction, including enforcement responsibilities—both individually and multi-sector. The review also considers ongoing and planned community measures related to sex trafficking involving York Region, York Regional Police (“YRP”), and the local municipalities. The report does not support a Council request for potential senior government legislative revisions relating to sex trafficking at this time.

Key Points:

- No single jurisdiction has the authority or legislative jurisdiction to deal with sex trafficking
- The *Criminal Code of Canada* and other Federal statutes describe offences and penalties in relation to commodification of sexual services, including sex trafficking

- Provincial statutes dealing with these issues include the *Municipal Act, 2001*; the *Accommodation Sector Registration of Guests Act, 2021*; the *Anti-Human Trafficking Strategy Act, 2021*; the *Child Youth and Family Services Act, 2017*; and the *Prevention of and Remedies for Human Trafficking Act, 2017*
- Local municipalities have sole jurisdiction for local land use, zoning and business licensing and regulation, including businesses which provide adult entertainment such as strip clubs and body rub parlours
- York Region’s primary role is through its Community and Health Services mandate which provides support to victims of sex trafficking and sexual exploitation in collaboration with YRP and community partners
- Investigation and enforcement of *Criminal Code* sex commodification offences, including those relating to sex trafficking, are within the jurisdiction of police services, including YRP—both independently and in collaboration with Federal and Provincial law enforcement and municipal bylaw officers
- An approach which purports to eradicate sexual exploitation and sex trafficking by focusing primarily on localized prohibition, interdiction and enforcement related to adult entertainment enterprises would have a limited effect compared to what is already in place

### 3. Background

**This report was requested by Council at Committee of the Whole on October 14, 2021, following a deputation by Parents Against Child Trafficking—Markham & Richmond Hill (PACT) and the Council of Women Against Sex Trafficking in York Region (CWASTYR)**

PACT and CWASTYR advocate for the eradication of municipally licensed and regulated adult entertainment establishments as a purported means of eliminating sex exploitation and sex trafficking in Ontario. PACT and CWASTYR have communicated their position on sex trafficking to numerous municipal Councils in York Region in addition to several deputations to the York Regional Police Services Board.

In their deputation to Committee of the Whole in October 2021, PACT and CWASTYR requested Council to take three steps which, it was suggested, would “make York Region the first zone in Ontario free from sex trafficking and the sexual exploitation of women”:

1. Secure Agreement from Markham, Richmond Hill, Vaughan and Aurora to cease licensing adult entertainment establishments, including body rub parlours and strip clubs.
2. Request Ontario Attorney General, Doug Downey, to amend the *Municipal Act, 2001*, by removing reference to licensing provisions pertaining to adult entertainment establishments which— PACT and CWASTYR contended—would thereby render adult entertainment establishments “illegal”.

3. Request Ontario Solicitor General, Sylvia Jones, to grant arrest powers to municipal bylaw enforcement officers which, according to PACT and CWASTYR, would allow them to make arrests at commercial establishments that “sell sexual services in defiance of the law”.

In response to the PACT/CWASTYR deputation, Council adopted the following motion:

Committee of the Whole received the deputation from Robert Vallee and recommends that Council refer the matter to staff for a report back on potential revisions to Federal/Provincial legislation, clarifying jurisdictions of enforcement and any other further measures the Region, York Regional Police (YRP) or local municipalities could implement.

For the reasons discussed in this report, York Region staff, in consultation with YRP, suggest that the issues of sex trafficking or sex exploitation of women in York Region are being adequately addressed through the current legislation, tools and strategies established by senior levels of government.

## 4. Analysis

### A. FEDERAL JURISDICTION

**The Federal government makes criminal law while provinces and territories, including their respective policing agencies, are primarily responsible for enforcement**

The Federal government has exclusive authority to make criminal laws which apply across the country, and it shares responsibility for criminal justice with the provinces and territories. The primary role of the provinces and territories is the enforcement of the Federal *Criminal Code*, which includes investigating and prosecuting most offences, and providing services and assistance to victims of crime. Attachment 1 sets out spheres of jurisdiction and references applicable statutes and responsibilities related to sex trafficking

**Canada’s *Criminal Code* was amended in 2014 to diminish the demand for and criminalize the purchase of sexual services**

Laws are amended as society evolves and technology and practices change. In 2014 Bill C-36, the *Protection of Communities and Exploited Persons Act* amended the *Criminal Code* to apply a “victim-centred” approach to the sex trade by acknowledging that the sale of sexual services—the commodification of sex—is a form of exploitation that disproportionately affects women and girls. This perspective treats individuals selling their own sexual services as potential victims of sexual exploitation who may need assistance, not criminals needing punishment, and accordingly exempts them from prosecution.

The rationale behind Bill C-36 is to reduce the demand for sexual services and discourage the development of economic interests in the sexual exploitation of others by targeting those

who purchase sexual services and those who benefit materially or otherwise from the sexual exploitation of others.

### **Human trafficking—including sex trafficking—is illegal in Canada under the *Criminal Code* and other federal statutes**

Sex trafficking is a specific form of human trafficking that focuses on sexual exploitation, primarily of women and girls and is a crime under the *Criminal Code*. It can include recruiting, harbouring, transporting, obtaining, or providing a person for the purpose of sex. It may involve the use of force, physical or psychological coercion or deception. Most individuals who are trafficked for the purpose of sexual exploitation are women and girls, but others may also be victims. Traffickers may prey upon people at odds with or separated from their families, those suffering from housing, food insecurity, or addiction issues, survivors of abuse, new immigrants, migrants, or youth at risk.

Human trafficking has also been a Federal offence under the *Immigration and Refugee Protection Act* since 2002. Under this Act, it is illegal to recruit or bring any person to Canada against their will, tricking them by fraud or deception, or using threats or force. It is also against the law to keep someone in Canada against their will or control their movements by using any of the above coercive methods.

### **Canada's National Action Plan to Combat Human Trafficking consolidates the efforts of multiple ministries and agencies to better target Federal efforts**

In 2012 the Federal government launched the National Action Plan to Combat Human Trafficking (NAP) consolidating all Federal activities into one comprehensive plan. The NAP aims to prevent human trafficking, support victims and potential victims and ensure perpetrators are brought to justice. Activities under the NAP include the provision of Federal grant funding to organizations that deliver critical support services to victims and survivors, a coordinated law enforcement response managed through the RCMP's Human Trafficking National Coordination Centre and a private-public sector partnership known as Project PROTECT, which focuses on money laundering that may result from human trafficking.

## **B. PROVINCIAL JURISDICTION**

### **In 2021 Ontario's Bill 251 introduced legislative amendments aimed at assisting police investigations and the protection of victims**

In June 2021 *Bill 251 - Combatting Human Trafficking Act, 2021* received Royal Assent. Bill 251 amends specific Provincial legislation to assist police in their efforts against sex trafficking and to protect victims (See Attachment 1).

As well, Bill 251 established Ontario's Anti-Human Trafficking Strategy. In alignment with Federal Bill C-36, the Provincial strategy takes a proactive "victim-centred" approach by focusing on early intervention, victim protection, supporting survivors and holding offenders accountable. This strategy brings together multiple, cross directional ministries, with various

community stakeholder groups and service providers. This multi-sector approach promotes meaningful and effective application of the Provincial Anti-Human Trafficking Strategy.

The Province, through its ministries, work with service providers and community stakeholders directly engaged in the activities contemplated by the strategy. This direct engagement extends to municipalities only as providers of social housing and requires that human trafficking victims be a top priority, on the housing wait list, along side victims of domestic violence.

### **C. LOWER-TIER MUNICIPAL JURISDICTION**

#### **Local municipalities have authority to enact bylaws in relation to matters that will affect their communities and to provide personnel to enforce these bylaws**

The Province delegates authority to local municipalities on a variety of matters, including bylaw and licensing authority, property matters, and enforcement of certain Provincial Offences. Under the *Municipal Act, 2001*, business licensing and property standards are among several areas that are the exclusive jurisdiction of local municipalities to regulate, ensure compliance and enforce.

Local municipalities are best situated to determine and apply community standards and expectations in relation to certain activities in ways that may be unique to their municipality. Examples include the types of businesses that may be licenced, where such businesses may be located, what hours the businesses may operate, what qualifications may be required and licensing fees to impose. In this respect, one size may not fit all and each local municipality is therefore best suited to determine constituents' expectations

Municipal bylaws are made in close proximity to those who are most affected by the issue being regulated. Citizens may attend meetings of municipal representatives, and may also participate and be heard directly during Council or Committee proceedings. It is this kind of accessible, highly transparent participatory democratic process that gives municipal lawmakers a clear lens into what their constituents want for their community.

### **D. UPPER-TIER MUNICIPAL JURISDICTION**

#### **York Region does not have a statutory jurisdictional role in either regulating adult entertainment establishments or enforcing sex trafficking laws, but plays an important part in victim support**

As an upper-tier municipality, York Region does not have legislative authority to direct lower-tier municipalities in regard to business licensing and regulation, including adult entertainment establishments. However, York Region is actively engaged with community partners and provides support services to victims of sex trafficking directly and indirectly through a variety of program areas including:

1. Five sexual health clinics provide, testing and treatment at no cost to clients, offer support and referrals to community services, if requested, and outreach initiatives

in shelters—staff are trained to recognize and respond to clients who may be victims of human trafficking and are adept at creating safe spaces for access to sexual health consultation and services.

2. Community Partner Alliance to Stop Trafficking (CPAST) is a partnership including York Region, YRP, community members and community agencies such as Victim Services of York Region and 360° Kids.
3. Homelessness Community Program Outreach Workers provide support for individuals in the community including those who are at risk of or experiencing homelessness and provides referrals to community agencies to ensure safety, well-being and housing stability.
4. Regional Housing Services prioritizes survivors of human trafficking and domestic abuse on the housing waitlist for subsidized housing and provides Provincial funding to 360° Kids and the Women's Support Network for programming.

## **E. YORK REGIONAL POLICE**

### **York Regional Police is an active partner in Federal and Provincial efforts to combat sex trafficking and enforce criminal laws**

YRP, as the municipal law enforcement agency for York Region, is an active partner in joint initiatives ranging from investigations to information sharing, working with Federal and Provincial enforcement partners and other municipal police services to implement and coordinate often lengthy and complex investigations.

YRP has a dedicated Human Trafficking Section that investigates incidents involving adult and juvenile sex trade workers. When exploitation is alleged or suspected, it is prioritized and immediately investigated utilizing the Ontario Provincial Human Trafficking Strategy "Four P" victim-centred approach, namely Prevention; Protection; Prosecution and Partnerships.

### **York Regional Police also partners with local community agencies and local municipalities**

Rather than focusing solely on "eradication", which drives sex work underground and often further marginalizes sex workers, YRP has worked to develop numerous partnerships with community agencies including Victim Services of York Region, 360° Kids, Blue Door Shelters, Sandgate, Yellow Brick House and the Children's Aid Society. A key component of these partnerships—which emphasize victim protection is the "Three Rs"™ Rescue; Rehabilitation; and Reintegration.

YRP also applies for additional funding through Federal and Provincial grant programmes. This funding is used for education, training community partners, providing for victims' needs, conducting investigative probes, intelligence gathering and enforcement.

As noted, one of the key components of intelligence gathering and enforcement is working closely with local municipal bylaw officers, developing and enacting joint initiatives and providing training to facilitate recognition of the signs of human trafficking.

### **Focusing on “eradicating” body rub parlours as a means of combating sex trafficking or protecting children is not an effective strategy**

Body rub parlours and other adult entertainment establishments, as defined in the *Municipal Act, 2001*, are not illegal businesses, *per se*. While criminal activities may occur in such establishments, the businesses themselves are lawful. Refusing to grant business licences will not “eliminate” massage parlours, nor will removing adult entertainment establishments from the provisions of the *Municipal Act*. In addition to driving the activity underground, such a strategy would only fetter municipal bylaw enforcement officers who rely on these laws for their authority to inspect such establishments to ensure compliance with public health requirements and local bylaws.

Additionally, targeting body rub parlours and other adult entertainment establishments would be concentrating enforcement efforts in an area of lesser concern in relation to sex trafficking. As was pointed out in an April 2021 letter from Jason Fraser, YRP General Counsel to PACT, the majority of human trafficking victims in York Region are trafficked within hotels, condominiums and short-term rental properties, not body rub parlours and other adult entertainment establishments. (Attachment 2)

It should be noted it is also rare that children are found within body rub parlours. As reported to the York Region Police Services Board in November 2020, since 2008, there have been no children recovered within these establishments. (Attachment 3)

## **F. POTENTIAL LEGISLATIVE REVISIONS**

### **Staff do not support granting arrest powers to bylaw officers as requested by PACT and CWASTYR**

Police officers have a duty to investigate crime and to arrest individuals and are therefore vested with both statutory and common law powers of arrest. On the other hand, municipal law enforcement officers have no such statutory duty to investigate crime and therefore have no common law authority to make arrests. Under the *Police Services Act*, the power of municipal bylaw officers is limited to acting as Peace Officers for the purpose of enforcing municipal bylaws.

The *Police Services Act* grants arrest powers to police officers to arrest individuals. Furthermore, the definition of “police officer” specifically excludes “municipal bylaw enforcement officers”, which means that a legislative amendment to the *Police Services Act* would be required to give arrest powers to municipal law enforcement officers.

A potential option that would not require a statutory amendment would be to have the Police Services Board, with the approval of the Solicitor General, appoint municipal enforcement



officers to be special constables and to specifically delegate powers of arrest, pursuant to the *Police Services Act*. However, neither legislative amendment nor Police Services Board appointment are advisable or practical, for the following reasons:

1. Police officers receive rigorous training in many areas, including *Charter* rights involving arrest, detention and the use of force, and if these powers are exceeded, there is a risk of *Charter* and civil damages, thereby exposing municipalities to potentially significant and unnecessary risk.
2. Granting arrest powers to municipal bylaw staff, as has been suggested, would strongly signal that the dominant purpose would be to further criminal sex commodification prohibition, a power which is explicitly reserved for Parliament pursuant to the *Constitution Act, 1867*—not the Province or municipalities—and would therefore likely be found to be unconstitutional if challenged.
3. Municipal officers currently conduct inspections of adult entertainment establishments through powers of entry contained in municipal bylaws, which does not require search warrants; if the bylaws were repealed, search warrants would then be required as there is no warrantless entry for criminal investigations.

## 5. Financial

There are no financial impacts directly associated with this report.

## 6. Local Impact

There are no direct local impacts, but this report does discuss matters of local municipal interest and jurisdiction.

## 7. Conclusion

**Federal, Provincial and municipal powers in relation to sex trafficking are appropriately allocated through existing legislation and areas of constitutional jurisdiction and would not benefit from legislative revision**

The current legislative regimes as described in this report appropriately allocate duties in relation to the jurisdictional responsibilities of the three levels of government in Canada. The multi-sector, cross-jurisdictional approach adopted by the Federal and Provincial governments in relation to the commodification of sex engages a variety of stakeholders and service providers, including law enforcement and community organizations to ensure the effective use of all the legal tools available to combat sex trafficking and support victims and survivors. Accordingly, there would be no benefit in pursuing legislative revisions at this time.

For more information on this report, please contact Dan Kuzmyk, Regional Solicitor and General Counsel at 1-877-464-9675 ext. 71401. Accessible formats or communication supports are available upon request.



Recommended by:

**Dan Kuzmyk**  
Regional Solicitor and General Counsel



Approved for Submission:

**Bruce Macgregor**  
Chief Administrative Officer

February 18, 2022  
Attachments (3)  
#13456415

JURISDICTION	LEGISLATION
<b>FEDERAL</b>	<p><i>Criminal Code</i> deals with:</p> <ul style="list-style-type: none"> <li>• Human Trafficking</li> <li>• Trafficking of a person under the age of 18 years</li> <li>• Knowingly receiving any benefit derived from human trafficking</li> <li>• Taking or destroying travel or personal identification documents of a person being trafficked</li> <li>• Exploitation</li> </ul> <p><i>Immigration and Refugee Protection Act</i> deals with:</p> <ul style="list-style-type: none"> <li>• Human Smuggling and Trafficking</li> <li>• Trafficking in persons</li> </ul>
<b>PROVINCIAL</b>	<p><i>Accommodation Sector and Registration of Guests Act, 2021</i></p> <ul style="list-style-type: none"> <li>• will require hotels to maintain guest registers and provide them to police if there are reasonable grounds to believe human trafficking may be occurring</li> </ul> <p><i>Anti-Human Trafficking Strategy Act, 2021</i></p> <ul style="list-style-type: none"> <li>• establishes a multi-sector provincial strategy to address trafficking and prevent victimization, the strategy is reviewed every five years</li> </ul> <p><i>Child and Youth Family Services Act, 2017</i></p> <ul style="list-style-type: none"> <li>• provides child protection workers and peace officers who have reasonable grounds to believe a child who has been sexually exploited to take the child to an alternative location which provides services and support</li> <li>• Duty to report a child in need of protection</li> </ul> <p><i>Prevention of and Remedies for Human Trafficking Act, 2017</i></p> <ul style="list-style-type: none"> <li>• Allows a victim and those caring for child victims of sexual exploitation to apply for a restraining order to protect a victim or any other person</li> <li>• A victim may bring an action against any person engaged in human trafficking</li> </ul>
<b>LOWER-TIER</b>	<p><i>Municipal Act, 2001</i></p> <p>Grants exclusive jurisdiction to lower-tier municipalities in the following areas:</p> <ul style="list-style-type: none"> <li>• Business Licensing and Regulation</li> <li>• Bylaws</li> <li>• Bylaw Enforcement</li> <li>• Local land use and zoning</li> </ul>

	<ul style="list-style-type: none"> <li>• Property Standards</li> </ul>
<b>UPPER-TIER</b>	<p><i>Health Protection and Promotion Act, 1990</i></p> <ul style="list-style-type: none"> <li>• Health programs and services</li> <li>• Public health inspections for infection prevention and control and health hazard complaints</li> </ul> <p><i>Police Services Act, 1990</i></p> <p>Sets out the following principles for policing in Ontario:</p> <ul style="list-style-type: none"> <li>• The need to ensure the safety and security of all persons and property in Ontario.</li> <li>• The importance of safeguarding the fundamental rights guaranteed by the Canadian Charter of Rights and Freedoms and the Human Rights Code.</li> <li>• The need for co-operation between the providers of police services and the communities they serve.</li> <li>• The importance of respect for victims of crime and understanding of their needs.</li> <li>• The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.</li> <li>• The need to ensure that police forces are representative of the communities they serve.</li> </ul>



Brian Bigras  
**Deputy Chief  
of Investigations**

Paulo Da Silva  
**Deputy Chief  
of Administration**

Jim MacSween  
**Chief of Police**

Cecile Hammond  
**Deputy Chief  
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April 19, 2021

**Via Email to [rvallee@pactmarkham.com](mailto:rvallee@pactmarkham.com)**

Robert Vallee  
Founder and Board Chair  
People Against Child Trafficking - Markham &  
Council of Women Against Sex Trafficking in York Region

Dear Mr. Vallee:

**Re: Your Email to the Regional Municipality of York Police Services Board**

Please be advised that a copy of your email to the Regional Municipality of York Police Services Board, dated March 31, 2021, has been forwarded to my office for review and reply on behalf of Chief Jim MacSween and York Regional Police.

You have provided two deputations to our Board regarding human trafficking and sexual exploitation in body rub parlours. After your first deputation, in December of 2019, the Board directed Chief MacSween to provide a response in the form of a report to the Board. The Chief provided his report to the Board at its November 25, 2020 meeting. The Board received your second deputation on February 24, 2021 but did not require any further response from the Chief.

I understand that, in August of 2019, you also met with Deputy Chief Brian Bigras and then Inspector Thai Troung to discuss issues related to human trafficking and the shutting down of massage parlours in Markham and elsewhere in York Region.

In your email to the Board, you have made a number of requests of Chief MacSween or York Regional Police, including:

- Completing a nine-page questionnaire that seeks a detailed breakdown of the human trafficking statistics you received from our Freedom of Information Unit;
- Petitioning the Premier of Ontario and other members of his Cabinet to amend the *Municipal Act, 2001* to criminalize activities related to body rub parlours and other adult entertainment establishments; and

- Engage in a half-day workshop that would “forge a region-wide policy of prostitution/trafficking management and police force deployment that will be a new standard for municipalities in Ontario.”

Additionally, you seek a third deputation before our Board.

We share your desire to combat human trafficking in our community. However, for the reasons that follow, we are not in a position to accede to your requests.

As a preliminary matter, I would advise that Canadian police services collect and report crime statistics in a manner prescribed by Statistics Canada under the National Justice Statistics Initiative. This enables the Canadian Centre for Justice Statistics, a division of Statistics Canada, to conduct statistical analyses on national and jurisdictional levels. The statistics we collect do not lend themselves to your nine-page questionnaire.

On a more substantive note, the Province of Ontario has already embarked on a five-year anti-human trafficking strategy in an effort to raise awareness of the issue of human trafficking, protect victims and intervene early, support survivors and hold offenders accountable. York Regional Police supports the province’s efforts and works closely with our partners in the Provincial Human Trafficking Prosecution Team and various community agencies to implement this strategy within our region.

We question the efficacy of your focus on massage parlours as locations for human trafficking when the majority of human trafficking victims in York Region are being trafficked within hotels, condominiums and short-term rentals. Moreover, we believe that your emphasis on closing body rub parlours is both legally problematic and inconsistent with our victim-centred approach to human trafficking investigations.

This is not to suggest that we ignore the problems associated with body rub parlours. York Regional Police works with our partners in municipal law enforcement in the regulation of these establishments. As noted in the Chief’s Board Report, we provide training to municipal law enforcement officers to help them recognize the signs of human trafficking. As criminal investigators, the *Canadian Charter of Rights and Freedoms* constrains our officers’ authority to search these premises absent reasonable grounds and prior judicial authorization. Bylaw officers have a broader ability to conduct inspections and to carry out regulatory enforcement in accordance with municipal bylaws.

We must respectfully disagree with your assertion that body rub parlours and other adult entertainment establishments, as defined in the *Municipal Act, 2001*, are *per se* illegal businesses. While criminal offences may be committed within these establishments, the businesses themselves are lawful. Refusing to grant business licences will not eliminate massage parlors, nor will removing “adult entertainment establishments” from the *Municipal Act, 2001* or repealing bylaws that licence massage parlours. Such a move would only tie the hands of municipal law enforcement as they rely upon these laws for their authority to inspect these establishments to protect the health and safety of workers and customers alike.

We take exception to you referring to municipal officials who licence body rub parlours as “pimps”. In addition to being patently offensive, it suggests that you fundamentally misunderstand the importance of using bylaws, licencing and inspections to promote public safety.

Similarly, I would note that the Province of Ontario does not have the authority to enact legislation that would criminalize body rub parlours or any other adult entertainment establishments. In accordance with section 91(27) of the *Constitution Act, 1867*, the power to enact criminal laws

rests with the federal government. Bearing in mind the Supreme Court of Canada's decision to strike down the criminal prohibitions on common bawdy-houses [*Canada (Attorney General) v. Bedford*, 2013 SCC 72], the federal government's ability to outlaw body rub parlours may be tenuous.

We thank you for bringing your concerns to our attention. However, we do not believe that your approach to combating human trafficking through focused enforcement against body rub parlours is consistent with Ontario's anti-human trafficking strategy or our own enforcement measures. On behalf of Chief MacSween and York Regional Police, I must respectfully decline your requests as they relate to the Chief or this police service. Any further deputations will be at the discretion of the Board.

Yours truly,

A stylized, handwritten-style electronic signature in black ink, consisting of a large, sweeping 'J' shape with a loop at the bottom.

(Electronic Signature)  
Jason D. Fraser  
General Counsel

c: Chief Jim MacSween

Mafalda Avellino, Executive Director  
Regional Municipality of York Police Services Board

**PUBLIC**

THE REGIONAL MUNICIPALITY OF YORK  
POLICE SERVICES BOARD

REPORT OF THE CHIEF OF POLICE

NOVEMBER 25, 2020

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**Response to Human Trafficking**

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**RECOMMENDATION**

1. That the Board receive this report for its information in response to the Deputation provided by Robert Vallee of Parents Against Child Trafficking-Markham and The Council of Women Against Sex Trafficking in York Region on December 4, 2019.

**SYNOPSIS**

York Regional Police Human Trafficking Section investigates incidents involving adult and juvenile sex trade workers. When exploitation is alleged or suspected, it is prioritized and immediately investigated.

Since 2015, the Human Trafficking Section has investigated 2,361 incidents involving sex trade workers and forced labour. In total, 1,790 or 75.8% were determined to be non-criminal. Based on our qualitative studies, the majority of trafficking victims are aware that jobs offered to them are in the sex industry but are not aware of the conditions in which they will be working.



## FINANCIAL IMPLICATIONS

There are no financial implications.

## BACKGROUND

In 2008, York Regional Police adopted a victim-centered approach to sex trade investigations. In 2014, this approach was legislated by the introduction of Bill C-36 to the *Criminal Code*. Prior to Bill C-36, the *Criminal Code* focused on the eradication of the sex trade.

### Bill C-36 – Protection of Communities and Exploited Persons Act

One objective of Bill C-36 is to protect those individuals who sell their own sexual services, allowing them to conduct their business indoors for their own safety. The Supreme Court of Canada had struck down the bawdyhouse provision from the *Criminal Code*.

Unlike previous legislation, Bill C-36 targets those who buy sex and seeks to reduce the demand for prostitution or, namely, “sexual services for consideration.”

Bill C-36 made it illegal to “obtain sexual services for consideration”, receive “material benefits” from sexual services performed by another person and to “knowingly advertise an offer to provide sexual services for consideration” by another person.

Individual sex workers have a form of immunity for advertising or receiving consideration from “their own” sexual services. The previous prohibition on communicating in public places for the purpose of such services is not as strict. It now applies only to communications conducted at or near day care facilities, schools and playgrounds and when one interrupts pedestrian or vehicular traffic to perform such communication.

York Regional Police investigations are victim-centered. We employ the four Ps of the Ontario Provincial Human Trafficking Strategy:

- 1) Prevention;
- 2) Protection;
- 3) Prosecution; and
- 4) Partnerships.

Rather than eradication, which often further marginalizes those working in the sex trade, we approach the four Ps with a clear vision and mission. We work within the framework and authority of Federal and Provincial legislation. The Ministry of the Attorney General and the Newmarket Crown Attorney’s office have established a Provincial Human Trafficking Prosecution Team. York Regional Police investigators work closely with this team during investigations and throughout prosecution.

York Regional Police have developed numerous partnerships with outside agencies and non-profit organizations. A key component of victim protection is exercising the three Rs:

- 1) Rescue;
- 2) Rehabilitation; and
- 3) Reintegration.

These agencies include Victim Services of York Region, 360 Kids, Blue Door Shelters, Sandgate, Yellow Brick House and Deborah's Gate located in British Columbia who provide compound trauma services addressing drugs and human trafficking in a secure facility. York Regional Police have provided this facility to multiple victims.

Further, York Regional Police and the Children's Aid Society of York Region have collaborated in a joint Human Trafficking protocol.

York Regional Police applies for additional funding through Federal and Provincial grants. This funding is used for education, providing training to community partners, providing immediate needs of victims, identifying resource gaps and filling those gaps when necessary, conducting investigative probes, intelligence gathering and enforcement.

A key component of intelligence gathering and enforcement is working closely with the Municipal By-law officers, developing and enacting joint initiatives and providing training enabling the ability to recognize the signs of human trafficking.

Not all body rub/massage parlours and wellness spas offer sexual services. There have been very limited cases of victims recovered in these types of establishments, and if the exploitation is present, it is through their pimp not the owners/operators.

Since 2008, there have been no recoveries of children inside these establishments within York Region. Any allegations of children being trafficked, despite the lack of recoveries, are prioritized and investigated thoroughly. In fact, the majority of human trafficking victims are being trafficked within hotels, condominiums or short-term rentals.

The crime category as listed in our Statistical Report: The Commodification of Sexual Activity includes:

- Obtaining Sexual Services for Consideration
- Obtaining Sexual Services for Consideration from Person Under the Age of 18 Years
- Receiving Material Benefit from Sexual Services
- Receiving Material Benefit from Sexual Services provided by Person Under the Age of 18 Years
- Procuring
- Procuring a Person Under the Age of 18 years
- Advertising Sexual Services

These crime categories are the result of new legislation created from Bill C-36. While the laws came into effect in 2014, they were in print in the 2016 *Criminal Code* onwards.

The Prostitution/Public Morals offences were included in the *Criminal Code* prior to 2016. These offences encapsulated sections 210 to 212 respectively. They included offences of living on the avails of prostitution, keeping a common bawdyhouse, communicating for the purposes of prostitution and other pimping related offences between sections 212(a) to 212(j) and 212(2) and 212(2.1).

Prostitution/Public Morals violations (formally section 212) is no longer in the *Criminal Code*. Commodification of Sexual Activity Sections begin at section 286 of the *Criminal Code*. Commodification of Sexual Activity crime category replaced Prostitution/Public Morals crime category; however, the Prostitution/Public Morals crime category will continue to appear in the annual statistical reports due to historical reporting and five year crime comparisons.

Jim MacSween, B.A.A.  
Chief of Police

JMS:rc