

**CLAIMS-MAKING ACTIVITY AND THE
SECURE CARE ACT IN BRITISH COLUMBIA**

by

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B.A. (First Class Honors), Simon Fraser University, 1999**

**THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF ARTS**

**In the
School
of
Criminology**

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SIMON FRASER UNIVERSITY

Fall 2005

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Abstract

The sexual exploitation of youth has, in recent years, become a publicized and often highly-politicized social problem. The profile of this social problem has been raised as a result of efforts by groups of concerned citizens who have lobbied all levels of government for tools and resources to combat youth involvement in prostitution and to protect the young victims of commercial sexual exploitation.

The social constructionist emphasis on the claims-making activity of lobby groups presents us with a viable means of explaining and understanding policy and legislative reform. Claims-making activity by lobby groups has played a fundamental role in both the historical as well as the contemporary reactions to youth involvement in prostitution. In British Columbia, both protectionist claims-makers as well as anti-secure care claims-makers have achieved success in influencing the government to respond to their respective concerns around this social issue.

Keywords:

Secure Care Act

Secure Care legislation

Youth sexual exploitation

Claims-making activity

To my husband, Arjen.

Acknowledgements

I am grateful to a number of individuals whose support throughout the past four years has assisted me immensely in the completion of this graduate research.

To my supervisors at the Maples Adolescent Treatment Centre who were extremely supportive of my thesis research by allowing me to take time away from work to immerse myself in my research when I needed to. Thanks in particular to Lindsay Setzer, Sonja Radmilovic and Jody Al-Molky: all strong and inspiring women with an incredible commitment to youth and who were and are so supportive of my academic and professional pursuits as a woman.

To my Supervisory Committee: Dr. Robert Gordon and Dr. John Lowman. Both worked to challenge my assumptions and my academic capabilities. They encouraged me throughout the process and were instrumental in pushing me to complete this endeavour. Thanks to Steven Bittle for his role as my external examiner. Steven's graduate research served very much as a catalyst to my research. Thanks also to Professor David MacAlister for chairing my thesis defence.

To my close friends, Colin Taylor, Sasha Len and Shelley West and to my family – dad, mom, Jordanna and Kevin. They never really knew what I was up to – now I have something to show them! Thanks for your ongoing love and encouragement.

Last, to my best friend and husband, Arjen. You were the one who had to deal with the emotions that went along with producing this thesis. Good and bad, you saw it all. I look forward to the next phase of our lives together: parenthood.

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Chapter One: Introduction

During the 1990s, the sexual exploitation of youth became a publicized and often highly-politicized social problem. The profile of this social problem has been raised as a result of efforts by groups of concerned citizens who have lobbied all levels of government for tools and resources to combat youth involvement in prostitution and to protect the young victims of commercial sexual exploitation.

As we shall see, lobby group activity has resulted in the reconceptualization of youth involvement in prostitution as “sexual exploitation.” Through this reconceptualization, youth involved in prostitution are seen not as “youth prostitutes,” but as sexually exploited youth” – as victims in need of protection. Lobby groups or “claims-makers” have advocated for the protection of sexually exploited youth through various means, including protection-oriented legislation. During the 1990s, claims-makers called for the creation of provincial legislation in British Columbia – “secure care” legislation – that would allow authorities to forcibly detain and confine service-resistant youth who are being sexually exploited through their involvement in prostitution.

The B.C. *Secure Care Act* was championed by some as the long-awaited solution to protecting victims of sexual exploitation. In particular, parent lobby groups pointed to the historical failure of the various legal initiatives and resources to protect these victims, and presented secure care as the only viable solution to saving sexually exploited youth who were service-resistant. For others, the *Act* illustrated the latest chapter in the

discriminatory enforcement practices of the police. Under the guise of protecting girls from the harms associated with prostitution, they become the focus of enforcement efforts. Some opponents argued that secure care measures continued to fail to address the problem of the male purchasers of sex. Others argued that the legislation was yet another example of the ongoing failure to challenge and alter systemic and structural social inequality which make participation in prostitution one of the limited options available to marginalized girls.

Despite the initial success of the provincial government in developing secure care legislation in B.C. – the *Secure Care Act* passed through three readings in the legislature – it was never proclaimed. The B.C. provincial election of May 2001 marked not only the end of the New Democratic Party administration, but also the demise of the *Secure Care Act*. Gordon Hogg, the new Minister of Children and Family Development, advised B.C. stakeholders that the newly appointed Liberal government had decided to focus on developing new legislation to replace the *Secure Care Act*. To date, no new legislation has been enacted.

Claims-making Activity: The Creation of Social Problems

In keeping with the social constructionist emphasis on the claims-making activity of lobby groups, this thesis examines the evolution of the *Secure Care Act* as an example of law reform within British Columbia. The secure care initiative provides an empirical example of claims-making activity and illustrates how youth involvement in the sex trade came to be recognized as a pressing “social problem” through the activities of lobbyists. This activity prompted a legislative response that resulted in the development of a draft of the *Secure Care Act* in B.C.

Spector and Kitsuse (1977) note that claims-making is “always a form of *interaction* and represents a demand made by one party to another that something be done about some putative condition” (1977: 78). Spector and Kitsuse reject the notion that social problems exist objectively as a kind of condition, and favour a conception of them as a kind of *activity*. Their definition of a “social problem” focuses on “the process by which members of a society define a putative condition as a social problem” (1977: 75).

Best (1987) argues that history provides us with numerous examples of social movements or claims-making on behalf of children. Like Spector and Kitsuse, Best argues that sociologists of social problems “must shift their focus away from those objective conditions called social problems” and, instead, examine the *process* of claims-making (1987: 101). In his examination of the rhetoric about the missing children problem that peaked in the mid-1980s in the United States, Best notes how the most essential form of claims-making is to define a problem, or to “give it a name.” Once a problem is defined, the next claims-making strategy is to estimate the extent of the problem. In most cases, claims-makers emphasize the magnitude of the problem. This is done by estimating the number of cases, claiming that the problem is getting worse and suggesting that the problem affects people indiscriminately. Claims-makers ultimately call for action to “alleviate or eradicate the social problem” and often advocate for changes to official policy (1987: 112). Thus, a social problem exists when: (i) a group of people recognize or regard (or claim) something as wrong; (ii) they are concerned about it; and (iii) they urge or take steps to correct it (Goode and Ben-Yehuda, 1994: 88).

Methods and Sources

Two central questions drove the research for this thesis. First, what were the factors leading to the creation of the *Secure Care Act*? Second, what were the factors leading to the legislation's demise? These questions were answered through the use of two research methods: semi-structured interviews and an analysis of archival sources.

The Interviews

Semi-structured interviews were conducted with key informants involved in B.C.'s secure care initiative. Research participants were selected because they were perceived to play a prominent role in the initiative. Part of this purposive sample of key informants was obtained using a snowball technique: participants in this research named other individuals who would be important in understanding the factors involved in the creation and demise of B.C.'s secure care legislation.

All participants were given the option to remain anonymous for the purposes of the research; their identities and their responses to questions posed would not be attributed specifically to them. Despite these anonymity provisions, all participants chose to reveal their identities and particular affiliations, and consented to having their responses reported in this research. Further, participants were assured that their responses would be kept confidential. A more detailed description of each of the research participants is provided in Appendix A.

A set of questions was developed that served as a guide to the semi-structured interviews.¹ A total of fifteen interviews were conducted. All interviewees were asked the same questions, with the exception of four of them. These participants were asked

¹ See Appendix B for interview schedule.

additional questions based upon their unique involvement in the secure care initiative.²

Six follow-up interviews were conducted for the purposes of gathering further information and to clarify responses made in the initial interviews. The average length of the interviews was approximately one hour but a few interviews lasted longer. All of the interviews were tape-recorded with the consent of the interview participants.

Analysis of Archival Sources

In addition to the semi-structured interviews, a number of archival sources were examined in an attempt to identify the factors involved in the creation and demise of the *Secure Care Act*. The archival study also involved a qualitative analysis of the rhetoric of the modern child-saving movement. The purpose of this analysis was to examine how youth involvement in prostitution was conceptualized in these sources. In particular, the analysis facilitated an assessment of the claims-making activity of various individuals and groups advocating for the protection of “sexually exploited youth.”

The following research questions structured the qualitative analysis of archival sources:

- How is the problem of youth involvement in prostitution defined?
- How “big” is this problem?
- Is the problem getting bigger?
- Who does the problem affect?
- What are the proposed solutions to the problem?
- Who are the primary claims-makers involved in defining the problem?

² See Appendix C for interview schedule.

The archival sources included:

- (i) Relevant Hansard debates regarding the sexual exploitation of youth through the sex trade and the *Secure Care Act* in the Legislative Assembly of B.C.;
- (ii) *Vancouver Sun* news items over a six year period (1994-2000) regarding the sexual exploitation of youth and the secure care initiative in B.C.;
- (iii) Press releases from both government and non-governmental agencies regarding the sexual exploitation of youth through the sex trade, and regarding the *Secure Care Act*;
- (iv) Various governmental and non-government reports regarding the sexual exploitation of youth, from other Canadian provincial jurisdictions;
- (v) Other appropriate documents pertaining to the *Secure Care Act* and youth sexual exploitation.

Thesis Chapters

Chapter Two provides a review of the academic literature on youth prostitution and examines the historical attempts to address this “social problem.” In particular, this Chapter notes the shift that occurred whereby youths involved in prostitution came to be viewed as victims of sexual exploitation and abuse and in need of protection. The release of the Badgley Special Committee’s report (Badgley, 1984) marks the beginning of this reconceptualization and was instrumental in fundamentally altering the discourse on youth prostitution. Through a review of the historical attempts to eradicate prostitution and, in particular, youth involvement in prostitution, this Chapter provides an important contextual background necessary for understanding the emergence of the secure care initiative in B.C. In particular, this historical review reveals the role that claims-makers have had in affecting policy change.

Chapters Three and Four examine the factors involved in the creation of the *Secure Care Act* identified through data obtained from the semi-structured interviews with key informants and from the archival analysis. These Chapters examine the claims-making activity of lobby groups advocating for the protection of sexually exploited youth. One particular claims-maker advocating for the creation of a secure care response to the problem of youth sexual exploitation played a pivotal role in the B.C. government's decision to legislate a secure care option to protect sexually exploited youth.

Drawing on interview data and the information obtained from the analysis of archival sources, Chapter Five examines the demise of the *Secure Care Act* in B.C. The widespread backlash that occurred following the drafting of this legislation by advocacy groups, service providers and concerned individuals was instrumental in the repeal of *Act*. The Chapter concludes with a discussion on future directions of the secure care movement in B.C. and in other Canadian provinces.

Chapter Six offers a concluding commentary on the effect that claims-making activity by B.C. lobby groups had on both the advent of the secure care movement as well as its role in the demise of the *Secure Care Act*. The viability of future "safe care" responses to youth sexual exploitation is discussed.

Chapter Two: From Punishment to Protection: Review of Historical Reactions to Youth Involvement in Prostitution

Prior to examining the development and the demise of B.C.'s secure care legislation, it is important to understand past attempts to deal with the sexual exploitation of youth through prostitution. A historical review is fundamental to understanding the contemporary context in which B.C.'s secure care initiative developed. The review highlights the impact that the claims-making activity of various lobby groups and reformers had on the government's decision to enact legislation to deal with the problem of the sexual exploitation and abuse of youth through prostitution, and to protect these young "victims."

Early Prostitution Law in Canada

The earliest attempts to deal with the "problem" of prostitution predate Canada's confederation in the mid-nineteenth century, and can be traced back to British common law. Three different legal approaches have been utilized in response to prostitution in Canada: regulation, prohibition and rehabilitation (Backhouse; 1985). A review of Canada's use of these three approaches to prostitution reveals the prevalence of widespread discrimination against females who chose to engage in prostitution out of economic necessity as, "one of a very limited array of options" (Backhouse, 1991: 232). In particular, legal measures were applied disproportionately to females of immigrant,

minority and socio-economically disadvantaged groups (Backhouse, 1985; McLaren, 1986; Nilsen, 1980; Rotenberg, 1974; Sullivan, 1986.).

Attempts in the mid-1800s to deal with the “problem” of prostitution were influenced by events and legislation in both Great Britain and the United States. The laws on prostitution date back to 1839 and were based upon British vagrancy laws created to clear the streets of “undesirables” and remedy the problems of public disorder associated with the operation of brothels (Larson, 1992; McLaren, 1986; Sullivan, 1986). Those who were unable to give a satisfactory account of themselves were apprehended by the police under vagrancy provisions. During this period, children, who were seen as small adults, were not awarded special protection unless the economic interests of their parents were adversely affected (McLaren, 1986).

Further attempts to regulate prostitution were modelled after Britain’s attempts to control the spread of venereal disease to members of its military (Sullivan, 1986; McLaren, 1986; Backhouse, 1985; Backhouse, 1991). Advocated by doctors, senior military officials and politicians, the *Contagious Diseases Act* of the early 1860s, authorized the detention of those believed to be infected with disease in certified hospitals. While rarely enforced in Canada due to the lack of government certified facilities, the legislation targeted female prostitutes almost exclusively, subjecting them to compulsory examinations. The result was the sanctioning of a double standard of sexual morality, “one that upheld different standards of chastity for men and women and carefully tried to demarcate pure women from the impure” (Walkowitz as quoted in Backhouse, 1985: 391). The *Contagious Diseases Act* expired in Canada in 1870 and was

never reenacted. Backhouse noted that this probably reflected Canadian legislators' "ambivalence over its efficacy" (1985: 392).

With the failure of the regulatory approach, various prohibitive legal initiatives were introduced in Canada in the late 1800s. Responding to the claims-making activity of reformers of the Social Purity campaign, Canadian legislators introduced a series of laws focusing on the procurement of women and girls for prostitution (Sullivan, 1986; McLaren, 1986). Reformers claimed that there was a moral breakdown in society and called for a change to social values and the amendment of the criminal law. Reformers called for the protection of women because of their important place in society as "guardians of the family's welfare" and as "representatives of the moral conscience of the community" (McLaren, 1986: 129).

Reformers such as W.T. Stead in Britain and D.A. Watt of the Montreal Society for the Protection of Girls and Young Women in Canada claimed that women and girls were being sexually exploited through the sex trade (Nilsen, 1980; Sullivan, 1986; Backhouse, 1991). Pointing to the existence of an international "White Slave Trade", these reformers asserted that scores of women and girls were being coerced and manipulated into prostitution through various means from, "deceit to the use of force and drugs" and were being forced to work in brothels in North America, England and around Europe (McLaren, 1986: 133). These claims-makers, "waged a well coordinated and ultimately successful campaign to have the criminal law afford far greater protection to women and children" (1986: 135).

Literature distributed during this time was propagandist in tone and included dramatic claims of girls and young women being forced into the sex trade. Those

exploiting girls and women were portrayed as “shadowy figures” who were in the business of seducing or abducting girls or women to serve in their establishments (1986: 137):

At the door of Massey Hall, a Methodist deaconess accosted the girl and warned her that she was in company with one of the worst women in the city. The “widow” soon lost herself in the crowd, and within a few minutes time, the candies which had contained “the knock-out drops” accomplished their work, rendering the girl unconscious. Had she been in the care of the woman in black she would have been hustled in a closed cab, and within a very short time would have been another recruit in the already large army of white slaves - Rev. R.N. St. Clair (quoted in Rotenberg, 1974: 44).

Legislation passed between 1869 and 1892 included an *Act Respecting Vagrants* (1869) and an *Act Respecting Offenses Against the Person* (1869). These statutes awarded special protection to women and included strict provisions to protect young females from those attempting to lure them into the evils of prostitution. McLaren notes that the result of D.A. Watt’s lobbying of Canadian Parliament was the most comprehensive system of offences for ensuring the protection of young women and girls from sexual predators (McLaren, 1986). This legislation and its supplementary provisions marked an unprecedented interventionist approach by government, criminalizing every aspect of prostitution except the actual exchange of money for sexual services (Backhouse, 1985).

Despite the reformers intentions to end the prevailing sexual double standard in their advocacy of a single standard of sexuality for both men and women, the discrimination flourished. Prostitution-related laws were primarily enforced against women with their arrest rates being much higher and their sentences much harsher than their male customers (McLaren, 1986; Backhouse, 1985; Backhouse, 1991; Rotenberg,

1974). Toronto conviction statistics for the period 1840 to 1900 indicate that the vast majority of those arrested and convicted of prostitution-related offences were, “financially impoverished, generally illiterate, frequently immigrant, and overwhelmingly female” (Sullivan, 1986: 180). Backhouse argues that the fact that black and Irish women were over-represented amongst those charged with prostitution-related offences in Canada is an indication that, “discrimination on the basis of race and ethnic origin was obviously an important factor in the enforcement of Canadian prostitution laws” (Backhouse, 1991: 241).

The late 1800s saw the use of the rehabilitative approach where a number of shelters and refuges were established whose purpose was to provide care for girls and women in “distress” as a result of their involvement in prostitution (McLaren, 1986; Backhouse, 1985; Backhouse, 1991). Charitable organizations, led usually by middle and upper-class women, assisted in the efforts to “rescue” women and girls from involvement in prostitution and reform them, as specified in the mission statement of the Toronto Industrial Refuge:

...to give women, who through infirmity of nature or evil environments have fallen into evil ways, a shelter where they will not be beset by temptations, and where they may be led to live honest, Christian lives (Rotenberg, 1974: 58).

Women running these institutions sought to reform their “lost sisters” through intense moral and religious instruction which included training them for domestic service. Backhouse notes that, despite these women’s intentions to rehabilitate girls and women involved in prostitution, few were “successfully reformed” and most returned to prostitution shortly after leaving (Backhouse, 1991).

The failure of these organizations to rehabilitate prostitutes resulted in a policy shift whereby prisons were established to detain young girls and women involved in prostitution, often for significant periods (McLaren, 1986; Backhouse, 1985). Backhouse notes that Roman Catholic girls and women were discriminately targeted under this new policy, particularly in the provinces of Quebec and Nova Scotia (Backhouse, 1985). These girls and women were detained for a minimum of five years (1985). Special correctional programs, still rehabilitative in nature, were set up to facilitate the restoration of a “life of pious, industrious domesticity” (1985: 416).

Simultaneous to rehabilitative measures being established, initiatives seeking to prevent young women from entering the sex trade were enacted during the last decades of the 19th Century. In particular, legislation was designed to remove delinquent children from environments deemed unhealthy and commit them to industrial refuges (Backhouse, 1985; McLaren, 1986). A number of provincial legislatures enacted statutes enabling the detainment of young women under the age of fourteen who were assessed to be at risk of entry into the sex trade. In Ontario, for example, legislation was created that authorized provincial governments to detain children who were found “wandering” or without a “settled place of abode” (Backhouse, 1991: 243). Such youth were placed in refuges often for indeterminate periods with the intention of intervening in the lives of these young women before they became “mired in a life of prostitution or crime” (1991: 243). Significant power was given to the courts, the police and Children’s Aid officers. Much energy was devoted to targeting and intervening in the lives of the children of lower class families who were seen as the victims of insufficient parental control. The shift to

rehabilitative and preventionist policies, “signified the high point of the intrusion of the state into the affairs of the lower class” (Backhouse, 1985: 419).

Backhouse argues that the ultimate failure of rehabilitative interventions used during these years was in the “limited nature of its aims”. In particular, she notes:

It was practically useless to attempt to reform prostitutes without simultaneously altering the various factors which drove them to prostitution – poverty, restricted employment options, sexual victimization of young women inside their homes, and in society generally, and the pervasive double standard. Furthermore, the single most important aspect in the deterrence of prostitution – the demand side of business – was entirely overlooked. No one dared to suggest that higher prison terms and rehabilitation programs be directed toward the prostitutes’ customers (1985: 418).

By the turn of the century, women’s and religious reformers and lobbyists renewed their commitment to advocate for legislative action to address the continued existence of the white slave trade and its exploitation of young women (McLaren, 1986). In 1913, changes were made to the *Criminal Code of Canada* in response to the claims-making activities of these groups. Legislation was created in an attempt to rectify the discrimination and inequities of earlier legislation dealing with prostitution, and to address the failure of this legislation to deal with male “exploiters.” Penalties for the ancillary offences of pimping, procuring and living on the avails of prostitution were increased, with whipping as a potential penalty for procuring (1986). Despite an increase in the prosecution of men for these offences, charges against women continued to outnumber those laid against men. Those men who were charged, prosecuted and convicted were typically lower-class and were often involved in relationships with prostitutes (Larsen, 1992).

In addition to the passing of this legislation, increased efforts were made to close brothels. In Vancouver between 1903 and 1917, attempts by authorities to close the doors to prostitution resulted in its decentralization rather than its suppression (McLaren, 1986; Nilsen, 1980). Similarly, in Toronto, police raids on brothels did not result in a reduction in the incidence of prostitution in the city but, rather, resulted in its dispersal (Rotenberg, 1974).

Larsen notes that the First World War resulted in, “the resurgence of public concern regarding the spread of venereal disease” (Larsen, 1992: 141). Interest groups claimed that prostitutes infected with venereal disease would spread disease to Canadian soldiers serving in the war and released literature containing this message. These claims were supported by media reports and scientific literature. In response, the Canadian government amended the *Defence of Canada Act*, making it illegal for any woman infected with venereal disease to have sexual intercourse with a member of the military or to attempt to solicit a soldier for sexual purposes. Authorities could also compel women who were suspected of being infected with disease to undergo medical tests. Larsen notes that the law was applied discriminately against prostitutes and other lower-class women (1992). Further, men in the military were not subject to medical testing.

Shortly after, members of the scientific community claimed that venereal disease and prostitution were related to mental deficiencies. Dr. C.K. Clarke specifically attributed the cause of venereal disease to “mentally deficient prostitutes” (1992: 142). As a result, prostitutes and other “loose women” became the targets of lobby group activity, treatment and law-enforcement activities. The role of men in spreading disease continued to be minimized. Provincial public health laws permitting compulsory testing

served to control prostitution. These laws were often used, “as a mechanism for harassing prostitutes, irrespective of whether they had VD” (1992: 145).

The Great Depression of the 1930s resulted in a shift in the response to prostitution, because dealing with the social and economic consequences of the depression superceded concerns about controlling venereal disease. Funding for control programs was cut and, as a result, various public lobby groups disappeared. The control of venereal disease and prostitution was shifted to the criminal justice system. Larsen notes that there is a lack of “hard evidence” regarding the enforcement practices and/or levels of prostitution during this era (1992: 147). An analysis of court cases occurring during this time, however, indicates that men were being charged with ancillary offences more frequently than in the past but the courts were reluctant to convict them (1992).

An analysis of prostitution controls during the Second World War reveals an apparent lack of official interest (1992). Larsen notes that there is evidence to suggest that levels of prostitution were lower due to the economic opportunities and independence that many women achieved during these years. During the post-war period, Larsen notes that the enforcement of prostitution laws did not exhibit any clear-cut patterns (1992). An analysis of court decisions indicated that vagrancy provisions were either being enforced “stringently” or “narrowly” against prostitution-related activities. Cases occurring between 1950 and 1970 illustrated the court’s “ambivalent attitudes” towards prostitution (1992: 153).

Responding to Nuisance Concerns

The vagrancy law was repealed in 1972 when the federal government replaced it with section 195.1 of the *Criminal Code of Canada*. This “soliciting law” stated that:

Every person who solicits any person in a public place for the purpose of prostitution is guilty of an offence punishable on summary conviction.

The legislation criminalized public solicitation for the purposes of prostitution, whereas the act of prostitution remained legal. The language of the legislation was intended to be gender-neutral so that male customers could also be charged (Shaver, 1994). Despite this, researchers note that the law continued to be enforced discriminately against prostitutes (1994).

A number of court decisions attempted to sort out the meaning and the applicability of the soliciting law. The most remarkable of these decisions was rendered in the 1978 *Hutt* decision.³ In this case, the Supreme Court of Canada ruled that “soliciting” involved “pressing and persistent” behaviour. Lowman notes that, after this ruling, the Crown had to establish that “the accused had effectively refused to take “no” for an answer” unlike the prior lower standard of establishing that a person had, in public, offered a sexual service for a price (Lowman, 1997: 920). As a result of this higher evidentiary requirement, concerned citizens and business owners claimed that the number of adult and young prostitutes increased dramatically.⁴ Residents groups began to form to protest the nuisance and visibility of prostitution in their neighbourhoods. Lobby groups

³ R. v. Hutt [1978] 2 S.C.R. 476.

⁴ Despite these claims, researchers note that in the years previous to the Hutt decision, prostitution had already begun to expand in the city. Lowman notes the effect the closure of two cabarets, well known as “off-street” prostitution venues, had on displacing “off-street” prostitutes onto the street (Lowman, 1997: 921).

pressured the federal government to introduce greater measures to combat adult street prostitution.

The Badgley Committee

From the early 1980s onwards, there was an increased recognition of and concern with child sexual abuse and exploitation. In response to these concerns, the Committee on Sexual Offences Against Children and Youth, better known as the Badgley Committee, was established in February 1981. The mandate of the eleven-person Committee – appointed by the Federal Ministers of Justice, National Health, and Welfare – was to:

...enquire into the incidence and prevalence of sexual abuse against children and youths and to recommend improvements in laws for the protection of young persons from sexual abuse and exploitation (Badgley Report, 1984: 3).

Concerns that children and youth were being “exploited” through their alleged increasing involvement in prostitution led to the expansion of the mandate and inclusion of prostitution as a component of the Committee’s research agenda. As Lowman (1986) points out, little research data was available at the time.

The Committee documented the “tragic plight of juvenile prostitutes” and made 52 recommendations to combat the sexual exploitation of youth (Badgley Report, 1984: 1046). The 1,314 page report provided a significant amount of information about the experiences of youths involved in prostitution, including biographical information obtained from interviews conducted with 229 “juvenile prostitutes.” The report remains a, “definitive and official source of data on the sexual abuse of children and youths in Canada” (Brock, 1998: 115). Further, the work of this Committee was to have a, “significant impact upon how prostitution involving young people came to be understood

as a national social problem in the 1980s” (1998: 101). In particular, the Badgley Committee’s reconceptualization of youth prostitution as child sexual exploitation and abuse would have far-reaching implications for the development of the primarily legal initiatives dealing with this identified “social problem.” As Brock (1998) points out:

Since its release in 1984, the Badgley Report has functioned as a key mechanism for the development of new standardized and coordinated definitional categories of sexual abuse, oriented to the legal process, throughout levels of government and public and private social service agencies (1998: 117)

Findings of the Badgley Committee

The publication and release of the Badgley Committee’s report resulted in the identification of prostitution involving young people as a newly emerging crisis. Brock notes that, “through the committee’s work processes, juvenile prostitution was *produced as a social problem*” (1998: 117). Through the reconceptualization of youth prostitution as child sexual abuse, youths, particularly girls, were no longer seen as being culpable criminals. Rather, youths involved in prostitution were seen as victims in need of protection.

The Badgley Committee defined a “juvenile prostitute” as a person no older than twenty who had, “performed at least one sexual act in exchange for money, food, shelter, drugs, alcohol or some other valuable consideration” (Badgley Report, 1984: 968). The Committee was primarily interested in children and youth involved in prostitution at the street level (1984). Through interviews conducted with adolescents who agreed to participate in the research, demographic and biographical information was gathered. The main findings were as follows:

- The majority of the youths were female (63.3 percent)
- 27.6 percent of the females interviewed were younger than 16 at the time of the interview
- While a substantial proportion (about one third) of females grew up in homes in which at least one of their parents had received government support at some point, a large proportion of the youths interviewed grew up in middle-class and sometimes affluent homes
- Although a proportion of the youths interviewed identified their father as using alcohol heavily, overall alcoholism and drug use were not invariably present in the families of the youths interviewed
- 66.8 percent of the youths interviewed had not completed more than one year of high school
- When compared to data obtained from the National Population Survey, “juvenile prostitutes” were at no more risk of having been victims of sexual abuse than other Canadian children and youths⁵
- The majority of female youths (74.5 percent) and male youths (78.6 percent) interviewed had run away from home at least once
- Female (52.4 percent) and male (45.2 percent) youth who were interviewed recalled their strongest memories of home life consisting of continuous fighting or arguments

Recommendations of the Badgley Committee

The Committee concluded that “juvenile prostitution” had no specific status in Canadian law (1984: 960). The laws of the time did not deal specifically with juvenile prostitution or award youth special protection from sexual exploitation and abuse. Provincial child welfare legislation was one avenue to deal with those youth “in need of protection;” however, the youth had to be a “child” as defined in the legislation. Further, the Committee concluded that the, “protection the law affords is tenuous” in situations where the young person involved in prostitution is not, “amenable to assistance” (1984: 960).

⁵ Critics note that this finding is problematic in that it is based on comparing two very different sample groups. The sample from the National Population Survey included persons 17-70; whereas the sample of prostitutes included persons under the age of 21. Further, Lowman notes that the problem is the “comparison of the incommensurable categories that compromise ‘unwanted sexual acts’ in the two different surveys” (Lowman; 1986: 196).

While the Committee noted that social rather than legal initiatives are to be preferred to deal with the problem of juvenile prostitution, it concluded that social initiatives were useless because, “viable means of intervention are currently lacking” (op cit: 1046). The Committee called for a protection-oriented, legislative solution to the problem of youth sexual exploitation and abuse through the sex trade. While the report noted that, “there is no desire on the part of the Committee to affix a criminal label to any juvenile prostitute,” it concluded that the only effective means of holding a youth so that he or she may receive “guidance” is through the implementation of criminal sanctions (1984: 1046). The Committee called for the creation of a specific criminal offence prohibiting children and youths from engaging in the sex trade. The law would, therefore, save these youth as it provided an, “effective means of stopping the demonstrated harms that these children and youth bring upon themselves” and allowed social intervention to take place (1984: 1046).

In addition to its recommendation for an offence criminalizing youth engaging in prostitution, the Committee argued that, “a separate criminal offence is needed to deter persons who seek out and use young prostitutes” (1984: 1055). It recommended the criminalization of customers utilizing the sexual services of a young person under the age of 18. The Committee also recommended that the names of the persons convicted of soliciting young prostitutes be published. Similarly, the Committee recommended the strengthening of criminal sanctions against the pimps of young prostitutes. The Committee noted that the, “response of the criminal law to this egregious exploitation of the young must be certain and severe” and recommended amendments to the existing “procuring” and “living on the avails of prostitution” provisions of the *Criminal Code* to

award special protection to those under the age of 18 from the exploitation and abuse of pimps (1984: 1073).

Response to the Badgley Committee's Report

The Report's publication and release in August 1984 met with mixed reactions. Given the sensitive and controversial topic of the report, it is not surprising that the responses, "ranged from glowing praise to scathing criticism" (Lowman et al., 1986: xiv).

Those critical of the report pointed to its failure to provide a critique of the social institutions that may have played a role in a young person's "decision" to enter the sex trade (Lowman, 1986; Brock and Kinsman, 1986; Brock, 1998; Clark, 1986). While the report makes some recommendations for social rather than legal reforms, these suggestions are, "general and vague" and, "subordinated to proposals for the expansion of the criminal law" (Brock, 1998: 106). In particular, no critique was provided of the social institutions of the family, homophobia, sexism, racism or patriarchy, all of which may have played a role in a youth's decision to engage in prostitution. Critics noted that the Committee's recommendation to criminalize youths engaging in prostitution does nothing to "alter the social structures which make [street] prostitution a logical means of subsistence for defamilied youth" (Lowman, 1986: 212). Further, the economic bases for prostitution are obscured. In his discussion of the, "nether economy of juvenile prostitution" Sullivan notes:

In Canada, where youth unemployment is likely to hover close to 20% for the next few years, lack of work and marketable skills do appear to make prostitution a troubling but lucrative job creation strategy for a minority of young people (Sullivan, 1986: 183).

Thus, despite the Committee's findings that 78.6 percent of the boys and 65.5 percent of the girls interviewed cited "rapid financial gain" as among their primary reasons for engaging in prostitution, the Committee's recommendations largely ignored these economic factors. In its advocacy for a legislative solution, the Committee ultimately marginalized the social and economic causes of youth prostitution (Brock, 1998; Brock and Kinsman, 1986; Lowman, 1987).

Commentators have noted that through the bureaucratic processes of the Committee's work, the experiences and opinions of young people involved in prostitution were marginalized or silenced (Brock, 1998; Brock and Kinsman, 1986; Lowman, 1987). In particular, critics note that the survey administered to "young prostitutes" reflected what the experts regarded as important (Brock, 1998). The Report included 12 short case studies, giving the reader a very limited opportunity to hear the voices of the young people. These experiences were, "reconstructed in an abstracted form, as statistics, files, case studies, from an adult, state-located, protectionist standpoint" (1998: 109).

Media Reaction to the Badgley Committee's Report

Deborah Brock asserts that as a result of the media reports of the Badgley Report's findings and recommendations, a "moral panic" about youth prostitution was produced (Brock, 1998: 115). Brock documents an increase in reporting on youth prostitution in Toronto's media following the release of the Badgley Report, and discusses how the media ran lengthy, dramatically titled stories documenting the horrors of the sexual exploitation and abuse of "children" through the sex trade. The media reports often provided estimates of the magnitude of the "problem," with the estimated number of youths involved in prostitution varying widely (1998). No distinction was

made between youths engaged in prostitution on a full-time basis and those who occasionally prostituted. Rather, young prostitutes were presented as a homogeneous group, “uniformly depicted as street kids, even though their living situations varied” (1998: 119).

The media reported individual accounts of young, innocent and vulnerable youths who had been victimized by pimps and customers, rekindling earlier fears of the “White Slave Trade” (1998). Alternative accounts, particularly the economic factors precipitating participation in prostitution, were subordinated to arguments about how predatory pimps controlled young prostitutes (1998). Consistent with the Badgley Report, media reports presented young prostitutes as victims of sexual exploitation and abuse, thereby justifying the need for “child saving” through state action.

The Fraser Committee

Eight months after the release of the Badgley Report, the Fraser Report appeared. Established by the Minister of Justice in 1983, the Fraser Committee was created in response to mounting concern about the ineffectiveness of the soliciting law to combat prostitution. The Fraser Committee was commissioned to study the problems associated with pornography and prostitution, and to carry out a program of socio-legal research to provide a basis for its work (Lowman et al., 1986).

In reference to prostitution, the Fraser Committee concluded that the “social problem” of prostitution cannot be addressed “solely through the law” but must “emphasize legal and social reform” (Fraser Report, 1985: 525). To respond to nuisance concerns, the Committee recommended identifying locations where prostitution could

occur and recommended the repeal of bawdy house laws to allow one or two prostitutes over the age of eighteen to employ themselves in private locations (1985: 538). Further, the Committee recommended allowing provincial governments to license “small-scale” prostitution establishments (1985: 546).

Unlike the Badgley Report, the Fraser Report recognized the impact that economic and social marginalization, and the gender inequality of women and girls, has on prostitution. The Committee urged the Canadian Government to address the economic and social conditions of females involved in prostitution:

...until Canadian society comes to terms with the causes of economic disparity between men and women, then the likelihood that a proportion of women will seek to support themselves and their families through prostitution will continue to exist (1985: 526).

The Committee subsequently recommended the strengthening of the state’s, “moral and financial commitment to removing the economic and social inequalities between men and women” and called for the development of, “adequate social programs to assist women and young people in need” (1985: 526).

The Fraser Committee made limited recommendations specific to the problem of *youth* sexual exploitation and abuse through prostitution and largely deferred to the Badgley Committee’s Report. While the Fraser Committee supported the criminalization of those exploiting youth through the purchase of, or attempt to purchase, sexual services the Committee disagreed with Badgley’s recommendation for the creation of provisions that would criminalize young prostitutes (1985).

The Federal Government's Response to the Badgley and Fraser Reports

In response to the recommendations of the Badgley and Fraser Committees, the federal government introduced a series of legislative initiatives to deal with concerns over the sexual exploitation of young people through prostitution, and with the increase in street prostitution.

The Communicating Law

In opposition to the Fraser Committee's recommendation that adult prostitution be partly decriminalized, the government of the day repealed the soliciting law and enacted the communicating law. The new law criminalized public communication for the purpose of buying or selling sexual services. Ignoring the Fraser Committee's recommendation that prostitution laws in Canada be completely revamped, the legislation confirmed the federal government's commitment to confronting the visible manifestations of prostitution (Lowman, 1992). Subsequent evaluations of the communicating law indicate that, as with previous legislation developed to combat prostitution, the laws were enforced discriminately in that prostitutes continued to be punished more frequently than their male customers (1992).

Sections 212(2) and 212(4)

In response to the recognition that youth involvement in prostitution was sexual exploitation, the federal government enacted legislation to deal with those purchasing and attempting to purchase sexual services from youths, as well as with those living on the avails of youth prostitution.

Enacted in January 1988, Sections 212(2) and 212(4) of the *Criminal Code of Canada* offered protection against the sexual exploitation and abuse of children. The legislation marked the first time that the federal government specifically criminalized the sexual procurement of youth. Section 212(2) raised the maximum prison term from ten to fourteen years for those persons procuring or living on the avails of a person under 18 years of age. Section 212(4) of the *Criminal Code* made the purchasing or attempt to purchase sexual services from a youth under the age of 18 an indictable offence, carrying a penalty of up to five years imprisonment.

Claims-making Regarding the Lack of Section 212(4) Enforcement

Despite the provisions of section 212(4), claims-makers have argued that the legislation has not been effective in securing convictions against those purchasing sex from youth. In Vancouver between 1988 and 1994, only six charges under section 212(4) were laid (Lowman, 1997; Lowman and Fraser, 1996). To explain so few charges, police cite problems with their ability to enforce the provisions. In particular, convictions are difficult to obtain unless a youth is prepared to testify against the accused, something that many youth are unwilling to do (Daum, 1995; Lowman and Fraser, 1996; Lowman, 1997).

Kimberly Daum, a free-lance journalist contracted by Vancouver's Downtown Eastside Youth Activities Society (DEYAS), wrote a position paper on section 212(4). Daum's report claimed that, "we fail to protect Vancouver's children and youth from sexual predators" (Daum, 1996: 1). Despite the fact that section 212(4) makes it illegal to purchase or offer to purchase sex from a youth, "virtually no one is arrested, charged or convicted" (1996: 1). The report advocated for, "immediate intervention" and made a

number of recommendations including resolving the philosophical contradiction between section 212(4) and section 213. Section 212(4) calls for the protection of children and youth under the age of eighteen from those who exploit them through purchasing or attempting to purchase sexual services from them. Section 213, however, calls for the arrest, charge and conviction of these children and youth as a result of their involvement in prostitution. The report also argued that the legislation needs to be revamped so that the onus is taken off children and youth to testify against adults who sexually exploit them (1996).

Daum ultimately advocated for a change in societal attitudes regarding the sexual exploitation of youth. In particular, she challenged the media to stop exploiting these youth for “news-sales purposes” and to fulfill their roles of “accurate informer” and “public watch dog” (1996: 9).

Steven Bittle (1999) examined the claims-making activity of lobby groups that advocated for greater protection of sexually exploited youth in Vancouver through the increased enforcement of section 212(4). Claims-making activity by these groups resulted in the, “production of a discursive formation that served as a powerful frame of reference for policy reform” (Bittle, 1999: 32). Bittle asserted that 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 and sexual predators” (1999: 68). Claims that sexually exploited street youth were not being protected, “led, in part, to a growing consensus that something should be done to ensure their safety” (1999: 69). Bittle concluded that,

“claims-making led to the deployment of more resources for service providers” working with sexually exploited youth (1999: 75).

Bittle shows that the claims made about the ineffectiveness of section 212(4) to protect sexually exploited youth resulted in the creation of the Vancouver Action Plan (VAP) in 1994. The provincial government committed \$1.9 million in funding to establish safe houses, detox programs and outreach services for sexually exploited youth. Further, it funded a media poster campaign aimed at educating the public regarding the sexual exploitation of youth through the sex trade. The VAP represented a departure from traditional “government imposed frameworks” in that it initiated a more “community-based approach to enhancing services” (1999: 76).

The Provincial Action Plan (PAP) was created later in 1996 by the provincial government in an effort to deal with the sexual exploitation of youth on a province-wide basis. The Provincial Prostitution Unit (PPU) was part of the PAP and was set up as a, “innovative, coordinated justice response to the sexual exploitation of children and youth in prostitution” (as quoted in Bittle, 1999: 92). Initially, the PPU consisted of three full-time vice-officers, a Crown Counsel and a provincial coordinator to link justice personnel and the community. The work of the PPU included developing intelligence on ways to enforce existing legislation against people who sexually exploit youth.

Bittle contended that, in addition to the creation of the VAP, the PAP and the PPU, the claims-making activities of groups advocating for greater protection for sexually exploited youth also resulted in the tabling of two amendments to section 212(4). The first amendment (Bill C-119) died on the order table due to concerns that it would be challenged under the Canadian *Charter of Rights and Freedoms* and due to

concerns that an accused could claim that he did not actually believe the individual was under the age of 18.⁶ The second amendment, Bill C-27, was tabled in April 1996. The proposed new wording of s. 212(4) was intended to make it easier to apprehend customers of young prostitutes by making it illegal to obtain or attempt to obtain the sexual services of someone who is under the age of 18 or who the customer believes is under that age. Bill C-27 amended s. 212(4) to read:

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 or who that person believes is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

Section 212(5) was introduced to supplement the section 212(4) amendment by allowing undercover surveillance officers to present themselves to potential customers as being under the age of 18. Bill C-27 became law in 1997. As we shall see, section 212(5) would soon be repealed and amendments would once again be made to section 212(4).

Looking Ahead: Claims-making and the Secure Care Initiative in B.C.

History provides numerous examples of social movements or claims-making on behalf of children (Best, 1994). A review of Canada's attempts to deal with the problem of youth prostitution provides an empirical illustration of claims-making activity by reformers and lobby groups and their impact upon Canadian legislators. Early reformers and lobbyists were instrumental in affecting change to the procurement provisions of the *Criminal Code* by making claims about the exploitation of young women through an international "white slave trade." Similarly, the activities of contemporary lobbyists and

⁶ (R.S.C. 1985, Appendix II, No. 44).

the work of Badgley Committee resulted in the production of a social problem; namely, the sexual exploitation and abuse of youth through prostitution.

The mid to late 1990s saw the continued proliferation of federal, provincial and municipal task forces and initiatives directed at eradicating youth sexual exploitation (Federal Provincial Territorial Task Force Report, 1998; Report of the City of Burnaby Task Force, 1998; Secure Care Working Group Report, 1998; Report by the [Alberta] Task Force on Children Involved in Prostitution, 1997; Handbook for Action Against Prostitution of Youth In Calgary, 1995). As will be discussed, youth involvement in prostitution continues to be conceptualized as sexual exploitation and is presented as a pressing social problem. Claims-making activity, supported by media reports on youth sexual exploitation, played an instrumental role in pressuring provincial and federal lawmakers to respond to the “problem” of youth sexual exploitation through the creation of legislation.

The following Chapter discusses efforts in the 1990s to combat the sexual exploitation of youth in British Columbia. The claims-making activity of B.C. lobby groups advocating for the protection of the young victims of sexual exploitation is examined. The creation of a secure care initiative in B.C. offers an empirical example of the impact of lobby-group claims-making activity on provincial legislators. The *Secure Care Act* represents B.C.’s latest attempt to eradicate the social problem of youth sexual exploitation through legislation designed to protect victims of commercial sexual exploitation. Those skeptical of the legislation’s ability to eradicate the social problem of youth sexual exploitation note that the *Act*, like the historical interventions already

discussed, continues to ignore the structural and systemic inequalities that many young women involved in prostitution endure.

Chapter Three: Diane Sowden and Claims-Making Activity

Best notes that the most fundamental form of claims-making is to define a problem or to “give it a name” (Best, 1990: 26). The social problem of youth sexual exploitation had already been identified by earlier claims-makers, who reconceptualized youth prostitution as sexual exploitation and abuse. Lobby group activity led to the creation of additional resources to address the sexual exploitation of youth; namely, the Vancouver Action Plan, the Provincial Action Plan, and the Provincial Prostitution Unit. Additionally, the 1997 section 212(4) amendments to the *Criminal Code of Canada* were created to increase protection for sexually exploited youth.

Not convinced that these resources were adequate in protecting sexually exploited youth and, in particular, youth resistant to accessing voluntary services, claims-makers continued to advocate for more effective tools to protect these youth. One lobby group, led by Diane Sowden, emerged as a powerful advocate for the protection of sexually exploited youth. The claims-making activity of this lobby group played an integral role in influencing the B.C. government to introduce secure care legislation which mandated the protection of sexually exploited youth through involuntary detention.

Enter Diane Sowden

Social problems may be defined by personal crusaders who launch a social movement in response to being personally harmed by a condition (Goode and Ben-

Yehuda, 1994). In 1994, Diane Sowden, a suburban mother and business woman, approached the local media with “her story.” Frustrated by the youth service system in B.C., Sowden relayed the struggles of getting resources for her daughter, Katherine, who had become involved in the sex trade after falling into debt for drugs:

In 1993 I lost a daughter to the drug scene – crack cocaine. She was 13 years old, grade 7. Then within two months of being addicted to crack she was sold to a pimp for drug debts and my husband and I were really shocked that there was no way of intervening or helping her without her agreeing, and she was not doing that and she was only 13 years old. And we went to the police, we went to Social Services, we went to our local MP, our local MLA and were told that there was really not a lot that they could do (Sowden, March 14, 2002).

Joel Best distinguishes between “insider” and “outsider” claims-makers. Both types of claims-makers want something to be done by someone to respond to their claims about a given condition. The principal difference between insider and outsider claims-makers is their direct access to – and influence over – policymakers (Best, 1990). Outsider claims-makers have limited access to policymakers. Therefore they often utilize the mass media to attract public attention to a particular condition. Media coverage “seems to offer the best route to public sympathy, a larger membership, and access to policymakers” (1990: 15). As an outsider claims-maker, Sowden initially had little ability to access policymakers. She then sought to mobilize public support by exposing the issue of youth sexual exploitation in the media.

As a result of Sowden’s initial exposure in the local Tri-Cities news media, she noted that several parents contacted her and came forward with their own stories of how

they also felt powerless to save their children from sexual exploitation:

So I went public to the local paper and to my surprise, my husband and I got calls from other parents in the community who were in the same boat and it was a problem that was happening in the community that nobody was talking about it (Sowden, March 14, 2002).

Sowden formed a support and advocacy group for the parents of children who were being sexually exploited through the sex trade. The claims-making activity that followed would have far-reaching implications. Sowden's advocacy network would play a fundamental role in challenging traditional explanations and ideas about youth sexual exploitation. Further, Sowden played a pivotal role in the advocacy for greater resources and services for sexually exploited youth. In particular, Sowden's claims-making activity was instrumental in producing a discourse that made responding to the problem of youth sexual exploitation through anything other than the secure care measure much more difficult.

Challenging Traditional Explanations of Youth Sexual Exploitation

In his study of the missing children "problem" in the U.S., Best notes that claims-makers made "little effort to locate causes in complex social conditions, preferring to assign responsibility to criminal or perverted individuals" (Best, 1990: 35). Similarly, in their advocacy for greater protection of sexually exploited youth, claims-makers rekindled fears that had lain dormant for several years. They focussed their activities on alerting the public to alarming new trends and tactics "predatory" pimps use. The news media became a particularly powerful medium used by claims-makers to send this message out.

Claims-makers challenged traditional explanations of youth sexual exploitation that focus on the role of precipitating factors, such as a history of sexual abuse, social and economic marginalization, and an abusive family background in a young person's involvement in prostitution. While there is disagreement amongst researchers over the significance of some of these factors in understanding a young person's entry into the sex trade, the majority agree that many defamilied youth who become involved in prostitution have drifted into it as a matter of survival having run away from adverse life circumstances (McClanahan et al., 1999; Csapo, 1986; Longres, 1991; Nadon et al, 1998; Lowman, 1987; Chesney-Lind and Shelden, 1992).

Protectionist claims-makers favoured explanations that highlighted the role of the pimp in the sexual exploitation of youth over those that examined more complex social arrangements, structures and social conditions in society. Similar to literature distributed by late nineteenth century and early twentieth claims-makers, various newspaper articles claimed that the pimp constituted a harmful threat to society:

Parents who fail to broach this issue with their kids are leaving them vulnerable to predators, according to the police...Parents have almost no chance of rescuing children once they've been targeted by a pimp, police say (*Vancouver Sun*, March 24, 1999: B1).

Smooth talking pimps lured Sowden's 13-year-old daughter out of her comfortable suburban home five years ago and gave the confused child a life of heroin addiction and prostitution instead. Ever since, Sowden has worked hard to warn other parents about the problem. "What we have to do is realize pimps and recruiters are predators," said Sowden, a prominent advocate against the sexual exploitation of children (*Vancouver Sun*, October 21, 1998: B1).

"Pimps and other human predators intent on luring children into prostitution are never obvious," a sex-trade veteran warned Wednesday..." They can appear in the mall, on the street or in a nightclub,

warning of their “smooth-talking attitude”. “It can happen everywhere” (*Vancouver Sun*, March 12, 1998: B1).

“Its tragic, but a great many of people are ignorant of what could happen if their children are picked out for recruitment,” said Coquitlam’s Diane Sowden, Director of the Children of the Streets Society, an organization dedicated to ending the sexual exploitation of children. “They have no comprehension of the dangers involved or how good these pimps are at what they do”(*Vancouver Sun*, March 18, 1999: B1).

News items frequently included information about recruitment tactics and techniques used by these procurers of youth and included warning signs for parents to look out for:

“Many are befriended by pimps at high schools or shopping malls, and then tricked into working the streets. Some are lured in by friends, who have already been taken advantage of, and are used by pimps to recruit more young girls. Another tactic used by pimps to recruit young girls is to distribute free passes to nightclubs, and befriend them there,” Smith said (*Vancouver Sun*, May 24, 1999: B1).

Sowden said there are a number of practical things parents can do – including removing phones from their children’s bedrooms at night. “The phone is a powerful recruiting tool for pimps. They’ll keep a child on the phone all night. It makes the child grumpy – she’ll have trouble at school and will end up fighting with her parents, which is what the pimp wants. He wants to isolate her from her family and once she starts fighting with them, he’s going to offer her a shoulder to cry on. It also changes the child’s biological clock so she will be able to function at night instead of during the day which is when they have them working,” said Sowden (*Vancouver Sun*, May 31, 1999: B1).

Parents urged to watch for warning signs:

- Tip-off signs parents should look for in children who may be involved in prostitution:
- Withdraws from home life, secretive and uncommunicative, misses curfew or runs away.
- Skips school and grades drop.
- Wild dress, heavy make-up, carries condoms.
- Extreme mood swings, abusive behaviour and language.
- Lies about where they are and what they're doing.
- Drops old friends for a new group; extreme protection of boyfriend (*Vancouver Sun*, February 14, 1997: B3).

How to recognize a pimp.

- Usually male between ages 16 and 45. But can also be female.
- May appear to have material success beyond their age group, but in fact are unemployed with limited education, have few material possessions are often associated with criminal activity and the drug trade.
- May claim to be in the entertainment industry.
- Usually poses as a boyfriend who is too nice to the family, a smooth talker who makes young girls feel like an adult.
- Is possessive and controlling and separates a young girl from other friends. Is manipulative and may display bravado and attitude.
- May carry weapons and have a violent background.
- Has one or more girlfriends they are exploiting as prostitutes (*Vancouver Sun*, March 18, 1999: B1).

Claims About the Relationship between Sexual Exploitation and Drugs

Protectionist claims-makers highlighted a particularly powerful new tactic employed by the predatory pimp. Sowden argued that her family's experience was not unique. Rather, she argued it represented a new and increasingly utilized tactic employed by pimps seeking to recruit girls into the sex trade. Claims-makers asserted that many pimps use drugs as a lure to recruit a girl into the sex trade. Once the intended "victim" became dependent upon the drug, she could be recruited into the sex trade where she could make money to supply her addiction. News items warned parents of this new tactic

and often included anecdotes of young women who had been recruited into the sex trade through their introduction and subsequent addiction to drugs:

[Constable] Arsenault said he doesn't know whether drug addiction or prostitution comes first. "A lot of guys are supplying the young girls with these drugs for nothing. There is only one reason for that. This is to get them wired so that they can be involved in recruitment," McGirr said. "Drugs are the common denominator in recruitment for prostitution" (*Vancouver Sun*, March 24, 1999: B1).

...well organized gangs of pimps and procurers are using drugs and promises of money to recruit children as young as 11 years old (*Vancouver Sun*, March 18, 1999: B1).

Recruiting young girls is simple, and cold-blooded. They're befriended by girls already under the control of pimps, or given "free" heroin by pushers who only need a couple of months to get them hooked for good....Sowden, "This is their hook on getting ahold of these young girls, getting them hooked on the drug" (*Vancouver Sun*, July 14, 1999: B1).

"He got me a job stripping in a night club in Coquitlam and I'd given him all my money I earned."....It was while she was stripping that the Coquitlam teenager was noticed by C--, a gang member who promised her drugs and money if she would be with him. Eventually she went to live with him in a Surrey crack house. "By now I was doing crack and hash and acid and mushrooms – just about everything – and I was sleeping with him and a bunch of his friends" (*Vancouver Sun*, January 23, 1999: C1).

This all comes amid troubling reports that there are more signs of heroin and crack cocaine being sold to youths in Delta. "The warning flags are there," said Hammersark. "We've got a problem with drugs and we know when youth get involved in drugs, prostitution can follow"...Organizers reported gangs of procurers and pimps are now active in many parts of B.C. preying on children who are usually led into prostitution through exposure to drugs (*Vancouver Sun*, May 3, 1999: B1).

Sowden, "This is their hook on getting ahold of these young girls, getting them hooked on the drug"...Sowden thinks the means by which pimps and associates groom their victim has become highly sophisticated (*Vancouver Sun*, July 14, 1999: B1).

MacIver said boys and girls are often introduced to drugs by older men and forced to pay for the drugs by having sex at house parties, which begins the spiral down the road to prostitution (*Vancouver Sun*, October 4, 1999: B3).

As we shall see, claims that pimps were using drugs to lure youth into prostitution would become an integral component of claims-makers' advocacy for a secure care option in B.C.

Claims About the Extent of Youth Sexual Exploitation

Claims-making about social problems often involve trying to "assess its magnitude" (Best, 1990: 29). Claims-making about the magnitude of a condition is integral to attracting attention to the social problem. Best outlines three ways in which this magnitude is assessed: incidence estimates; growth estimates; and range claims. Claims-makers advocating for the protection of sexually exploited youth articulated the scope of the problem of youth sexual exploitation in the news media by noting the problem's incidence, growth and range.

Incidence Estimates

Incidence estimates are one of the most basic ways to establish a social problem's dimensions (1990: 29). News items about youth sexual exploitation frequently contained numerical estimates of the scope of the problem. These articles often included claims about the estimated number of youths being sexually exploited through their involvement in prostitution:

"In Vancouver, up to 500 boys and girls work the 'kiddy strip' at East Hastings and Franklin annually," said John Turvey, director of the Downtown Eastside Youth Activities Centre (*Vancouver Sun*, November 14, 1997: B1).

“The idea of Vancouver being regarded as North America’s Bangkok is partly due to the province’s reputation on the Internet as a major centre for child sexual exploitation,” says Renata Aebi, coalition coordinator. According to some estimates there are 1,000 children and youth living on the street, many of whom could be involved in prostitution (*Vancouver Sun*, April 30, 1999: A1).

There are no official estimates on the number of children engaged in prostitution, but some authorities put the number as high as 1,000 in Vancouver alone (*Vancouver Sun*, May 3, 1999: B1).

Smith estimated about 100 child prostitutes are on the streets of Vancouver at any one time. But Mas pointed out it is difficult to count, as many children are invisible – working inside (*Vancouver Sun*, May 24, 1999: B1).

Constable Toby Hinton, who has worked Vancouver’s skid row for years, agrees. About 120 children work as prostitutes there at any given time (*Vancouver Sun*, July 31, 2000: B1).

The illicit nature of child prostitution make it difficult for the researchers to put a number on how many aboriginal youths are involved. They estimate thousands are trapped in it (*Vancouver Sun*, December 5, 2000: A1).

Growth Estimates

Growth estimates are frequently offered to show that the social problem is getting worse. News items about youth sexual exploitation frequently included claims that the problem was escalating and becoming more alarming. Numerical estimates demonstrating a growth in the number of youth involved in prostitution were frequently cited:

The pressures that lured three Burnaby girls into the world of prostitution, gangs, drugs and murder are affecting an increasing number of children, experts say. “Over the last three years we’ve seen a marked increase in juvenile prostitution on the streets,” said Vancouver police Sergeant Gordon Elias (*Vancouver Sun*, February 14, 1997: B3).

Turvey said that since he became involved in the outreach program 15 years ago, the problem has escalated (*Vancouver Sun*, November 14, 1997: B1).

RCMP Constable Doug Jacobson said police have seen an explosion in the past two months in the number of prostitutes aged 13 to 15 working Surrey's streets (*Vancouver Sun*, May 12, 1998: B1).

Rapid expansion of the teenage sex trade in Lower Mainland and Fraser Valley communities is resulting in street prostitution by children in places where it was previously unknown, police and community activists say (*Vancouver Sun*, March 18, 1999: B1). Over the past three or four years the growth in that trade [youth sex trade] has escalated at an unbelievable pace (*Vancouver Sun*, July 14, 1999: B1).

Further, many articles claimed that the average age of youths becoming involved in prostitution was decreasing. A number of articles noted that it was not uncommon for children as young as 11 or 12 to be sexually exploited through the sex trade:

As young as 13, while they are still in Grade 7, they are pressured to become sexually active. And some give in – either by choice or by force...We know they are at risk of sexual exploitation – younger girls are targeted (*Vancouver Sun*, January 16, 1997: B1).

“Some children in British Columbia are as young as eight when first procured for sex,” warns an internal briefing paper from the provincial attorney-general's department (*Vancouver Sun*, May 17, 1997: G1).

Corporal Jim Burton of the Coquitlam RCMP's youth services team said he is well aware of the threat to young people in Coquitlam and he is seeing more and more 12 and 13 year-old boys and girls recruited into prostitution (*Vancouver Sun*, October 21, 1998: B1).

Studies show the average age of children first introduced to prostitution has dropped dramatically in the past five years, from 15.5 years to 13 years (*Vancouver Sun*, May 3, 1999: B1).

“We have a very serious juvenile prostitution problem. We have noticed in the last couple of years that the actual age of girls when they are first turned out on the street is decreasing,” Smith said, estimating the age has dropped to 13 from 15 (*Vancouver Sun*, May 4, 1999: B1).

Range Claims

A social problem's magnitude is also established by range claims. Claims-makers assert that the, "problem extends throughout the social structure" (Best, 1990: 31). Best notes that range claims serve an important function: "by arguing that anyone might be affected by a problem, a claims-maker can make everyone in the audience feel that he or she has a vested interest in the problem's solution" (1990: 31).

Protectionist claims-makers challenged traditional notions and explanations that sexually exploited youths frequently come from socio-economically disadvantaged families or have been victims of previous sexual abuse. These claims-makers asserted that the threat brought about by recruitment practices of the predatory pimp cut across all socio-economic, racial and geographical boundaries. Such claims-making characterized the social problem of youth sexual exploitation as affecting people indiscriminately. The message relayed in the media was simple: no one was immune to the persuasive power of the predatory pimp. It could happen to anyone, even to good families. It could happen anywhere, even in good suburban neighbourhoods:

We have to break down the stereotypes about the type of families and youth who end up on the streets and why they end up there. And, we have to educate people to realize it can happen to anyone if they don't have the tools to protect themselves (*Vancouver Sun*, April 1, 1998: B4).

About 60 per-cent of the young victims come from troubled backgrounds, but the remainder come from good homes – and pimps have told police that they prefer youngsters with normal backgrounds because they are easier to control...Sowden said that with school out for the summer, the primary venues for finding new victims are shopping malls..."As a parent I would not allow my 12-, 13-, 14-year-old daughter to be hanging around a food fair in a mall" (*Vancouver Sun*, July 14, 1999: B1).

Increasingly youth – and their parents – are being warned that "good" homes, loving families and middle-class sensibilities are no protection

against the relentless and insidious influence of abusers, pimps and drug dealers...There are many stories of middle and upper-middle class kids being recruited. That's the eye opener. It could be the girl next door (*Vancouver Sun*, October 15, 1999: C14).

Risk Factors for Children: It can happen to any child from any social, economic or cultural background. More children from ordinary middle-class homes with no history of abuse are becoming prostitutes (*Vancouver Sun*, March 18, 1999: B1).

"While many child prostitutes have a history of sexual abuse, the phenomenon of children from ordinary homes being enticed into the sex trade has become an established trend in the past five years," said Sowden. "My message to the symposium will be the same as it is here – we have to break down the stereotypes and stop thinking that it's only children from troubled homes who are at risk. This gives other parents a false sense of security that it can't happen to them. Well, it can and it does," said Sowden (*Vancouver Sun*, March 14, 1997: B6).

Burton says no family should imagine it couldn't happen to them. "There's a myth out there that this only happens to children who've been sexually abused at home or live in poverty. We're seeing kids from normal backgrounds – 'A' students in school, some of them – falling into this," he said (*Vancouver Sun*, March 18, 1999: B1).

Claims-makers warned that many of the youth who end up in Vancouver's "kiddie stroll" are often recruited by pimps from suburban areas, traditionally considered "safe" geographical areas:

"The vast majority of children working on Vancouver's kiddie stroll are recruited from the bedroom communities outside the city's limits," said Sergeant Don Smith, who heads the Vancouver police's vice unit (*Vancouver Sun*, May 4, 1999: B1).

At least 75 pimps and their associates are actively recruiting teen and pre-teen girls in the Tri-Cities for the sex trade, and Coquitlam RCMP are warning that the trend is escalating (*Vancouver Sun*, July 15, 1999: B1).

Diane Sowden, a 44-year old Coquitlam mother of four, told councillors that child prostitution is as real in the leafy suburbs as it is on the harsh streets of Vancouver's Downtown Eastside..." Some of the children have not been street-proofed at home because suburban parents can be complacent about the risks," Sowden said (*Vancouver Sun*, October 21, 1998: B1).

Tim Agg, Executive Director of Pacific Legal Education Association (PLEA), and Merlyn Horton, a former street outreach worker, both of whom were interviewed for the present study, credited Sowden with challenging traditional notions around youth sexual exploitation. Agg suggested that Sowden played a pivotal role in reframing how the problem of youth sexual exploitation was presented in the media and in challenging the notion that, "good suburban youth" were somehow immune to sexual exploitation:

I think one of the things that happened in Diane's campaign was that over the years the assumption had been made...that there seems to be a very high correlation [between] some abuse somewhere in the kid's history and involvement in the sex trade. I think one of the things that Diane came along and did was sort of upset the apple cart a little bit by saying, "No, not necessarily, not necessarily in all cases"....She complained quite bitterly that often the response of the service system was to assume that if the kid was on the street, that the kid had legitimately fled an abusive home situation (Agg, April 28, 2003).

[Diane Sowden was brave] in coming forward and saying, "I'm one of those parents. I'm one of those parents and I did nothing wrong." [It] made people sit up and pay attention. I think it was a good perspective to come in... We always kind of go, "Oh well, they come from a bad family." And Diane Sowden was quite effective in stepping forward and saying, "this is a result of [a] systemic lack and a growing population who are focusing on this group of young people" (Horton, October 22, 2002).

In attempts to further raise public awareness of the indiscriminate threat that the predatory pimp had on youth, Sowden's non-profit organization – Children of the Street Society – undertook a public awareness campaign.⁷ In particular, the organization

⁷ At the time of writing, this public awareness campaign is still active.

established an acting troupe, “TCO2” (Taking Care of Ourselves, Taking Care of Others), that performs workshops for youth, parents and service providers. TCO2 warns of the tactics and techniques pimps employ in their efforts to recruit youth into the sex trade. Like late nineteenth century and early twentieth century claims-makers, the Society distributes pamphlets that warned of the threat that the pimp poses to the community, suggesting that youth sexual exploitation “can happen to anyone” and that “more and more kids...are being recruited from higher-income families, and/or families where abuse has not been reported” (British Columbia, 2001: 13). Like claims made in the media, the Children of the Street Society literature included warning signs for parents, including how to recognize how your child is being targeted and recruited by a pimp.

Inadequate Responses to Youth Sexual Exploitation

“Claims-making is always a form of interaction: a demand is made by one party to another that something be done about some putative condition” (Spector and Kituse, 1977: 78). Sowden-style claims-makers began to focus their efforts on lobbying all levels of government for the greater protection of sexually exploited youth who were portrayed as “victims” of the devices of the predatory pimp and seen as in need of rescuing. Claims-makers argued that current resources and legislative tools were inadequate and ineffective in remedying the problem of youth sexual exploitation and in protecting the victims of the exploitation.

The Young Offender’s Act: Criminalizing for Protection

Claims-makers criticized the seemingly standard criminal justice practice of criminalizing youths, mostly girls, for their own protection. In the absence of non-

criminal legislation authorizing the involuntary detainment of a youth for protection purposes, girls were frequently charged with minor criminal law infractions. This allowed authorities to protect the youth from potentially life endangering situations, involving drug abuse and/or sexual exploitation. Claims-maker's protested the criminalization of these girls and asserted that they should be treated as victims, not offenders.

Research conducted by Corrado, Odgers and Cohen (2000) supported claims that girls are often processed through the criminal justice system for the purpose of awarding them protection. In particular, this research demonstrated that the vast majority of girls serving time in a custodial institution had been charged with an administrative or minor offence. The researchers contended that, "the sentencing recommendations made by youth justice personnel are primarily based on the desire to protect female youth from high-risk environments and street-entrenched lifestyles" (Corrado et al., 2000: 5). In many circumstances, girls were given custodial sentences due to their unwillingness to participate in voluntary community-based programs. Corrado et al's research indicated that since the inception of the Young Offender's Act (YOA), custodial rates for girls had increased. They suggested that the desire to protect girls, "including the immediate objective of saving lives of certain particularly vulnerable offenders" explained this increase (2000: 6).

A number of my research participants agreed that girls were criminalized for their protection. Alan Markwart, Assistant Deputy Minister in the Ministry for Children and Family Development noted:

We do do secure care or safe care through the back door in the youth justice system which has always been something that I've thought as wrong. And it's the very typical kinds of cases where you have usually

girls who are charged with fairly minor offences, you know, whether its boosting something out of a store or a drug offence or a common assault or something. They're placed on probation with all kinds of usually very strict conditions, very well intended because really the primary concern is not their criminal behaviour, but the harm to themselves (Markwart, November 1, 2002).

Merlyn Horton spoke about her experiences as a street outreach worker and how criminal law procedures were invoked to protect girls and, in many cases, save their lives:

In the past we had been criminalizing young people to get them off the streets anyways. Somebody would say.. "Bobby *** is going to die if we don't get her off the street. Can we breach her? Can we get her back in front of this judge or that judge." We know that if we say she has four breaches and we're worried about her being alive that this judge will lock her up in YDC (Horton, October 22, 2002).

Diane Sowden noted that in most cases, the only way to ensure that her daughter was protected was to plead with the criminal justice personnel to incarcerate her:

I have a big problem having to criminalize or hope that my child end up in the justice system so she'd go to Wellington rather than get into a treatment facility... As a parent who is desperate every time she went to court, I'd be there asking the judge to give her jail time because anytime she was in jail, I knew two weeks, four months, or whatever, she was alive and there was a chance that she was going to be able to get off the drugs, detox and maybe connect with resources (Sowden, March 14, 2002).

Annabell Webb, an advocate at Justice for Girls, works on behalf of many girls incarcerated at Burnaby Youth Secure Custody Centre (BYSCC), formerly Youth Detention Centre (YDC). Webb argued that despite the intentions to protect young girls through incarceration, custodial institutions seldom offered safety and protection to girls:

I don't know if you've been to YDC or have spent anytime there...I can't think of a less rehabilitative environment frankly. I mean as a worker going in there, as an advocate...it just feels like an incredibly oppressive environment. Not to mention the things that young women have told us about what they've experienced out there in terms of either witnessing or

experiencing. You know there's a lot of violence that goes on out there... There's some young men out there who are some pretty violent young men who I'm sure have a whole host of their own issues. There are young men out there that have pimped girls that are in there with them (Webb, October 24, 2002).

Webb further contended that the use of custodial sentences to protect girls is legally problematic:

The approach that is "well, we'll jail them for their own safety" is illegal for one thing. I mean you don't extend people's sentences to protect them. That's actually fundamentally legally problematic. It's totally contrary to sentencing principles. But those young women's rights, constitutional and charter rights are breached all the time because of the lack of adequate social services. And there are a lot of judges who will go along with that. And there are some who won't... There's a section in the YOA that specifically states that custodial sentencing should not be used in lieu of social services... Its rare that a defence lawyer argues that (Webb, October 24, 2002).

The new federal *Youth Criminal Justice Act* (2003) makes the unofficial policy of "backdoor secure care" problematic. Section 39(5) of the *Act* prevents the use of custody as a substitute for child welfare measures.

Lack of Resources

Despite the Vancouver Action Plan's funding of new resources and tools designed to protect sexually exploited youth, protectionist claims-makers pointed to the continual lack of adequate voluntary services and resources for these youth. In particular, these claims-makers argued that there is a critical lack of resources for sexually exploited youth. Girls frequently had to be criminalized in order for them to access services.

Newspaper articles included claims about the lack of treatment services for youth in B.C.:

[John Turvey] believes today's youth are being failed by cash-strapped social services and a justice system more intent on prosecuting than protecting (*Vancouver Sun*, February 14, 1997: B1).

“A lack of treatment facilities for young drug addicts is the biggest obstacle facing parents who want to save their children,” say parents and drug counsellors who work with youth. “The situation is so desperate,” says Vancouver-based drug counsellor Lee Davidson, that some frustrated parents are arranging for their children to be kidnapped by a U.S.-based rehabilitation organization...Across B.C. there are only 15 residential treatment beds available for teenagers...Diane Sowden, whose teenage daughter relies on prostitution to feed her heroin addiction, says nothing will change until public pressure forces politicians to deal with the issue (*Vancouver Sun*, December 2, 1998: B1).

“It’s like a war zone out there,” said Joanne, who wouldn’t give her last name. “Hatred has developed between the police and working boys and girls who are just trying to survive. They’re too young for social assistance, and there’s nothing for them at home. They’ve fallen through the cracks” (*Vancouver Sun*, March 18, 1999: B8).

Parents have good reason for fear and frustration. Last spring a Port Moody family staged a fake home invasion by angry drug-dealers in an attempt to scare their 15-year-old away from the lure of Vancouver’s Downtown Eastside...Street youth societies and social workers are unanimous that the power to remove teens from a drug environment means little without rehabilitation programs. At last count there were 15 residential treatment beds for teenagers in B.C. and an eight-month waiting list (*Vancouver Sun*, September 22, 1999: A16).

Several research participants who were interviewed supported claims that services for sexually exploited youth who were often drug dependent were inadequate:

We don’t have resources for young people. We don’t have places for them to be safe. We don’t have a continuum of care. We don’t have group homes set up for them. We don’t have meaningful therapeutic opportunities for them to work through and resolve some of this stuff (Horton, October 22, 2002).

We need more detox for kids. We need long-term treatment with support services after treatment. Such as life skills...It all comes down to the resources that are available...And there’s less of those services around. And more of those kids around. There’s no treatment. There’s no detox to speak of (Deb Mearns of the Downtown Eastside Neighbourhood Safety Office, November 18, 2002).

It’s dismal. There are very few young detox beds. And they’re all co-ed. When I say co-ed, I mean they’re not only residents co-ed, but staff is as

well. For a lot of young women, being in a facility with male staff over night in a vulnerable situation of withdrawal...many of them have been raped and beaten up and sexually abused and so on by men (Webb, October 24, 2002).

Sowden noted that her experience of trying to find resources for her drug-addicted daughter was experienced by other parents:

To have a youth that's 16 and try to find services. There are services out there if you meet the criteria of that service. And most of our kids don't. I worked with a mom [who had] a young girl, 16 years old, crack addict[ed]. Finally [she] said, "I need help." [The] family was trying to detox her at home, it was a nightmare, a very violent situation erupted. She had her daughter arrested. We tried to get her into detox. Maple cottage wouldn't take her. You have to call every morning at 9 o'clock. She's trying to hold on to this kid literally and she ended up in Vancouver Services. But that's only five days -- now where do I go after that? (Sowden, May 13, 2003).

As a guest on a popular Vancouver morning radio talk show, Sowden noted the dismal state of resources for vulnerable youth. Merlyn Horton recalled how powerful Sowden's claims were:

She [Sowden] went on CKNW and she was going to go and talk about being a mom with a kid who's on the street. She was going to talk on the Bill Good show and on the way to the Bill Good show, she passed her daughter on the street and she got her to come in the car. And she came and she talked during the interview on the radio. Bill Good's production staff got on the phone and phoned Emergency Social Services, phoned detox, phoned and tried to find shelter. Because here they had this young girl who was hyped up, she'd been on the street all night...While they were on the air, his production staff [was] trying to find anything...So the production staff called Emergency Services and they said, "Well if she doesn't want to do anything, we don't have anything for her." And being a really naïve production staff who had never been exposed to this, their incredulousness comes across, "What do you mean there are no services? This girl's 15 years old, what do you mean there's nothing this mom can do?"..And it was really powerful, because you saw someone trying to go through accessing services that didn't exist (Horton, May 13, 2003).

Several of the research participants noted that in addition to being resource strapped, the service delivery system in B.C. was dysfunctional and uncoordinated in its efforts to protect these youth:

What was happening was youth were getting involved with risky behaviour- drug addiction, getting recruited by pimps. Parents were going to the police, police were putting them off to the social workers. You'd go to the social workers, the social workers were being told that these were not kids in need of protection because they came from homes that were willing and able to look after these children. So they couldn't intervene. Everybody was washing their hands of it (Sowden, May 13, 2003).

There's no beginning, middle or end of services for our children in this province. There's just services – its all crisis intervention...The services aren't coordinated, there's no working together within service providers within the high-risk youth population. So a lot of dysfunction. Unhealthy dysfunction. It's almost criminal. It's all fragmented. There's no vision, there's no coordination (Sandy Cooke, Executive Director of Covenant House Vancouver, October 29, 2002).

Youth work in this province has been a series for the last 12 years, a series of misfires, attempts, failures, reconstructions, transformation, policy change, personnel reshuffling, resource allocations, differential tables created. And nothing happens. We still have young people on the streets. We still have no detox beds. We still have no safe shelters (Horton, October 22, 2002).

We got to learn that we got to bury our moral high ground kind of things and learn to work with agencies and institutions that historically often I think youth street workers haven't worked with. Because we can really compliment each other really effectively. Police and youth street workers and service programs. So Vancouver's got to really pull up their socks. There's lots of work for us to do. We've got to learn to network more consistently (John Turvey, Executive Director of Downtown Eastside Youth Activities Society, November 4, 2002).

With organizations, there was the Aboriginal communities, South Vancouver, Eastside, and the Mt. Pleasant area were kind of divided up into different parts of the city...It was trying to coordinate all the services to work together. And we were not good at that. We were into political kind of arenas. The four little areas were all their own entities (Jerry Adams, Executive Director of Urban Native Youth Association, May 6, 2003).

Inadequate Legislation

i) *Child, Family and Community Services Act*

Protectionist claims-makers noted that existing provincial child welfare legislation provided little protection for sexually exploited youth. Section 27(1) of the *Child, Family and Community Services Act (CFCSA)*⁸ authorizes a police officer to take charge of a child, “if the police officer has reasonable grounds to believe that the child’s health or safety is in immediate danger.” Once apprehended by the police, the *Act* requires that the police officer immediately report the circumstances to a director of the Ministry for Children and Family Development (MCFD) and to take the child to the director or to a person designated by the director (section 27(3)). The Vancouver police department’s “Yankee 177” and “Car 278”, both patrol areas frequented by high-risk youth, including those involved in the sex trade. Police officers routinely utilize section 27(3) provisions in apprehending sexually exploited youth and other youth deemed at risk.

Claims-makers noted that the provisions of the *CFCSA* were toothless as youths were aware of the legislation’s inability to detain them. Research participants supported these claims and noted that youth who could be apprehended under this legislation were acutely aware of this:

The kids were running from the cops, they were running from the Kiddie Car. And then they started using more intrusive methods. Like the social worker would be patting down the kid and really being quite forceful with the youth....They were wanting to apprehend. Like just get them from the street situation into a social worker’s office and then all will be well. But the youth would leave ASU [Adolescent Street Unit] and if ASU were to place them in houses, they would walk in the front door and out the back (Raven Bowen, Agency Coordinator, Prostitution Alternatives Counselling Education, April 28, 2003).

⁸ *Child, Family and Community Services Act*, RSBC 1996, c. 46.

Both Alan Markwart and Jerry Adams similarly noted that the legislation does not make it possible to detain a service-resistant youth:

They're apprehended under child welfare legislation and they're brought to a receiving home or a foster home and they're out the back door two hours later and they're back on the street (Markwart, November 1, 2002).

The police have the law to uphold, but there is no law saying kids can't be on the streets. They can apprehend them and keep them in for a day, and the police are getting frustrated as well. I mean that's why we have Adolescent Services Unit, so they brought them there. But as soon as they brought them there, the social worker couldn't hold them, they were done talking quicker than the police were (Adams, November 14, 2002).

Section 28 of the *CFCSA* mandates an application for a protective intervention order which prohibits contact, "between the child and another person" who, "would cause the child to need protection" where, "there are reasonable grounds to believe that contact between a child and another person would cause the child to need protection order" (section 28(1)). Additionally, the court may impose a restraining order if there are reasonable grounds to believe that a person has encouraged, helped, coerced or otherwise exploited a child to engage in prostitution (section 98(1)(a)(b)(c)).

In 1999, the then Ministry of Children and Families attempted to strengthen the child welfare legislation with amendments that provided social workers with more tools to protect sexually exploited youth. Sexual exploitation was added as a condition that justifies protective action by child protection social workers (section 13(1)(c)) and sexual exploitation of a child was defined as:

if the child has been, or is likely to be,
(a) encouraged or helped to engage in prostitution, or
(b) coerced or inveigled into engaging in prostitution
(section 13(1.1)(a)(b)).

Diane Sowden noted that the provisions of the *CFCSA* were not effective in dealing with youth sexual exploitation in the sex trade. She argued that social workers appeared to be uneducated and unaware of the new provisions of the *CFCSA*. In particular, she noted that social workers were frequently unfamiliar with the *Act's* restraining order provisions:

The *Act* came into place in December 1999 and the MCF is just now getting around to educating their support staff on how to implement it or how to do it. I find when a parent phones us, we find out who the social worker that's involved and nine times out of ten they don't even know that they can get a restraining order (Sowden, March 14, 2002).

ii) *Criminal Code: Section 212(4)*

Claims-making by lobby groups resulted in the Federal Government making amendments to the procuring provisions of the *Criminal Code* in 1997. Specifically, amendments made to section 212(4) made it illegal to obtain or attempt to obtain the sexual services of someone under the age of 18 or who the customer believes is under the age of 18 years. Section 212(5) was added which allowed undercover surveillance officers to present themselves to potential customers as being under the age of 18.

Bittle's research (1999) noted that service providers and others who were concerned about enforcing the law against those who sexually exploited youth, were sceptical of the legislation's potential to produce more charges. In particular, one government official who Bittle interviewed noted:

This still 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 (Bittle, 1999: 96).

Bill C-51 was introduced in 1999 and amended section 212(4) in response to the difficulty associated with proving that the accused believed the police officer posing as a youth was less than 18 years of age. The amendments replaced the existing provision “attempt to obtain...the sexual services of a person who is under the age of eighteen” with “..communicates for the purpose of obtaining..” those services. Section 212(4) currently reads:

Every person who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person who is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years (*Criminal Code*, s. 212(4)).

Section 212(5) was subsequently repealed.

Protectionist claims-makers were skeptical of the ability of these new provisions to protect sexually exploited youth given the historical failure of these laws to secure convictions against clients of youths involved in prostitution. These claims-makers thus focussed their efforts on advocating for protection-oriented legislation designed to protect young victims of sexual exploitation.

iii) Legal Age of Sexual Consent

Protectionist claims-makers continued earlier, albeit unsuccessful, attempts to lobby the Federal Government to change the legal sexual age of consent. Section 150.1(1) of the *Criminal Code* of Canada states that a child of the age of 14 is legally able to consent to sexual activity. These claims-makers noted that it was not a coincidence that the average age for youths entering the sex trade is 14. Lobby groups

advocated for the raising of the age of consent, claimed that pimps and johns recruiting youth into prostitution are cognizant of the sexual consent provisions.

News items included claims that the current sexual consent provisions were problematic and did not protect sexually exploited youth from sexual predators. News items noted Sowden's influence in mobilizing the then B.C. Attorney-General, Ujjal Dosanjh, to lobby the Federal Government to amend Canada's sexual consent laws:

Everyone agrees that part of the problem is the law intended to protect young people. In B.C., a youth is a "child" until the age of 19. But the same law also says a 40-year old man may have sex with a consenting 14-year-old. Which is precisely what sexually exploited youths frequently say when police apprehend them (Vancouver Sun, May 17, 1997: G1).

B.C. Attorney-General Ujjal Dosanjh vowed Monday to press Canada's justice ministers to get tougher on adults who sexually exploit children... "Today, an adult can legally have sex with girls as young as 14 years – its only becomes a criminal offence if he pays for it," Dosanjh noted. "A 14-year-old girl clearly does not have the maturity to enter into sexual activity with an adult or make life-saving choices regarding the conditions of that sexual activity," he added (Vancouver Sun, December 2, 1997: A6).

[Sowden]: "We have to change the system that allows children of 14 to live with pimps and be bought and sold on the streets. Do you think it's a coincidence that the average age of entry into the sex trade is 14 years and that the age of sexual consent in this country is also 14?" (Vancouver Sun, January 20, 1998: B5).

Attorney General Ujjal Dosanjh paid her [Sowden] an unusual compliment in March when he said it was her exertions that convinced him to seek a lowering of the age of sexual consent in Canada to 14 from 16 (Vancouver Sun, April 28, 1999: A17).⁹

The Society [Sowden's Children of the Street Society] lobbies government on behalf of parents who have lost children to prostitution and drug abuse, and is a leading advocate against the sexual exploitation of children....The Society's demand that the age of sexual consent be raised

⁹ Note: typo from newspaper. This should read, "raising of the age of sexual consent in Canada to 16 from 14."

from 14 to at least 16 has been endorsed by Attorney-General Ujjal Dosanjh (Vancouver Sun, May 10, 1999: B1).

She [Sowden] circulated a petition, signed by many at the meeting, calling on the Federal government to raise the age of sexual consent in Canada from 14 to 16. Sowden said it is no coincidence that most children enter the sex trade at 14 (Vancouver Sun, May 31, 1999: B1).

Despite the lobbying efforts of Ujjal Dosanjh in B.C. and other concerned lobbyists, the sexual consent laws in Canada, to date, remain unaltered.

Out from the Shadows and into the Light: Victoria Summit

Advocates for sexually exploited youth in B.C. organized an International Summit of Sexually Exploited Youth in Victoria in March, 1998. Chaired by Cherry Kingsley, a well-known youth advocate and former sexually exploited youth, and Canadian Senator Landon Pearson, the Summit brought together 55 sexually exploited youth from North, Central and South America and the Caribbean. These delegates presented a “Declaration and Agenda for Action” to representatives from participating governments, international non-governmental organizations and non-experiential delegates at the five-day event. The Declaration supported claims that youth involvement in prostitution was akin to sexual exploitation and a form of child abuse:

We declare that the term child or youth prostitute can no longer be used. These children and youth are sexually exploited and any language or reference to them must reflect this belief.

We declare that the commercial sexual exploitation of children and youth is a form of child abuse and slavery (Final Report, 1998: 120).

The Declaration subsequently advocated for the protection of sexually exploited youth:

We declare that all children and youth have the right to be protected from all forms of abuse, exploitation and the threat of abuse, harm or exploitation (1998: 120).

The Agenda for Action included a number of recommendations for increased education, resources and accountability of all levels of government for the protection for sexually exploited youth. The Summit's recommendations for legislative action called for the prevention of sexual exploitation by the identification of children or youth who are at high risk for sexual exploitation, "by those with authority and ability to intervene" (1998: 125). Further, the Summit recommended that:

Governments must take on the responsibility of ensuring that sexually exploited children and youth are not prosecuted, but rather protected (1998: 125)

The Agenda for Action does not specify how sexually exploited youth are to be protected or how those with authority should intervene in the lives of these youth.

The Summit received media attention, bolstering efforts of protectionist claim-makers in their advocacy for the protection of sexually exploited youth.

Chapter Four: Advocacy for a Secure Care Option in B.C

Having highlighted the ineffectiveness of resources, services and legislation designed to protect victims of sexual exploitation, secure care advocates, led largely by Diane Sowden, focused their efforts on lobbying for the development of a secure care option in B.C. These claims- makers argued that many sexually exploited youth who often have drug-dependency issues were highly resistant to receiving voluntary services. They subsequently advocated for the creation of legislation that would mandate the involuntary detention of this select population of youth in B.C. Re-asserting claims that sexual exploitation and drug addiction often go hand in hand, claims-makers advocated for a secure care option mandated to include both sexually exploited youth and youth with drug addiction issues.¹⁰

Secure care advocates noted that parents were often powerless to save their children and thus required secure care legislation that would protect and save them. In many cases, as Sowden noted, parents were being held criminally culpable for attempting to protect their own child:

We had parents including my husband who had police come to the house and say if you scoop your kid from the street again, we're charging you with holding a child against their will. They were 13-years-old!...My daughter was on the street at the age of 13, just three days after her thirteenth birthday. So she was young. And we had the police saying that we couldn't scoop her....She committed a crime and then my husband and I had lawyers calling us that we were being sued for the crime that she

¹⁰ The recommendations made by the Alberta Task force for "involuntary services" were specific to youths involved in prostitution and did not include youth with drug-addiction issues.

committed. So we were responsible for her actions, but we have no tools to intervene (Sowden, May 13, 2003).

Commencing with her first interview with the Vancouver Sun in 1994, Sowden's parent lobby group advocated for a secure care option to deal with youth who, like her daughter, were being sexually exploited, were addicted to drugs and were service-resistant. Secure care advocates asserted that in many cases, sexually exploited youth not only need to be protected from the predatory pimp, but they also need to be protected from themselves. Lobbyists claimed that involuntary detainment, or "secure care," would give parents the tools necessary to save their children:

[Sowden's] solution to the problem of child prostitution would send civil libertarians into a swoon. "You need to be able to hold children against their will, force them to accept treatment. But the law's not prepared to do this and so these kids are lost... All I was asking was for her to be taken off the streets, protected against herself, but no one would do it" (*Vancouver Sun*, November 21, 1994: A1).

Parents must have the right to act before it is too late for their children. Is this not one of the roles of the family unit? If children aren't capable of making the right choices, parents must have the right to impose treatment against the child's will (*Vancouver Sun*, December 2, 1994: A20).

Of course it is a breach of human rights to interfere and make decisions without general consent, but maybe there is a necessity. Someone must stop a child, barely through puberty, from being given the choices to run away, do acid and become a prostitute... If children aren't capable of making the right choices, help their parents, including giving them the option to impose treatment against the child's will (*Vancouver Sun*, November 25, 1994: A14).

"We need to be able to gain some control over our children who are destroying themselves on the street," she [Sowden] said. A recent Vancouver Sun story detailed how authorities are powerless to prevent child prostitution because the *Family and Child Services Act* has no authority to detain a child against their will (*Vancouver Sun*, July 24, 1995: B1).

Creation of the Secure Care Working Group in British Columbia

In response to claims-maker's advocacy for the creation of a secure care initiative in B.C., the then provincial Minister for Children and Families, Penny Priddy, appointed the Secure Care Working Group (SCWG) in February of 1998. The SCWG Report acknowledged the role that Diane Sowden played in advocating for the creation of a secure care option in B.C.:

The working group also wishes to express its appreciation to one of its members, Diane Sowden, whose work with and on behalf of parents played a significant part in originally bringing the need for secure care to the attention of the Ministry (Secure Care Working Group Report, 1998: 3).

Two members of the Working Group noted that the group was formed largely in response to Sowden-led parental and community pressure put on the government to increase protection to service-resistant sexually exploited youth who frequently abused drugs:

We had a series of meetings and some of the discussions were around, "well what is going on at the moment?" "What's the state of play?" From the kind of bureaucratic point of view, from a legal point of view, from the perception of parents whose kids had been involved...and it was mostly I think parents of girls who typically got involved in drugs and the sex trade in order to pay for the drugs...Parents like Diane. I mean it wasn't exclusively a girl's phenomenon, but that was the prime source of concern...I think that was the driving motivation (Phil Bryden, March 20, 2002).

And the political agenda was to meet what the community perceived was a need. But it was a very vague, ill-defined need. It basically became quickly reduced to a dramatic picture of somebody being on the street....But there's a kind of dramaticism to it, that this child was on the street, that she was engaging in prostitution and drug abuse...death was imminent. And that there was nothing anybody could do under any

present laws and therefore we needed a new law to do something (Roy Holland, November 15, 2002).

The 10-member Group was charged with providing the provincial government advice on “whether the Ministry should develop options for the secure treatment of high-risk children and youth in B.C.” (SCWG Report, 1998: 5). Composed of individuals with varying backgrounds and expertise, the Working Group included:

- Tim Stevenson (Chair) – MLA, Vancouver-Burrard
- Tim Agg – Executive Director, Pacific Legal Education Association
- Philip Bryden – Professor, Faculty of Law, University of British Columbia
- Roy Holland – Clinical Director, Maples Adolescent Treatment Centre
- Tedd Howard – Regional Operating Officer, Northern Interior
- Carole James – President, B.C. School Trustees Association
- Cherry Kingsley – Co-Chair, International Summit on Exploited Youth
- Grace Nielsen – Executive Director, Tillicum Haus
- Diane Sowden – Family Advocate
- Stan Wilcox – RCMP Superintendent (retired)

Research participants, particularly those who had been members of the SCWG, noted that the issue of “secure care” and its effectiveness in protecting service-resistant high-risk youth was contentious amongst the Group’s diverse members:

It was interesting. I felt a little outnumbered at the very beginning. I was the one person at the table that was the extreme of wanting secure care and I would say that Roy [Holland] was probably the extreme of the opposite and everybody fell in between. He [Holland] was very much against confining a young person against their will in any way. That it’s not going to work (Sowden, March 14, 2002).

The kids that were in this situation that we talked to were tremendously vulnerable, some of them if things had not turned around almost certainly would have died. So it was kind of a grim situation. At the same time there was some fairly significant scepticism about whether or not the most effective way to deal with this is to move into an environment in which you’ve got significant levels of state power to detain young people and then compel them to engage in various kinds of treatment programs (Bryden, March 20, 2002).

I think that in terms of where they were coming from and where they largely remained, they were the two sort of pivotal people at the ends of the spectrum [Sowden and Holland]. I think with other people in varying places but nobody could be counted on to be unbending and nobody could be counted on to be simply dismissive of other viewpoints...Everybody came from very kind of distinct starting points. And everybody, bless them, was committed to listening real careful to what everybody else was saying. It was in some ways one of the most interesting groups I'd ever been part of in terms of its dynamics and difficulty because we were coming from a variety of perspectives with passion in its best sense (Agg, March 18, 2002)

Jeremy Berland, a then senior manager within the Ministry for Children and Family Development, relayed his observations of the Working Group through his involvement as chair of many of the Group's meetings:

It was kind of a difficult committee to chair. There was a lot of different opinions. Meanwhile we were getting a lot of pressure from parents to do something because there are kids dying on the street and pressure from the other side from the civil liberties people saying, "it's immoral to lock kids up against their will"...It's a pretty classic struggle in terms of the question to the government of what do you do with two completely conflicting and competing ideas of how to deal with this pretty important social problem. And the committee was really quite split about what to do (Berland, November 7, 2002).

Over four months, from March to June 1998, the Working Group traveled throughout B.C. and hosted focus groups to hear from parents, service providers and youth in the Lower Mainland, Victoria and Prince George. The group heard from frustrated parents and service providers who noted that they are often unable to protect high-risk youth from harm, "because there is no legal capacity to keep them from returning to a dangerous environment" (Report of the SCWG, 1998: 5). Parents, in particular, felt that they had, "no rights in regard to their children and to protecting them from harm" (1998: 5). The group also heard from parents and service providers that there

was a, “shortage, or in some cases, an absence of appropriate services for high-risk children and youth” (1998: 5).

Following these community consultations, the Working Group submitted its final report and recommendations to the Honourable Lois Boone, then Minister for Children and Families, in August 1998.

Recommendations of the Secure Care Working Group

The Secure Care Working Group Report noted that, “there is small group of children and youth in B.C. – it is not yet clear exactly how many – who are placing themselves at great risk of harm” (Report of the SCWG, 1998: 5). The Report suggested that the abuse of alcohol and drugs, and sexual exploitation are the primary threats to the physical and emotional well-being of these children and youth. The Report further noted that this threat is increased by the fact that many of these children and youth are resistant to help offered to them and because the appropriate services and resources to assist them are not available.

In light of these observations, the Group made 10 recommendations to the Ministry for Children and Families:

- (1) Undertake special outreach and further consultation with on- and off-reserve aboriginal communities on high-risk aboriginal children and youth and any specific services and provisions they may require.
- (2) Identify the services that are already in place for high-risk children and youth and their families, and identify and implement the services that are currently absent and that are needed to complete a continuum of services that will meet the needs of these children, youth and families in a timely and appropriate manner.
- (3) Assess the need for new or transition resources for a continuum of services for high-risk children and youth. This assessment should include a determination of:

- how much is currently being spent on existing services
 - how much is currently being spent on intensive interventions for high-risk children and youth, including out-of-province services
 - how many children and youth in the province are currently receiving these services.
- (4) Provide carefully targeted public education and special outreach on alcohol and other drug use, sexual exploitation of children and youth, and the ministry's services for children, youth and their families. New resources will be required for these initiatives.
 - (5) Review existing legislation and case law to determine the legal rights and responsibilities of parents in regard to their children, and make required adjustments. Communicate the results of the review and adjustments to all areas of the service delivery system and to the public.
 - (6) Review existing legislation and case law to clarify the Director's rights, responsibilities and duties when acting as a parent, and specifically to determine how and why these rights, responsibilities and duties may differ from those of parents. Communicate the results of this review to all caregivers and other service providers.
 - (7) Develop a comprehensive high-risk youth strategy, and use this strategy to guide the delivery of services for high-risk children and youth.
 - (8) Develop and implement a safe care option as part of the ministry's continuum of services for children and youth and families, based on the principles outlined in this report, and with well-defined safeguards built in. Changes to the *Child, Family and Community Services Act* and the *Children's Commission Act* will be required to provide the statutory authority for safe care.
 - (9) Develop a voluntary, specialized service for sexually exploited children and youth that is distinct from safe care.
 - (10) Review the changes to services for high-risk children and youth proposed in this report within two years of their implementation.

Recommendation for a Safe (Secure) Care Option

Noting that, "there is currently a small group of children and youth in B.C. who are at extremely high risk of harm, usually through drug use and/or sexual exploitation, and who are at the same time extremely resistant to service" the Report noted that the Working Group, "believes that a safe care option is required in B.C." (1998: 37). The Working Group chose to use the term "safe" care versus "secure" care. The Report noted

that “the working group found that the majority of people were much more comfortable when the emphasis was on safety, rather than on security” (Report of the SCWG, 1998, 5).

The Report stressed that a safe care option be developed, “as part of a continuum of services for children, youth and families that would begin with prevention and move through more intensive interventions” (1998: 40). Further:

As a capacity to hold a child or youth in order to plan for appropriate services, safe care is dependent upon a range of services to meet the specific needs of each child. It should therefore be seen not as the last stop on the continuum, but as a bridge to other, longer-term services. In addition, without such a continuum, safe care would risk becoming the default for a system lacking appropriate services (1998: 40).

Tim Agg noted the importance of creating a continuum of services and resources prior to creating a secure care option:

The original report talks at some length about recommendations to make sure that basic elements of appropriate services are in place before you charge off doing this piece [secure care]. If secure care is a need, it’s in that context and it’s totally unfair to kids to be saying we’re going to introduce and fund a secure care option when we’re not even providing adequate voluntary services....so having sufficient voluntary services is really critical if you want to restrict the use of the secure care facility for whom there truly is no alternative and I think that should be an important part of the government’s thinking (Agg, March 18, 2002).

The Report emphasized that the Ministry develop and implement a safe care option with “extreme caution” and called for effective safeguards to be built into any safe care services (1998: 38). These included ensuring that:

- the service providers involved are able to demonstrate that the services will benefit the child or youth rather than do more harm;
- the services are being used to benefit the child or youth rather than as a convenience to service providers or parents; and
- the services recognize and support rather than undermine a child or youth's growth into the autonomy of adulthood (1998: 38).

The Report noted the following, in bold type:

Holding a child or youth must not be an end in itself. The purpose of holding a child or youth is to keep him or her safe while assessing the situation and making a plan for what to do next (1998: 39).

What would become an issue of debate amongst the Working Group's members was the recommendation that the period of safe care be short-term: for "up to 72 hours" (1998: 39). During this 72-hour period, an assessment would be completed and an immediate plan of care would be developed. The Working Group noted that this short-term of 72 hours could be used more than once, in order to protect the child or youth from immediate harm.

Dissent in the Secure Care Working Group

Debate ensued within the Working Group with regards to a short-term versus long-term secure care option. In particular, Diane Sowden was an adamant supporter of a long-term secure care option while most of the other members were not supportive of this particular vision:

Many members of the working group...were uncomfortable with the idea of actually holding children and youth for long periods of time (1998: 45).

Sowden noted that she could not agree with the Working Group's recommendation for a short-term 72-hour safe care option:

I just couldn't come to the agreement on that [short-term safe care] because to me that was just a revolving door. 72 hours. I can't even detox my child. I knew what state she was in after 72 hours...I couldn't agree with 72 hours (Sowden, March 14, 2002).

Similarly Sowden noted:

I don't believe in having secure care for short-term. To me that's a revolving door. It's a bandage. It makes it look like we're doing something. This is long-term damage that's done to young people (Sowden, March 14, 2002).

Sowden's dissenting minority position was included in the Report of the Secure Care Working Group. In particular, the Report noted:

One member of the working group still feels very strongly that the capacity to hold some extremely high-risk children and youth for 72 hours will not be enough...The minority position taken by this member of the working group is that in addition to the 72-hour holding capacity, there must be an exception extending the capacity to hold to up to 30 days (SCWG Report, 1998: 45).

The Report noted that this long-term safe care option would be used only:

- if it is clear – based on the assessment completed when the child or youth first arrives at the safe care facility – that the risk of harm is so great that the the child or youth should not be released after 72 hours; and
- on the basis of a court order (1998: 45).

To address due process concerns that may arise out of a long-term safe care option, the minority position recommended that the court become involved to ensure that, “this option is used appropriately and not abused or over-used” (1998: 46). Further the child or youth would have access to legal representation in court and would be able to force a review of the 30-day detainment ordered by the Secure Care Board.

Protection for Sexually Exploited Youth: The Alberta Law

Claims-makers in B.C. noted that their provincial neighbour, Alberta, had already enacted legislation and services designed to protect sexually exploited youth. Proclaimed in February of 1999, The *Protection of Children Involved in Prostitution Act (PCHIP Act)* (S.A. 1998, c.P-19.3) was created in response to recommendations made by the Task Force on Children Involved in Prostitution chaired by Calgary-Fish Creek MLA Heather Forsyth. Like claims-makers in B.C., the Alberta-based Task Force argued that children involved in prostitution were victims of sexual abuse:

The report attempts to stay away from language that implies that child prostitution is part of a business transaction, i.e. “the sex trade” and “customer”. The use of language is important as it reflects attitudes and beliefs...The Task Force believes these children should be seen as victims of abuse...It is within this philosophical framework, that the Task Force formed its recommendations (Report by the Task Force on Children Involved in Prostitution, 1997: 3).

In asserting that these youths are “victims of abuse,” the Task Force recommended that specific legislation be created to provide “legislative support” for a continuum of voluntary and involuntary services for youth involved in prostitution (1997: 19).

Under the *PCHIP Act*, children are deemed to be in need of protection if they are engaged in prostitution or if they are attempting to engage in prostitution (section (1)(2)). Police are authorized to apprehend and convey a child to a protective safe house by force, if necessary, for a period of up to 72 hours (section (2)(1)(b)). This 72 hour period is utilized to ensure the safety of the child and to assess the child. Further, the legislation establishes that a person who, “wilfully causes a child to be a child in need of protection” or, “obstructs or interferes with a director or a police officer exercising any power or

duty” under the legislation is guilty of an offence and liable to a fine of not more than \$25,000 or to imprisonment for up to 24 months or both” (section 9(a)(b)). As we shall see, not long after the *PCHIP Act*’s inception, the legislation would soon be the source of heated debate.

The Alberta Adolescent Recovery Centre

Having previously claimed that B.C. was lacking effective treatment resources for drug-addicted youths, secure care advocates in B.C. noted the apparent success of the Alberta Adolescent Recovery Centre (AARC) in offering drug-addicted youth – frequently sexually exploited – a second chance in life.

AARC was established in 1992 in Calgary. Several news articles noted that the Alberta program is regarded as a, “highly successful drug treatment centre” that, “claims an 80-percent success rate with addicted adolescents”(*Vancouver Sun*, January 20, 2000, B6). One article noted that, “the AARC has been acknowledged as one of the best models of a treatment centre for addicts and has been endorsed by Sowden” (*Vancouver Sun*, May 15, 2000, B1). Another article noted Sowden’s role as the pivotal lobbyist for the establishment of a program similar to the AARC program in B.C.:

Any chance of AARC being available in B.C. will rest on Sowden’s overworked shoulders and on the provincial government’s willingness to do something to help [these] parents. After all, what is the use of secure care if there is no treatment to follow it up? (*Vancouver Sun*, April 28, 1999: A17).

The program is noted to be especially effective at rehabilitating youths formerly involved in the sex trade:

“It’s amazing – you grab a 13-year-old crack-addicted prostitute off a street corner and she’s spitting and screeching and swearing and less than

a year later she's out giving a speech to some downtown businessmen's association," Belliveau [Calgary Police Constable] said (*Vancouver Sun*, January 23, 1999: C4).

The residential treatment model embraces the 12-step program developed by Alcoholics Anonymous and entails intensive counselling for both the youth and his or her family. Secure care advocates noted that due to the lack of resources in B.C., several B.C. families have travelled to Alberta to seek the services of the private treatment centre:

"We have nothing in this province which works for addicted children and their families," said Children of the Street Executive Director Diane Sowden. "We need effective treatment and we know the AARC program works. Parents with addicted children who often end up turning to crime or prostitution to support their habit are desperate for help and have to go to Alberta to get it. Many parents just can't uproot their families and move to Calgary, so we want to bring the program here. We know there are many, many families in B.C. who are going through hell because their child is an addict and we want to help them" (*Vancouver Sun*, January 20, 2000: B6).

Sowden noted that the program's holistic approach is what makes it so successful:

I still think the best working treatment is the Alberta Adolescent Recovery Centre. Because to me, the success rate is high and it meets all the things that we've been asking for. It involves the parents, involves the other youth in the household. It's long term. It's 12 step. They detox them. They go right through from beginning to job placement or back to school (Sowden, May 13, 2003).

Further, lobbyists claimed that the program would be important as a follow-up to the recommendation for secure care made in the Report of the Secure Care Working Group:

Coquitlam's Diane Sowden – whose lobbying on behalf of parents trying to recover their children from addiction and prostitution led to the provincial government setting up the Secure Care Working Group – says it's time to bring AARC to B.C. The group has recommended high risk adolescents be held 72-hours for assessment. "Then what do we do with them? There is no place to treat them. They'll just leave and go back to the street," Sowden said (*Vancouver Sun*, January 23, 1999: C4).

A number of the research participants, particularly members of the Secure Care Working Group, noted that the involuntary nature of the AARC program would make implementing the model in B.C. legally problematic without legislation mandating the involuntary detention of youth:

When you looked closely at what his [Dr. Dean Vause, founding psychologist] program was, it was a quasi-voluntary program in the sense that you had to volunteer. Now you might volunteer when the youth court judge said you're going on probation or you're going there [AARC]. You're going to jail or you're going there. Where would you like to go? (Bryden, March 20, 2002).

That program did not require what most addictions treatment programs require which was that the kid is already at a point of – “I understand I have a problem, I've taken the first step which is detox and I am now ready for treatment.” AARC is actually on the receiving end of some of the kids who parents scoop the kid and drive them to Calgary kicking and screaming the whole way (Agg, March 18, 2002).

85 percent of the kids that are there arrived against their will in the beginning. You know you have parents who trick them into getting in there. You're getting parents to break the law to take their child (Sowden, May 13, 2003).

Cognizant that this proposal was legally problematic given the absence of legislation in B.C. that provided for the involuntary detention of youths against their will, secure care advocates continued to advocate for long-term secure care legislation that would mandate the involuntary use of these treatment services:

Parent activist Diane Sowden said Friday the report ignores demands from parents for long-term treatment. “I put together 22 families as part of the study group involved in this report and none of those parents asked for the 72-hour incarceration...It's just not long enough for kids who have been on the street for a long time like Katherine,” said Sowden, referring to her daughter...” It might be a roadblock for the ones that have just arrived on the street but it's going to do nothing for the kids deeply into prostitution and drugs” (*Vancouver Sun*, October 31, 1998: B5).

Sowden, who was a member of the panel, criticized the recommendations at the time as not going far enough – arguing that even basic detox requires detaining a child for at least seven days (*Vancouver Sun*, April 21, 1999: A4).

News articles also emphasized the difficulties associated with having secure care provisions in one provincial jurisdiction but not in another. In particular, Alberta authorities who were mandated to apprehend youths involved in prostitution under the *PCHIP Act* expressed frustration that their B.C. neighbours were unable to do likewise. Alberta Premier Ralph Klein forced this issue on the agenda at an annual premier's conference after a request was refused to apprehend a Calgary girl suspected of engaging in prostitution in Vancouver. Glen Clark, B.C.'s premier at the time, subsequently responded:

“The B.C. government will ‘very likely’ adopt an Alberta law that allows the authorities to apprehend child prostitutes,” Premier Glen Clark said Wednesday... Clark and the country's other premiers have agreed each of their home provinces should consider adoption of the Alberta law to ensure uniformity across Canada in the treatment by provincial governments...Lois Boone, B.C.'s minister responsible for children and families, is in Alberta this week trying to determine if B.C. should adopt the law (*Vancouver Sun*, August 12, 1999: A8).

Research participants interviewed generally agreed that Alberta's secure care legislation played a role in influencing the B.C. government's decision to subsequently enact similar legislation in 2001. Some proponents of the secure care legislation pointed to the apparent success of the Alberta legislation in confining hundreds of children, including some youth as young as 12.

Merlyn Horton noted that she believed the Alberta legislation “inspired” B.C.'s *Secure Care Act*. In particular she noted that the apparent “success” of the legislation inspired B.C. policy makers:

I know that a lot of my expectations or my prejudices have not be proven out by the PCHIP legislation. I've spoken with people in Alberta that feel that it is an effective tool, that it gives them a chance to get young people off the street for a certain amount of time. (Horton, October 22, 2002).

Similarly, both Alan Markwart and Mark Sieben, Director of Legislation for the Ministry for Children and Family Development, agree that, following the implementation of secure care in Alberta, B.C. politicians and bureaucrats became interested in exploring a similar option:

Certainly there is a political dimension to it all and the Alberta legislation presented a model, although the Alberta legislation initially as you know had some problems with the courts and some rights issues, which have since been corrected. (Markwart, November 1, 2002).

There isn't any doubt when Alberta brought PCHIP into place that it created an expectation that B.C. would do something....I can remember in B.C. papers about PCHIP legislation being available in Alberta and why isn't it here? (Sieben, May 21, 2003).

Claims regarding the "success" of the PCHIP legislation would soon be challenged by evaluations of the legislation's safe house provisions.

Report of the Federal/Provincial/Territorial Working Group

Established by Canadian Deputy Ministers responsible for Justice, the Federal/Provincial/Territorial Working Group (FPTWG) was established in 1992. The Group was mandated to review legislation, policy and practices concerning prostitution-related activities, and to forward related recommendations. The FPTWG was particularly concerned about youth involvement in the sex trade. In its final Report, released in December of 1998, the FPTWG noted their preference for the term, "youth involved in prostitution" versus, "sexually exploited or procured youth" as the Group was, "to deal

with prostitution-related activities, as opposed to sexual exploitation generally” (F/P/T Report, 1998: Executive Summary, 5).

The FPTWG made a number of recommendations specific to combating youth involvement in prostitution. Central to these recommendations was the Group’s assertion that, “integration of enforcement efforts against customers should be coordinated with social supports for youth” (1998: Part II, p.5). The FPTWG stressed that youth involved in prostitution should be viewed as “needing assistance” and that this assistance should be provided to them primarily through social services (1998: Part II, 16). In particular, the FPTWG stressed the importance of social supports for youth involved in prostitution designed to prevent the impact of various precipitating risk factors such as a history of sexual abuse, social and economic marginalization, and an abusive family background. The FPTWG recommended that harm reduction services – such as access to outreach workers, health care and substance abuse programs – should be provided to help youth already involved in prostitution. It also recommended that programs and initiatives that support and facilitate a youth’s exit from prostitution should be supported (1998: Part II, 21-22).

The FPTWG was critical of the tendency to invoke the criminal law to assist high-risk youths and contended that the law not be used for such protective purposes, as this would “unnecessarily criminalize” youth (1998: Part II, 16). Further, the FPTWG noted that provincial child welfare legislation that allowed for the apprehension of “sexually exploited or sexually abused youth” did not provide a complete solution to youth prostitution and recommended that police and child welfare authorities, “adopt specific

protocols or strategies to assist youth who have been apprehended by reason of prostitution activity” (1998: Part II: 17).

The Report noted that legislative secure care provisions that allowed for the detention of apprehended youths in secure settings against their will did not address, “the real problem of their involvement in prostitution” (1998: Part II: 17). The FPTWG warned against the use of detention, particularly in circumstances where it was evident that the youth, “cannot be convinced to take advantage of lifestyle alternatives to prostitution” and asserted that, “detention should only occur in an extremely selective manner” (1998: Part II: 17). In circumstances where a youth is detained against his or her will, the FPTWG maintained the importance of providing real assistance (e.g., housing and social assistance) and that such services should be appropriate to the specific needs of the youth (1998: Part II, 17).

Released four months after the Report of the Secure Care Working Group, the Report of the Federal/Provincial/Territorial Working Group used a rhetoric that departed from some of the main themes of Sowden-led claims-makers in B.C. In particular, the FPTWG Report did not employ the term “sexual exploitation”, which was a foundational notion in claims-maker advocacy for the protection of sexually exploited youth. Further, the FPTWG cautioned against the creation of secure care legislation as it was not convinced that this legislation would protect sexually exploited youth who were service-resistant. In contrast, secure care advocates had presented the creation of a secure care option as the only viable solution to protecting service-resistant sexually exploited youth. Provincial legislators and policy makers were thus presented with two seemingly conflicting perspectives on how sexually exploited youth should be protected.

City Task Forces

In response to the growing concern about the problem of youth sexual exploitation, many cities and municipalities throughout the province established Task Forces to examine the issue in their own jurisdiction. The work of these city Task Forces often coincided with the work of Community Action Teams that had been set up in many cities across B.C. as part of the Vancouver Action Plan. The various city Task Forces supported the reconceptualization of youth involvement in prostitution as sexual exploitation, and accordingly employed the term, “sexual exploitation”:

For the purposes of this report, “sexual exploitation” is defined as sexual abuse of children and youth under the age of 18 through the act of prostitution. Such exploitation involves the trading of sex for drugs, food, shelter, other basics of life, and/or money (Burnaby Task Force Report, 1998: 3).

In addition to recommending a number of changes to federal and provincial legislation, the Burnaby Task Force recommended that services for sexually exploited youth be provided to fill gaps in the service continuum. In support of claims made about the lack of treatment for drug-addicted youth, the Task Force recommended the creation of more short-term and long-term youth drug and alcohol treatment facilities and programs (1998: 21).

The Burnaby Task Force also briefly discussed secure care as a means of protecting sexually exploited youth. The Report highlighted the contentious nature of secure care:

A heated debate around the Burnaby Task Force table centered on the merits of mandatory or secure treatment for sexually exploited children and youth in need of alcohol and drug treatment and/or protection from pimps or their own actions. One extreme of the debate maintains that sexually exploited children and youth and even those at-risk for

exploitation need to be forced into treatment for their own good...The other extreme of the debate maintains that locking a child or youth up against his/her will is an unpardonable infringement on human rights (1998: 22).

As a result, the Burnaby Task Force did not recommend the creation of a secure care option in B.C. Rather, it delegated this responsibility to the Secure Care Working Group:

Task Force members did not attempt to resolve the philosophical difference of opinion on mandatory or secure treatment. The provincial government has, however, established a committee to study the merits and drawbacks of secure facilities. The [Burnaby] Task Force members support the discussion and await the results with interest (1998: 22).

Challenges to the *Protection of Children Involved in Prostitution Act*

In July 2000, Alberta Family Court Judge Jordan found that Alberta's *Protection of Children Involved in Prostitution Act* violated sections 7, 8 and 9 of the *Canadian Charter of Rights and Freedoms* and that these violations could not be justified by section 1 of the *Charter*.¹¹ The challenge to the *Act* came from two 17 year-old females who had been apprehended under the legislation by Calgary Police Service officers.

Judge Jordan decided that the Alberta legislature should take immediate steps to remedy problems with the legislation. In particular, Judge Jordan noted that the legislation should include safeguards for children detained for example. The Judge suggested that the Director of Alberta Family Services should be required to make an application to the court within 72 hours regarding every child who is apprehended to show cause for confinement. The Judge noted that the legislation should also allow the child an opportunity to be heard by a judge, providing the child with an opportunity to present conflicting evidence from that provided by the Director.

¹¹ *Alberta v. K.B. and M.J.*, [2000] A.J. No. 876 (Prov. Ct.)

Following Judge Jordan's decision, the Alberta government announced plans to launch a judicial review of the Family Court Judge's ruling. To address the Judge's concerns, in the interim, the government introduced a policy that ensured that all children apprehended under the *Act* were offered legal representation and the opportunity to appear before a judge to dispute the apprehension within 72 hours of their detainment.

In his review of Judge Jordan's ruling, Justice John Rooke of Alberta's Court of Queen's Bench found that Judge Jordan exceeded her jurisdiction by considering sections of the *Charter* that were not placed before her in the challenge to the *PCHIP Act*. Further, Judge Rooke ruled that Judge Jordan exceeded her jurisdiction in declaring the legislation invalid and asserted that decisions of this nature are reserved for courts at the superior level.

Despite this ruling, the Alberta government conceded that the original legislation had neglected to provide procedural safeguards for youth apprehended and detained under the *Act*. Amendments were made to the statute following consultation with police, social workers and other service providers working with youth. These amendments were proclaimed in March of 2001. The amendments ensured that children's rights are protected by providing the detained youth with the reasons for their confinement, information about the duration of the confinement, and applicable court dates and the right to legal representation. The youth may also request a court review of the confinement. The amendments also enabled more care and support to be provided to these youths by extending the initial 72 hour detainment period to five days. Further, if necessary, the Director of Child Welfare can apply for two additional confinement periods of 21 days each. The extended period is alleged to assist social workers in

stabilizing the child, breaking the cycle of abuse and commencing the recovery process in a safe and secure environment through the development of a plan of action.

Examples of Youth Sexual Exploitation in the Media

Two incidents illustrating the ongoing threat of sexual exploitation of youth made headlines in the news media. These incidents bolstered secure care advocates' advocacy for a secure care option to protect sexually exploited youth. In particular, news articles pertaining to the arrest and trial of a pimp and "main girl" in Vancouver and articles pertaining to the arrest, trial and dangerous offender hearing of Frank Kim reinforced claims made about the threat posed by individuals preying upon youth.

In November 1999, the *Vancouver Sun* and other news media reported on the case of Shannon Arbique and Shahrads Jahanian. Arbique and Jahanian were charged with living off the avails of prostitution and exercising control and influence over a 15 year-old girl. Jahanian employed Arbique as his "main girl" whose role it was to recruit and train girls for prostitution. The victim was lured from a Kelowna group home and promised an apartment, furniture, and "her own life" (*Vancouver Sun*, November 9, 1999: B3). News articles reinforced claims made about the use of drugs by pimps recruiting youth into prostitution and articles described the victim as a, "runaway drug user who was vulnerable to falling under the spell of a pimp" (*Vancouver Sun*, February 25, 2000: B1). Arbique and Jahanian were subsequently convicted of pimping offences. The conviction was said to be rare as it is considered very difficult to obtain the testimony of sexually exploited youth at trial.

News coverage of the arrest, trial and dangerous offender hearing of Frank Kim also reinforced claims about the dangers and threats associated with youth sexual exploitation. Frank Kim, a 25 year-old Richmond man was charged with 31 sex offences involving nine girls between the ages of 12 and 16. News articles noted that Kim plied the girls, who were described as “crack users” and involved in the sex trade, with “booze and drugs” and then forced them to have sex with him (*Vancouver Sun*, June 9, 1999: B3). News articles pertaining to Kim’s trial reinforced claims about the connection between drugs and sexual exploitation:

“The law recognizes that children are vulnerable, and as you have heard from the testimony during this trial, children involved in the use of drugs are particularly vulnerable to sexual exploitation,” Cunningham [Crown prosecutor] said (*Vancouver Sun*, October 10, 2000: B1).

News articles noted that, at his trial, Kim was portrayed as a, “sexual predator who liked vulnerable young girls” (*Vancouver Sun*, June 30, 1999: B7). B.C. Supreme Court Judge Janice Dillon described Kim as a, “virtually untreatable pedophile” who is, “truly indifferent, evil” (*Vancouver Sun*, October 14, 2000: B3). In October 2000, Kim was convicted of 27 of the sex offences and designated a “dangerous offender.”

Both cases served to illustrate and reinforce claims made about the threat posed by individuals sexually exploiting youth. Secure care advocates noted that these two cases were anomalous in that the abusers were actually charged and convicted of sexually exploiting youth. These claims-makers contended that the vast majority of sexually exploited youth are not protected from these sexual predators, and thus needed to be protected by the state.

The Success of Diane Sowden's Claims-making Activity

Best notes that the, “ultimate success for claimants is to achieve ownership of a problem” (Best, 1990: 12). This occurs when the claims-maker’s construction of the problem gains acceptance and when the claims-maker becomes the authority to whom people turn (1990: 12). Through her years of lobbying for the protection of sexually exploited youth, Sowden became identified as the spokesperson whom the news media most frequently utilized when reporting youth sexual exploitation.¹² Jeremy Berland noted that Sowden emerged as the personification of secure care:

I think Diane is quite unique in that all the times that I’ve been involved in making social policy, its very rare to be able to identify an issue with a single person. And Diane really has become the personification of secure care (Berland, November 7, 2002).

Sowden’s claims-making activity challenged traditional explanations of youth sexual exploitation by highlighting the role of the predatory pimp. The pimp was portrayed as preying indiscriminately, so that anyone’s child could be the next victim. Protectionist claims-makers asserted that even youth coming from good suburban neighbourhoods and families were not immune to the devices of the pimp. Drug addiction was often employed as a means of introducing girls to the sex trade. Once introduced to this lifestyle, girls became increasingly resistant to exiting the trade, making the likelihood of them accessing resources on a voluntary basis unlikely. Secure care provisions were held to be the only recourse available to save these lost victims of sexual exploitation.

¹² Sowden is cited in 35 news items examined for the purpose of this research. She first appears in the news media in March of 1994.

Many of the research participants noted that Sowden played a pivotal role in the provincial government's decision to explore the option of creating secure care legislation:

I wasn't privy to any of the discussions that led to the secure care working group, but my assumption is the initiative was very much Diane's initiative [and] that she convinced the Minister that this was a good idea... There's no question in my mind that it was Diane's project... I think it was very much coming from her and people reacting to that, reacting to what she was trying to do as opposed to any political energy coming from within the bureaucracy, within the NDP. That was pretty strong in my sense. Or for that matter the police, or the courts. I think that it was pretty much Diane's project (Bryden, March 20, 2002).

I think Diane was a huge factor in terms of getting it [secure care] going. And it's very interesting of how one person with such a strong commitment to her own kid can make something happen (Berland, November 7, 2002).

There were specific people who were pretty much driving forces behind [secure care]. Diane Sowden was one of them. She was, seemed to be a real force behind it... She certainly had a public profile on the issue and she was very, she was strategic in pushing there (Webb, October 24, 2002).

There isn't any doubt in my mind that [Sowden] was strongly identified with [secure care] and was someone who was a very vocal and effective advocate. And to the extent that she was able to push buttons and make things change, then she did (Sieben, May 21, 2003).

Sowden was particularly key in constructing the problem of youth sexual exploitation in such a manner that a response other than "secure care" was inadequate.

Annabell Webb noted that a dichotomy was subsequently established:

She [Sowden] set it up really well in that dichotomy... Either you do this [secure care] or you let kids die on the street. Like, that's brilliant. Because you go, "My God, you better do that because I wouldn't want to be the person that would be so callous as to let kids die on the street (Webb, April 24, 2003).

Sowden's Middle-class Status

“The more power a group or social category has, the greater the likelihood it will be successful in influencing legislation which is consistent with the views, sentiments, and interest of its members, which its members support” (Goode and Ben-Yehuda, 1994: 82). Several research participants noted that Sowden's status as a healthy, middle-class, suburban mother and businesswoman gave her instant credibility with her audience and allowed them to relate to her message. Her status was also attractive to politicians and bureaucrats:

She wasn't on welfare and she wasn't a junkie. This can happen to us...She could break down that stereotype that people involved in prostitution are kind of dirty or they're lazy, or have been on welfare for a long time (Horton, May 13, 2003).

They [news media] portrayed her as a well-to-do mother who tried everything in the world and that it was pimps that came along and just grabbed her from Coquitlam (Adams, November 14, 2002).

I think the whole secure care movement, if there is such a thing, owes a lot to Diane. Because she's very balanced. And we met a lot of parents who were not particularly well balanced...With Diane you have a different kind of person. Here's a middle-class person from the suburbs, so politically she's someone very attractive to the politicians. They understand where she's coming from. She's not ravid. She's quite calm and persuasive. And convincing. And people believed what she was saying was true (Berland, November 7, 2002).

Diane just became the face of [the secure care movement]. And people like a human face on things, they really do. Because then they can sort of relate. Its easier for the person sitting home watching the new to go, “Oh, I see a mother on tv and I can empathize with that. I can't totally detach myself from this anymore. Because wow, that's a mom and she seems pretty normal. Like she seems like not something that we've concocted in our minds that has nothing to do with us.” That's probably what the middle-class viewing audience [said] who really let's face it have the most political power (Webb, April 24, 2003).

She was the middle-class, Canadian, white, suburban mother. There's a lot of people that would identify with her. And I think that that is part of how she had so much influence because she was typical Mrs. Joe Q public (Bowen, April 28, 2003).

Sowden as Someone Who Could Speak Experientially

“By characterizing a problem in terms of an individual's experiences, the claimsmaker helps the audience imagine how they might respond under the same circumstances” (Best, 1990: 41). Sowden was able to speak experientially, which ultimately made her a credible advocate for sexually exploited youth in B.C.

A number of research participants noted that Sowden's personal experience of losing a daughter to the sex trade made her a particularly powerful advocate who her audience was able to empathize with:

I think what made her [Sowden] just sort of the driving force was that she can say “My daughter was in the trade and I'm going to tell you based on experience”...The media is always looking at that and politicians like it too. If somebody can speak experientially and push an agenda. It's the right combination to move something forward...And she can pull out a picture of her daughter and say not only do I think this theoretically, but I know this to be true experientially. And that's a hard one for people to argue against (Webb, April 24, 2003).

People were inclined to respect her concerns because they were obviously real. The parents of children in this situation were enormously frustrated (Bryden, March 20, 2002).

I think she [Sowden] was able to mobilize communities to focus their concerns and she got a great deal of support...Diane had her child and her story and if you've talked to her or heard her speak, it's impossible not to sympathize (Jacquelyn Nelson, Senior Policy Analyst, Ministry of the Attorney General, May 21, 2003).

Looking Ahead: Towards the *Secure Care Act*¹³

Lobby groups claimed that the B.C. Government was failing in its attempts to protect sexually exploited youth. Protectionist claims-makers utilized the media to educate the public about the new threat of the predatory pimp. Through claims made that B.C. youth were not adequately protected from this threat and that existing resources were ineffective in providing protection, these claims-makers successfully pressured the provincial government to consider protecting service-resistant sexually exploited youth through a secure care option.

The next Chapter will examine the provincial Government's creation of the *Secure Care Act*. The provisions of this legislation will be explored as will the backlash that occurred following its drafting. The activity of anti-secure care claims-makers will be explored because it was this opposition that played a key role in the subsequent demise of the secure care legislation.

¹³ While B.C.'s secure care legislation was never proclaimed, it will be referred to hereafter as the *Secure Care Act*. This is consistent with how others have referred to the legislation.

Chapter Five: Creation of the *Secure Care Act* and the Anti-Secure Care Network

In May of 2000, the Honourable Gretchen Brewin, the Minister then responsible for children and families in B.C., was quoted as saying that the proposal for secure care legislation in B.C. was, “too controversial” and was no longer being actively discussed. Minister Brewin’s comments were made at a time when the constitutionality of Alberta’s *Protection of Children Involved in Prostitution Act* was being challenged and were made despite the support given to the legislation by her predecessors, Lois Boone and Penny Priddy:

Brewin said she was previously advised by certain officials that the legislation is too controversial and problematic and she was told there are concerns regarding the legal ramifications (*Vancouver Sun*, May 15, 2000: B1).

In response to these comments, Sowden was reported in the news media as saying that she would be, “extremely disappointed” if secure care legislation was not created:

“We have to make it controversial for them not to go forward,” said Sowden. “I’m outraged when they say it’s controversial. Controversial for who? We’re talking about children’s lives here, and this is the Minister of children and families...She’s the Minister and she’d better have an opinion about it. She’s responsible for the kids in the province. At least give us some reasons and not just say it’s controversial” (*Vancouver Sun*, May 15, 2000: B1).

Sowden was particularly frustrated by the “revolving door” of ministers who were responsible for the Ministry for Children and Families.

“It takes a lot of energy when they keep changing portfolios,” said Sowden, adding that she was dismayed to learn of Brewin’s seeming lack of conviction (*Vancouver Sun*, May 15, 2000, B1).

Despite having called the secure care initiative “too controversial,” the B.C. government announced its decision to enact secure care legislation just one month following these comments. Ujjal Dosanjh, B.C.’s new premier, assumed the leadership of the Province following Premier Clark’s resignation. In June of 2000, nearly two years after the Secure Care Working Group had submitted its report, Premier Dosanjh made a commitment to spend \$10 million on developing treatment facilities and implementing a secure care option in B.C.:

We cannot simply stand back and allow children to be harmed by addiction or the degradation of sexual exploitation. Dosanjh said too many parents have shared Sowden’s experience, watching young children engage in potentially deadly activities without being able to intervene, or arranging treatment only to have them return to the waiting arms of a pimp (*Vancouver Sun*, June 22, 2000: B1).

In a radio speech on July 8, 2000, Premier Dosanjh said that, “today in British Columbia children as young as 12 are on the streets – trapped by addiction and by exploitation.” He further noted that the proposed new secure care law was designed to, “give parents, guardians – and the kids themselves – a new option, and new hope” (Premier’s Radio Column, July 8, 2000). The Premier noted that the new law was based upon, “extensive consultation” and that it responded, “directly to what youth themselves have told us” (2000).

Philip Bryden asserted that Diane Sowden was key in keeping the pressure on the

government:

It seemed to be that the government was reluctant... I mean they sat on the report for a long time and you know a lot of us thought that it was a dead duck because the Clark government seemed to think that [it] was much too controversial. And then Mr. Clark went and Mr. Dosanjh became premier and all of the sudden the policy environment changed and Mr. Dosanjh's administration was willing to move considerably further. And I'm not privy to what it was that turned that around. I mean I don't think you have to be a rocket scientist to speculate that Diane used her influence to see if she could turn around the new Minister of Children and Families. And she was successful and the people there were willing to be more activist (Bryden, March 20, 2002).

Bill 25, the *Secure Care Act*, was introduced by Minister Brewin in the B.C. Legislature on June 26, 2000. During Bill 25's three readings in the Legislature, Minister Brewin's commentary supported claims by secure care advocates in B.C. Minister Brewin agreed with claims that secure care was the only viable solution for some youth:

We have listened to people from the community who've expressed concerns that we needed to provide a more intensive intervention to protect kids whose health and safety is so endangered that nothing short of secure care will do (Brewin, Hansard, June 26, 2000).

Minister Brewin reiterated Sowden's message that had a secure care option been available sooner, many sexually exploited youth may have been saved:

When the Bill was introduced first, there were a number of guests in the gallery, and I had a chance to have a conversation with them later in my office. I have to say I was very, very moved by their response to the legislation. Diane Sowden was there with her daughter... As Diane said, "My daughter survived. But the trouble is that too many don't, and that it took too long for it to happen. If this Bill had been in place, she and we would not have gone through all of those terrible times that we went through during that time" (Brewin, Hansard, July 5, 2000).

During the Bill's second reading on June 29, Minister Brewin reinforced claims made about the inability to intervene in the lives of service-resistant high-risk youth:

We have a broad network of programs and services across this whole province. Overall they work pretty well, but one group of young people continues to fall through all cracks. They are among the most vulnerable children in this province... We have no authority to force them to get support or treatment. That leaves all of us – families, friends, service providers, government and society – powerless to save them... Bill 25 will change that for the first time in British Columbia by providing a constructive way to intervene in the lives of youth, many of whom have problems with hard-core addictions or serious involvement in the sex trade (Brewin, Hansard, June 29, 2000).

Similarly, MLA Tim Stevenson who chaired the Secure Care Working Group noted:

The stories are horrendous of these young people that get caught up in prostitution, get caught up in drugs. We have very few avenues by which to help them. There's kind of a quiet desperation of their families, in fact, as they watch their children ruin their lives. They believe – and they're correct in this belief – that there was nothing that we could do. We couldn't apprehend them and try to do any kind of assessment. So now, finally, we have a bill coming forth that is of great relief to parents (Stevenson, Hansard, June 29, 2000).

Minister Brewin's comments to the legislature also reiterated claims made about the threat that predatory pimps and drug abuse posed to youth:

A girl aged 13 is being sexually exploited. Her pimp is known to be violent, and she is frequently seen with marks and bruises. She refuses to make a statement to police about the source of the injuries. She is extremely underweight and is suspected of having hepatitis C, which is compounded by heroin use (Brewin, Hansard, June 29, 2000).

Similarly, MLA Krueger noted the connection between sexual exploitation and drug abuse and asserted that there is an onus on society to protect youth:

I believe that we're in a battle in our society – right around the world, really. The battle is for the protection of childhood innocence... We owe it to our children to protect them from the evil forces in this world that would abuse them, that would take advantage of them, that would lead them into a life a bondage to addiction, that would use them horribly in the sex trade... Addiction is bondage; addiction is chains. Pimps – I think the two issues go together – use drugs to wrap those chains around young

people and to keep them in bondage and to make their lives not living (Krueger, Hansard, July 5, 2000).

MLA Stevenson's comments supported claims that predatory pimps prey indiscriminately on youth of all backgrounds:

Secure care is just another way to support the parents as they work to protect the kids. They have come to us, and they have begged us to help them support their kids. They're literally at their wits' end trying to figure out how to get them off the street, trying to figure out how to get them away from pimps... We think that they come from some sort of broken homes... There's all sorts of different situations that often come together for a kid to end up on the streets. Often it's not because the parent is lacking in love or care or anything else, but things go wrong. Then all of the sudden, they find their little child—12, 13 and 14-year-old girls – prostituting on the streets (Stevenson, Hansard, June 29, 2000).

Following a debate in committee, Bill 25 passed the third reading on July 6, 2000.

Provisions of the *Secure Care Act*

The *Secure Care Act* mandated the involuntary detention of a youth in a secure care facility in situations where it was determined that the, “child has an emotional or behavioural condition that presents a high risk of serious harm or injury to the child,” and when he or she was, “unable or unwilling to take steps to reduce the risk of harm” (*Secure Care Act*, section 8(1)(a)(b)). The *Act* specified that the emotional or behavioural condition could be demonstrated, among other things, by, “severe substance misuse or addiction or the sexual exploitation of the child” (section 2(2)).

A youth could be admitted to a secure care facility via two mechanisms. The first was through a secure care certificate issued by a panel of the Secure Care Board. The members of the Secure Care Board were to have been appointed by the Lieutenant Governor in Council (section 21(1)). An application was to have been made to the Board

by either the Ministry of Children and Families if the youth was in government care, or by a parent (section 4). On receiving an application, the Secure Care Board would have been required to hold a hearing within seven days, unless the Board felt that more time was required (section 5). At least three days prior to the hearing, notice was to be served on the child, the child's parent, the child's Aboriginal community (if applicable), and the appropriate Ministry officials (section 6). The child was to be informed of the right to retain and instruct counsel (section 7). After the hearing, the Secure Care Board could issue a secure care certificate, "authorizing the detainment of a child in a secure care facility" for the purpose of, "assessing and assisting" the child for a period that, "must not exceed 30 days" (section 8(1)(2)). The secure care certificate was to be issued only if the Board was satisfied that:

- (a) the child has an emotional or behavioural condition that presents a high risk of serious harm or injury to the child,
- (b) the child is unable or unwilling to take steps to reduce that risk,
- (c) less intrusive measures are not available or are not adequate to sufficiently reduce the risk,
- (d) it is in the child's best interests to issue the certificate (section 8(1)(a)(b)(c)(d)).

A youth could also be detained in a secure care facility without a certificate issued by the Secure Care Board. Without a secure care certificate, a youth could be apprehended and detained, "for a period of not more than 72 hours" if the Director of Secure Care had, "reasonable grounds" to believe that:

- (a) the child has an emotional or behavioural condition that presents an immediate risk of serious harm or injury to the child,
- (b) less intrusive measures are not available or are not adequate to sufficiently reduce the risk and,
- (c) the detainment is necessary to ensure the child's safety (section 11(1)(a)(b)(c)).

The *Act* provided for the Director of Secure Care, or his or her delegate, to enter any premises, vehicle or vessel for the, “purpose of apprehending a child” and may be assisted by the police (section 11(2)(3)). “All reasonable efforts” had to be made to inform the parents and appropriate Ministry officials about the apprehension (section 11(5)).

If a youth was detained without a certificate, an initial assessment of the youth had to be completed within the 72 hour period and a hearing had to be held where the reasons for detention had to be articulated (section 11(6)(a)(b)). The child, parent, appropriate Ministry officials, a representative from the Aboriginal community (if applicable) and the then Child, Youth and Family Advocate had to be informed of the hearing, “if practicable” (section 11(7)).

An application for a secure care certificate could be made to the Secure Care Board, allowing further detention. The Board had to make a decision regarding the granting of a certificate, “no later than 10 days after the first day of the child’s detention” (section 11(9)). A secure care certificate could be renewed for up to 30 days upon application to the Secure Care Board. The certificate could not be renewed more than twice (section 19(1)(8)). The child or another relevant party could apply for a review of the Board’s decision to issue, renew, or refuse a certificate (section 20).

Each youth was entitled to attend the secure care hearing and be represented by counsel (section 25(1)). The Board could exclude a youth from all or part of a hearing if:

- (a) failure to do so might, in the board’s opinion, result in emotional or other harm to the child,
- (b) failure to do so would, in the board’s opinion, endanger the safety of other persons, or
- (c) the child disrupts the hearing to the extent that it cannot continue (section 25(2)).

Section 44 of the *Act* created offences and penalties in situations where a person, “impedes or obstructs” the apprehension and detention of a youth, or where a person knowingly assists a child from leaving the secure care facility without permission (section 44(1)(a)(b)). A person who committed an offence under this section of the *Act* was, “liable to a fine of not more than \$10,000 or to imprisonment for not more than 6 months or to both” (section 44(2)).

Responses to the *Secure Care Act*

Following the creation of the *Secure Care Act*, the government embarked on a public consultation process between November 2000 and February 2001 (Safe Care Discussion Paper, 2004: 6). During this time, over 800 stakeholders, including approximately 350 Aboriginal organizations and bands were invited to participate. A total of 81 meetings were held with over 1300 people attending (2004: 6). Numerous service providers, youth advocates and non-governmental organizations announced their opposition to the newly created legislation. These anti-secure care claims-makers constituted an informal network who lobbied the government to repeal the legislation. For a complete list of groups involved in voicing their concerns regarding the new secure care provisions, see Appendix D.

A number of research participants involved in this network noted that anti-secure care claims-makers who were effective in mobilizing a strong voice of opposition against

the *Act*. Interview respondents felt that these claims-makers gave a clear message to the Ministry officials charged with consulting the public on the implementation of the new *Act*. In particular, anti-secure care lobbyists demanded the Ministry overhaul the legislation:

I think the government was trying to go through a fairly careful sort of thinking process – O.k., now that we’ve got the legislation, how do we try to build it and put an implementation plan together that tried to address a lot of the concerns that were continuing to rise. But at the same time there were clearly some folks out there that took a pretty hard position that said, “This legislation is lousy. Get rid of it” (Agg, March 18, 2002).

We came together and just listed those things and then strategized around where we would appear to make our concerns heard...We were strategic about going to certain meetings when they were doing consultations...For every point they brought up we had a counterpoint...And so, our strategy was to go where they were going to go (Bowen, October 29, 2002).

Their decision to have consultations which none of us would agree to participate in because it was consultation on implementation. It wasn’t consultation on legislation...We would go to these meetings and say, “First off, this is not a consultation, so don’t report it anywhere as a consultation. We’re telling you to repeal the *Act* and then have a consultation about whether or not we need or want this legislation”...And I think we did a very good job in the community. It was very organized. I have to say it was done by community groups who just got right on in it...We got together and we worked really hard. Really hard, and in many different ways (Webb, October 24, 2002).

Those protesting the secure care legislation publicly pointed out their numerous concerns with the new *Act* through the distribution of press releases and statements of opposition. The various concerns of these counter claims-makers are set out below.

i) Legislation was Drafted Too Quickly

Critics of the *Act* were concerned that the legislation travelled very quickly through the Legislature. The secure care legislation was first introduced in the B.C.

Legislative Assembly on June 26, 2000. The legislation passed the third and final reading on July 6, 2000. Members of the Liberal Opposition noted this quick pace in legislative debates. In particular, they reminded Minister Brewin of her comments just one month prior to the introduction of the legislation that legislating secure care would be, “too controversial.” Liberal politicians expressed concern regarding the quality of the legislation, given that it was drafted in such a short time:

The Minister’s comments of just six weeks ago that the notion of secure care was way too controversial speaks to the fact that the actual drafting of the Bill did not receive its due. Six weeks ago the ministry wasn’t proceeding; today we have a Bill...I would submit that we will see amendments to the Bill so that this legislation is actually workable (MLA Linda Reid, Hansard, June 29, 2000).

Similarly, MLA’s McKinnon and Jarvis noted:

I have some reservations about the way this government drew up this very important piece of legislation. I don’t believe the government when they say that this Bill took years in the making. It wasn’t long ago that government said it would not be drafting this Bill, and suddenly – approximately six weeks later – we have Bill 25 (McKinnon, Hansard, June 29, 2000).

It was only one and a half months ago that the Minister told the social workers in this province that we won’t adopt Alberta’s plan to protect teens, that it is too controversial. Now here we are, some 50 days later, and she is presenting this Bill to the House. It does not give me a comfortable feeling. Why does this legislation suddenly appear, when it was not on to begin with less than two months ago? (Jarvis, Hansard, June 29, 2000).

In September 2000, a community forum was held at the Aboriginal Friendship Centre in Vancouver to discuss concerns regarding the *Secure Care Act*. The meeting was attended by some 200 concerned people (Save the Children statement, 2000: 1). Vaughn Dowie was sent as a representative from the Ministry of Children and Families. Tara Jaclyn of Vancouver Youth Voices questioned the rationale behind the rapid passage of

the legislation. She noted that the *Act* was, “pushed through” in only 10 days and, “questioned if the speed had anything to do with the fear that the legislation would create a public furor” (2000: 2).

Several research participants interviewed for this thesis questioned the rationale behind the legislation. In particular, they felt that the legislation was passed quickly due to the upcoming election and to appease public concern by demonstrating that the government was doing something to address the social problem of youth sexual exploitation. Tim Agg, a member of the Secure Care Working Group noted:

Unfortunately I think the last [NDP] administration wanted to be seen to be doing something significant. And I think it wanted to be seen to doing something quickly (Agg, April 28, 2003).

Similarly, Raven Bowen noted:

They needed to get somebody elected. They had to clean up the streets...Just to prove to the electorate that they're doing work. That they're actually being pro-active about middle-class kids that were going and entering in the sex trade. They had to show that they were doing work. And I think that's all it was (Bowen, October 29, 2002).

Annabell Webb noted the government's decision to legislate secure care was a preferred and arguably less complex way of protecting sexual exploited youth:

What's a simple politically palatable solution? Well we're going to lock those girls up for their own protection because that's something you can do right now. It's totally packaged, the public goes, “Oh that's great, something's being done and those girls are going to be safe” (Webb, October 24, 2002).

ii) Lack of Consultation

Anti-secure care claims-makers raised concerns regarding the lack of consultation that occurred prior to the legislation's introduction and quick passage of Bill 25. A

number of these critics noted this concern in the statements they released to the media. In particular, they pointed to the lack of consultation with the Aboriginal community and with youth who could speak about their experience of sexual exploitation.

Vancouver Youth Voices supported the recommendation of the Secure Care Working Group that called for broad consultation with Aboriginal groups. Consultation with the Aboriginal community was considered to be important because of the disproportionate number of native youth who were being sexually exploited or who were considered “high-risk.” The Working Group noted:

...that aboriginal children and youth may be disproportionately represented in the high-risk population, particularly in Vancouver...the Working Group was unable to have the broad consultation that these issues require. We therefore believe that consultation with aboriginal communities, both on and off reserve, will be required in planning for high-risk children and youth (Secure Care Working Group Report, 1998: 31).

Vancouver Youth Voices subsequently argued:

So, it is one of our utmost concerns that this *Act*, which calls for far reaching powers...has been introduced without sufficient public consultation (Vancouver Youth Voices statement, 2000).

Similarly, Save the Children Canada, Justice for Girls and the Affiliation of Multicultural Societies and Service Agencies of B.C. (AMSSA) noted:

First nations may also consider challenging this legislation on the grounds that they were not properly consulted in the development of this legislation, and that the *Act* is an unjustifiable infringement of their Aboriginal or treaty rights, as in the case of the Nisga’a (Save the Children statement, July 17, 2000: 5).

The *Secure Care Act* is clearly the product of backroom political dealing, as evidenced by the lack of consultation with groups most affected by it and the speed at which it moved through the legislative process (10 days). It is an outrage that Aboriginal communities were not consulted and a

clear violation of the B.C. government's existing agreements with First Nations with regard to child welfare (Justice for Girls statement, 2000: 2).

AMSSA has written to the Honourable Ujjal Dosanjh, the Premier of B.C., to express our concerns regarding the quick passage of Bill-25, the *Secure Care Act*. Ten days after it was announced to the public, the Bill went through third reading and was passed without public consultation (AMSSA statement, October 5, 2000)

Aboriginal groups, including the Union of British Columbia Indian Chiefs and the United Native Nations, similarly expressed their concerns regarding the lack of Aboriginal consultation:

The government has to learn that consultation with the Aboriginal community is a prerequisite to [the] development of a trust relationship. The *Secure Care Act* did not allow prior consultation; it is a fait accompli! This is a slap in the face and major affront to Aboriginal people, whose children will be most impacted by the *Secure Care Act* (Union of British Columbia Indian Chiefs, Press Release, September 7, 2000).

The strategic plan for the development of Aboriginal services through the Ministry for Children and Families identifies the need for consultation with Aboriginal communities... We are recommending that your government work with the UNN and the Vancouver Aboriginal Council (VAC) to address our apprehension about the effectiveness of this legislation (United Native Nations, Letter to Premier Dosanjh, August 2000).

Save the Children Canada also released a statement opposing the *Secure Care Act* compiled by sexually exploited youth. They noted the lack of consultation with experiential youth in the development of the legislation:

If, as the government states, this legislation is, "in the child's best interest", why were the youth themselves not consulted? How can they help us if they don't ask what we need? As young people with experience in the sex trade, we are outraged at the lack of consultation in creating Bill 25 (Save the Children statement by sexually exploited youth, 2000).

iii) Long-term Detention and its Effectiveness

As part of their inquiry into the issue of whether or not the Province should enact secure care legislation, the Secure Care Working Group completed a review of the research examining the effectiveness of long-term treatment in a confined setting.¹⁴ An overall theme emerged from the research reviewed by the Working Group, namely, that intrusive, restricted and institutionally-based interventions have proven ineffective in reducing the antisocial behaviour of high-risk adolescents. Instead, an intervention model that is coordinated, individualized, community-based and which recognizes that anti-social behaviour is a multi-determined problem, is recommended in the research.

In light of the research, the Working Group recommended that secure care be used only for a brief period (72 hours) (Secure Care Working Group Report, 1998: 39). Further, it was recommended that secure care be utilized only in the most extreme cases and as part of a continuum of care for high-risk youth who are service-resistant (1998: 40).

Despite the research findings, Philip Bryden noted that a debate ensued within the Working Group regarding whether or not forced treatment was going to be effective. In particular, Sowden maintained that secure care would be an effective solution:

I think Diane's operating assumption was that there had to be a way to make the kids better. So it was a question of grabbing hold of them and being able to do the things that you needed to do to get better. But at the end of the day there was better. I think some of us had significant levels of doubts about that...And under those conditions, it was recipe for disaster to move towards a more coercive kind of approach...if you could just coerce people, they'll get better. We had real doubts as to whether that was going to happen (Bryden, March 20, 2002).

¹⁴ For a complete list of research reviewed by the Secure Care Working Group, see Appendix E.

Despite the recommendation made by the majority of the Secure Care Working Group that the government implement a short-term (72 hour) secure care option, the *Secure Care Act* provided for long-term detention, as Diane Sowden had advocated. The *Act's* provisions allowed for a 30-day secure care certificate to be renewed up to two times (section 19). Thus, in some circumstances a youth could be detained in a secure care facility for 90 days or longer.¹⁵

Research participants who were employed by the Ministry for Children and Family Development noted that after speaking with experts involved in treating high-risk youth and visiting treatment facilities, it became clear that the Group's recommendation for "72 hour" secure care was not a sufficient amount of time to deal effectively with the problem:

Upon review and research, and in speaking with people in Alberta and Ontario... The general consensus was 72 hours wouldn't do anything. That it simply would be ineffective. That what we would see and what the experience of *PCHIP* to a certain extent was...you might confine them 72 hours, release them again, in order to do it again the next day, or the next week, or the next month...But the likelihood of facilitating an opportunity to create change, wasn't likely to occur within that 72 hours (Sieben, May 21, 2003).

I went with Tim Stevenson to Montreal, Toronto and Calgary to take a look at other programs and there was no information from any saying somehow you can magically fix the kid in 72 hours and they're going to be safe...It was a question of safety, if you're serious about the safety question, rather than just appearing to do something, then you have to do something...once you decide to do something then you have to do something and it has to be substantive. There's no point in half measures in terms of protection...We landed on 30 days, up to 30 days with a

¹⁵ The *Act* allowed for the detention of a youth without a certificate for up to 72 hours (section 11). An application could then be made to the Secure Care Board for a certificate. The board would have had 10 days from the youth's first day of confinement to make a decision regarding the granting of a secure care certificate (section 11(9)). Thus, in some circumstances, if the certificate were to have been renewed twice, a youth could have been confined in a secure care facility for 100 days.

possibility of renewal of that if the circumstances warranted it (Berland, November 7, 2002).

Bryden, a member of the Secure Care Working Group, spoke out in opposition to the provisions for long-term secure care in the media:

Phil Bryden, a University of B.C. law professor, was on a 1998 task force that supported 72-hour secure care. He said the group rejected the long periods of detention under the *Act*. “This was precisely what was on the table and precisely what the majority thought was not a good idea,” Bryden said...”Nobody has ever demonstrated that that’s a good treatment program (*Vancouver Sun*, July 7, 2000: A11).

Likewise, Tim Agg noted:

I did not support what the government eventually went to which is the legislation that allowed for 90 days...I felt it went far too far in terms of the length of time that kids could be kept under (Agg, March 18, 2002).

Anti-secure care claims-makers questioned the ability of a secure care option to make a positive difference in the lives of sexually exploited and/or drug-addicted youth. In particular, they were sceptical of the long-term treatment provisions of the legislation and whether forced or involuntary detention in a secure care facility would remedy the problems experienced by these youths.

In their statement of opposition, the British Columbia Civil Liberties Association (BCCLA) noted that they supported secure care in limited cases where it is used, “as an emergency provision for completing an assessment and plan of care for children at risk – not for longer term, forced treatment.” The BCCLA noted that, regrettably, the legislation:

...will permit the detention and forced treatment for up to 30 days with the option of extended confinement and treatment of up to 90 days, a far cry from the 72 hours recommended by the government task force (BCCLA statement, July 14, 2000).

The BCCLA argued that the vague language of the legislation would allow, “as some parents would like, a way to force long-term treatment on children” and asserted that, “forced long-term treatment is overly coercive and simply will not work” (2000).

Jerry Adams contended that forcing a youth to deal with issues regarding sexual exploitation or drug abuse is futile as the process entails long-term vision versus crisis-driven intervention. Adams recalled a personal example of his involvement in supporting a young woman who was to be forced into treatment and how this had devastating results:

In one case when I was a social worker, the judge asked me what would be good for her. I told him a lock-up. Being a young social worker at the time, I figured maybe a lock-up would keep her safe and she'd be safe. So we did a three-month lock-up on the young woman and she was clean, fine for three months. Did a really good job on herself. [She] got out and used the very first day she was out. So lock-up doesn't work....She eventually committed suicide...She was not ready or prepared to deal with it. So we cannot push anything on the young folks...It's a long process, it's not a momentary act (Adams, May 6, 2003).

Similarly, Annabell Webb noted that the experience of locking girls up in correctional facilities demonstrated that confining a youth against his or her will is not an effective way of dealing with high-risk behaviour:

There is no evidence that locking up girls does anything to prevent them from winding back on the street. And if you took YDC and looked at sentencing and young women who wind up in there, and look where they wind up when they're released, it's not helping them. I think it just further alienates them... Incarceration of young women, whether its under secure care or whether its under the YOA, does nothing to actually change the life circumstances of those young women. I think it just further drives them down (Webb, October 24, 2002).

iv) Lack of a Continuum of Care and Voluntary Services

The biggest criticism of the new secure care legislation came from anti-secure care claims-makers concerned about the lack of non-mandatory resources and programs for sexually exploited youth. These claims-makers questioned the government's decision to enact secure care legislation when support resources such as adequate drug treatment were scarce. Opponents of secure care argued that the Secure Care Working Group's recommendation that the government, "identify and implement the services that are currently absent and that are needed to complete a continuum of services," and that secure care be implemented, "as part of its continuum of services" had been ignored (Secure Care Working Group Report, 1998: 33 and 42).

Secure Care Working Group members Philip Bryden and Tim Agg expressed their concerns:

To my way of thinking, one of the most powerful arguments against secure care, was there are a whole lot of people who are lined up begging to get drug and alcohol treatment, why don't you treat them first and then worry about coercing people later? You know, if you can't provide services to the people who want the services, what are you doing trying to round up people and presumably deflecting resources from people who might want treatment and who may be better candidates for success (Bryden, March 20, 2002).

The screaming need for dramatically more voluntary access services whether they be detox or addictions treatment, or anything else, was so apparent, and so the original report [Secure Care Working Report] talks at some length about recommendations to basically say that make sure that basic elements of appropriate services are in place before you charge off doing this piece. If secure care is a need, it's in that context and it's totally unfair to kids to be saying we're going to introduce and fund a secure care option when we're not even providing adequate voluntary services (Agg, March 18, 2002).

Critics, including youth-serving agencies and advocates, opposed the *Act* because it did not offer a continuum of care for sexually exploited and/or drug-addicted youth:

British Columbia's Child, Youth and Family Advocate, Joyce Preston states that It is shameful to introduce serious limits on a young person's rights while there are inadequate resources to provide help before these young people hit bottom. Current services to youth are inadequate...This legislation should not be enforced without a firm commitment to provide the services needed to keep children and youth from reaching the desperate situations that might justify secure care (Office of the Child, Youth and Family Advocate, Issue Alert, July 7, 2000).

For more than twenty years, experiential youth, youth advocates, youth serving agencies and service providers have called for adequate resources and service options...In one year there were 1121 youth requesting detox service in the Downtown Eastside, and Downtown South areas, but only 129 were served. These concerns are a small fraction of the larger problem existing within the lack of adequate youth services in Vancouver (Vancouver Youth Voices statement, 2000).

...Our support for a limited secure care regime is subject to specific conditions being met, including: that a full continuum of services be available before detention...so that detention does not become the standard way of helping children...Regrettably the *Secure Care Act* satisfies none of these conditions: waiting lists for voluntary detox facilities for youth continue to be measured in months, not days (BCCLA, Newsflash, July 14, 2000).

They [service providers] used to have riots when they brought up continuum of care...And I remember being there and people saying, "And where is the rest of your continuum of care? Because you've whipped out this nice, punitive little box that you can put these young people in, but where are you going to put them then? Where's your group home or your residential care or your detox? We don't have any detox beds"...There is no continuum of care. It's [secure care] a band-aid. It's a piss-poor underfunded bandaid (Horton, October 22, 2002).

Similarly, MLA Linda Reid noted the lack of a continuum of services in the legislative debates regarding the secure care legislation:

Was there a continuum of services available prior to the introduction of this Bill? The answer is no. Will there be a continuum of service following

third reading? No. The implementation of these programs could take years, and Honourable Speaker, this government has had years – nine years to be exact – and hasn't taken the initiative to move on this very critical piece: implementation of a range of programs and services (Reid, Hansard, June 29, 2000).

The Secure Care Working Group expressed concern that without the development of a continuum of care, “safe [secure] care would risk becoming the default for a system lacking appropriate services” (Secure Care Working Group Report, 1998: 40). Other opponents of the *Act* concurred:

We have concerns for the whole continuum of care. That [secure care] being just one portion or part of it. That was our major fear too. Is if you have secure care without adequate interim resources, leading up to it and other options other than secure care, then out of default you end up using secure care for kids that otherwise wouldn't be deemed appropriate (Turvey, November 4, 2002).

This *Act* runs the risk of becoming the default mechanism for the system – a warehousing option for children and youth who aren't being appropriately served in other ways – and thereby doing more harm than good (Vancouver Youth Voices statement, 2000).

In a context where “other less intrusive measures” are both inadequate and unavailable as evidenced by a severe lack of voluntary safe housing and detoxification facilities for young women, it is inevitable that numerous young women will be apprehended. We are particularly disappointed that the provincial government would disregard numerous reviews and reports that clearly articulate these service gaps and repeatedly call for safe housing and detox resources, and instead resort to such regressive measures as locking up young women as an “out of sight, out of mind” solution (Justice for Girls statement, 2000: 2).

The way the legislation is written may make secure care a default mechanism for youth services rather than as a last resort... There is lack of both preventative and treatment services, particularly those which are culturally sensitive and appropriate which has been pointed out by service agencies for years (AMSSA, statement, October 5, 2000).

v) Secure Care would Drive Prostitution Underground

A number of anti-secure care claims-makers, including individuals and groups who had experience working with sexually exploited youth, expressed fears that implementing the secure care legislation would result in the sexual exploitation of youth going “underground.” These opponents claimed that pimps would move youth off the street and into hidden “trick pads” where it would be harder to locate and support them. Busby and her colleagues (2002) in their interviews with service providers and with women who had become involved in prostitution as youths argued that secure care provisions would isolate sexually exploited youths:

You’re going to push the prostitutes so far into an isolated area that bad stuff is going to end up happening again...they’re going to go out there and the cops won’t see them, and then they’re going to get screwed up just because of that (as quoted in Busby et al., 2002: 106).

One Alberta service provider noted that Alberta’s secure care provisions had resulted in an increase in violence perpetrated by angry pimps:

The girls I have talked/worked with since *PCHIP* has been in place, all of them talk about being driven underground, they are doing more work than ever before. As well, she said I’ve had a couple of girls who were picked up and taken to safe house, and those girls got absolutely terrible beatings when they were back on the street because they had been out of circulation, hadn’t been making the money they need to make (2002: 106).

Other critics expressed similar concerns. One experiential youth stated:

“From my own experience, enacting this legislation will drive my friends further underground and out of the reach of any kind of help”...said Jenn age 16 (as quoted in Save the Children Canada statement, 2000)

Justice for Girls and Raven Bowen of PACE argued:

When the equivalent Alberta *Act* was challenged in court, it revealed that upon release young women were put at serious risk of violence from angry pimps. We believe the *Secure Care Act*, contrary to its stated intent, will most likely push street involved girls further underground, isolating young women and making it all the more difficult for them to escape sexual exploitation (Justice for Girls statement, 2000: 2).

Secure care would reduce the numbers of visible numbers of youth on the street because the youth would go underground. Not because it [secure care] was working... the kids would go underground and you wouldn't be able to find them (Bowen, April 28, 2003).

Critics suggested that the *Act's* unintended consequence of driving sexually exploited youth "underground" would make it extremely difficult for service providers to support them. Further, they claimed that the threat of secure care would result in sexually exploited youth not trusting service providers:

Children and their pimps, will seek to evade detection and detention. Worse, forced treatment may permanently drive away individuals from ever voluntarily seeking help (British Columbia Civil Liberties Association, Newsflash, July 14, 2000).

Young people will be very hesitant to access services if there is a possibility of secure care. Many youth, particularly those belonging to minority groups, have had negative experiences with authority. It is already difficult for service providers to reach at-risk young people from immigrant, visible minority and refugee backgrounds. This *Act* may reduce our ability to reach this population (AMSSA statement, October 5, 2000).

vi) Secure Care would be Discriminately Enforced Against Girls and Aboriginals

A number of anti-secure care claims-makers argued that, like other historical interventions designed to deal with prostitution in the past, the provisions of the secure care legislation would be enforced primarily against girls. Further, the *Act* would target Aboriginal girls who were disproportionately represented in the sex trade. These claims-

makers pointed out that in Alberta, girls were overwhelmingly targeted by the provisions of the *PCHIP Act*:

Who would be picked up? If they're standing on a street corner, it's not the blonde. It would usually be the Aboriginal or First Nations, indigenous person (Bowen, October 29, 2002).

It's not new. It's [secure care] a different package. And all it is is something that is a non-criminal jailing of girls (Webb, October 24, 2002).

Looking at the implementation of the Alberta legislation, it is clearly discriminatory in terms of gender (over 99% of youth apprehended were girls). The *Secure Care Act* violates young women's right to equality before and under the law (Section 15 of the *Charter*) in that it will almost exclusively be used to detain young women, especially First Nations girls (Justice for Girls statement, 2000: 1).

The *Secure Care Act* is inherently discriminatory despite its appearance of gender and race neutrality. Youth apprehended under similar legislation in Alberta were almost exclusively girls (BCCWC statement, January 2003: 10).

Further, critics of the *Act* argued that secure care provisions used to forcibly detain female victims of sexual exploitation effectively punished the "victim" rather than the men who victimized them. These claims-makers pointed out that, still, there was no enforcement of the procuring provisions of the *Criminal Code* against abusers of girls:

There is one issue that they [sexually exploited youth] bring up time and time again, and that is section 212(4) of the *Criminal Code*. It was changed by the federal government so that now, in order to prove a case of child prostitution, the police just have to show that there was a communicating for the intent. But you know, there aren't any charges – very, very few charges, very few convictions. And so the street-involved youth, particularly the sexually exploited youth that are on the streets, look at this and say, "Who cares? Nobody cares about us, because if they did, if the government was really serious about providing the kinds of services for us that we require, why aren't they charging the johns? Why aren't they doing that? Why am I being put away? Why am I being held against my will when these people are out there free in the community" (Stephens, Hansard, July 5, 2000).

Instead of prosecuting men who sexually abuse girls through prostitution, the B.C. government has created a law that will allow them to incarcerate/confine teenage girls who are victimized or “at risk” of victimization (BCCWC statement, January 2003: 9).

Representing Save the Children Canada, Cherry Kingsley offers a challenge: “If we’re serious about protecting children from being bought and sold in the sex trade, let’s talk about locking up people who buy sex from children” (Save the Children statement, 2000).

We’re not apprehending johns. We don’t bust people who have sex with children. We have focused on the wrong group (Horton, October 22, 2002).

Justice for Girls pointed out that the *Act* located the problem of sexual exploitation within the victim, as it described sexual exploitation as “an emotional or behaviour condition” of the child (section 2). The advocacy group further asked:

If this is the ideological framework from which this *Act* derives, is it any wonder that it focuses on jailing young women as opposed to prosecuting perpetrators? We argue that the provincial government must address the criminal behaviour of men who abuse girls through the child sex trade by enforcing section 212(4) of the *Criminal Code* and prosecuting them for child sexual abuse...Locking up young women for oppression and crimes against them is not only backward, but also discriminatory, cruel and draconian in nature (Justice for Girls, Opposition Statement, 2000: 3).

vii) Secure Care would be a Repeat of the Residential School Experience

Critics of secure care noted that, in addition to the apparent absence of consultation with Aboriginal communities, the ability to forcibly detain youths against their will and confine them in a secure care facility was an especially troubling proposition to the Aboriginal community given the residential schooling experience that many Aboriginal people in B.C. had endured.

Raven Bowen noted that her agency, PACE, supported the Aboriginal-led resistance against the secure care provisions:

We were involved in the Aboriginal kind of resistance... We were supporting the Aboriginal voice. I remember how they would talk about the Ministry [of Children and Families]. It seemed to them like this was another way of doing residential schools because the Ministry yet again is apprehending their children. Yet again (Bowen, April 28, 2003).

Similarly, Jerry Adams described the concerns that many of the elders in the Aboriginal community had about secure care:

Urban Native Youth Association was very angry... We felt that it was not supportive of Aboriginal kids and that again our children were going to be apprehended at will. I mean that was the fear... I don't know if anybody talked about the meeting they had at the Aboriginal Friendship Centre where Vaughn Dowie was there and all the people that put that together, met with the Aboriginal community and they just got stomped on. A lot of elders got up and were basically disclosing how they felt and how they didn't want their grandchildren to go through the same thing that they went through (Adams, November 14, 2002).

Annabell Webb also recalled the meeting at the Aboriginal Friendship Centre:

There were many, many women from the Downtown Eastside, a lot of Aboriginal women got up and talked about some really, really just heart-wrenching stuff about their experiences. Being put in residential schools and being confined. And really, stuff about colonialism and the standpoint of our First Nations partner of this was that this was an extension of the old colonial[ism]. This is just going to be another removing of Aboriginal children from their communities and from their families and locking them up. It's just an extension of all of the oppressive measures that have ever been done to Aboriginal people (Webb, October 24, 2002).

In addition to the concerns around the detention of Aboriginal youth, Save the Children noted that the *Secure Care Act* limited the participation of Aboriginal communities in the following ways:

- First Nations cannot make an application for secure care to the Board;
- Although First Nations are given notice of the application, the *Act* does not provide for their participation in proceedings;
- First Nations are not informed or consulted about where the child is detained, although priority is given to placing a child in their own community;

- First Nations are not consulted in preparing an initial assessment, an assessment or an intervention and assistance plan. In fact, they are not even given a copy of these documents;
- There is no requirement of First Nation participation either as a Director of Secure Care, or as a Board member (Save the Children Canada statement, July 17, 2000: 4-5).

viii) Charter Concerns: Does the *Secure Care Act* Violate Youth's Rights?

Both Alan Markwart and Jeremy Berland suggested that the *Secure Care Act* illustrated the difficulty in balancing the government's duty to protect youth with the rights of those young people:

It's really a kind of fundamental moral question that speaks to...our responsibilities about youth. I mean is it acceptable to have a thirteen-year-old who is addicted and is being abused on a daily basis, sometimes being beaten by pimps and johns... We kind of wash our hands of it and say, "Well sorry, we can't do anything because she won't volunteer for or cooperate with any assistance" and pat myself on the back and say what a good civil libertarian I am while these kids die. Sometimes literally and often psychologically... The issue is do we have an obligation to at least make an effort? (Markwart, November 1, 2002).

We were getting pressure from parents to do something because there are kids dying on the street and pressure on the other side from the civil liberties people saying it's immoral to lock kids up against their will... It's a pretty classic struggle in terms of the question to the government of what do you do with two completely conflicting and competing ideas of how to deal with this pretty important social problem (Berland, November 7, 2002).

Several critics noted that the provisions of the secure care legislation violated principles of due process and could be in violation of the *Charter of Rights and Freedoms*. While an exhaustive review and evaluation of these alleged violations will not be undertaken in this thesis, the primary concerns expressed by those opposing the *Act* will be reviewed.

For many, the *Secure Care Act's* provision for medical examinations and health care without the consent of the youth were among the most troubling aspects of the legislation. These provisions paralleled legislative provisions of the nineteenth century *Contagious Disease Act*, that mandated the forced medical testing and treatment of women believed to be infected with venereal disease. The secure care legislation authorized a Director of Secure Care to, “in the child’s best interest”, both authorize a health care examination and consent to health care for the child (section 16(1)(a)(b)(c)). In response, critics of the *Act* called for the immediate amendment of these provisions:

Currently there is no provision for the child to have their views be considered when health care is authorized. It is recommended that Section 16 of the *Secure Care Act* acknowledge the child’s right to have their views considered when health care is authorized (Office of the Child, Youth and Family Advocate, Issue Alert, July 7, 2000: 4)

Even though this legislation is supposed to protect children, it contains provisions that could result in worse violations than they would be exposed to on the street, including the likes of forced medical examinations with or without parental consent (Save the Children Canada statement, 2000: 2).

Justice for Girls stands firm that any non-consensual medical examination of young women constitutes sexual assault. Researchers have already identified the the overuse of gynaecological examinations of young women in corrections, and define this as a sexist form of institution violence (Justice for Girls statement, 2000: 5).

The authorization of non-consensual medication examination may have a devastating impact on young women, particularly from refugee backgrounds. This may parallel experiences that they have fled from as refugees (AMSSA statement, October 5, 2000: 1).

In their review of the *Secure Care Act*, Busby and her colleagues (2002) noted that the non-consensual health provisions of the legislation, “may violate, amongst other constitutional rights, the liberty and security of the person and the equality guarantees

contained in the *Charter*” (2002: 105). They also contended that the legislation’s failure to specifically set out the standards of a secure care facility, “may violate the child’s *Charter* rights to liberty and freedom from arbitrary detention” (2002: 105). The legislation did not set out, “clear legislated standards for the facilities – e.g., how detention is to be enforced against a non-compliant minor – and other safeguards around the apprehension” (2002: 105).

Busby and her colleagues concluded that given the, “serious, albeit unintended, consequences secure confinement regimes may have”, a “good case could be made that the constitutional violations in the legislation cannot be justified” under section 1 of the *Charter* (2002: 106). They identified a number of consequences of the legislation, including the concern that the, “possibility of being subjected to secure confinement will drive girls away from accessing voluntary services” (2002: 106). Further, the legislation may push, “young women underground and back to abusive pimps,” isolating them and making it, “harder for them to escape from sexual exploitation” (2002: 106). These consequences may demonstrate that the “deleterious” effects of the legislation outweigh the “salutary” effects of the legislation, thus failing the section 1 test and rendering the legislation unconstitutional.

Anti-secure care claims-makers also expressed their concerns that the *Act* did not do enough to ensure that the voices and views of the detained youth were considered throughout the process, and that they had a fair hearing. The Office of the Child, Youth and Family Advocate noted these concerns and recommended that the provincial Advocate’s role be, “clarified and strengthened” to ensure the youth are heard and are treated fairly (Office of the Child, Youth and Family advocate, Issue Alert, July 7, 2000:

1). The Secure Care Working Group had similarly recommended that amongst other agencies, the Child, Youth and Family Advocate be accessible to the detained youth so that they might access a review of the, “provision of services or any breaches of his or her rights” (Secure Care Working Group Report, 1998: 40).

Justice for Girl’s contended that the *Act’s* provision (section 25) that allowed the Board to exclude a youth from “all or part of a hearing” in situations where the youth, “disrupts the hearing to the extent that it cannot continue” was a, “gross violation of the most basic principles of due process” (Justice for Girls, opposition statement, 2000: 4). The advocacy group maintained that a girl is likely to be upset and angry in situations where she is probably going to be detained and may, as a result, be excluded from her hearing.

ix) *The Secure Care Act Violates the UN Convention on the Rights of the Child*

In addition to violating the Canadian *Charter of Rights and Freedoms*, several anti-secure care claims-makers argued that the *Secure Care Act* did not comply with the *UN Convention on the Rights of the Child*. The Society for Children and Youth of British Columbia released a position paper that assessed the legislation in terms of the rights of the child set out in the *UN Convention*. The Society utilized a “four-star” model for assessing the provincial legislation’s compliance with the articles set out in the *Convention*. The Society asserted that the *Secure Care Act’s* provisions “poorly complied” or did not comply with a number of the *Convention’s* Articles. They determined that the legislation contravened six of the Articles. Overall, the *Secure Care Act* was given a “poor” assessment. The Society listed the following grievances with the legislation:

- The legislation provides limited opportunities for children to participate in decision-making;
- There is no “overriding requirement” that the child’s best interests must be a primary consideration in all action under the legislation;
- The *Act* allows for emergency apprehensions without the child being guaranteed timely access to a rights representative or advocate;
- A child can be detained for up to 114 days during which there is no possibility for judicial review or appeal to an impartial adjudicator;
- The child may receive less information about his or her care than parents or staff;
- The child’s fundamental rights can be limited by the needs of the facility or the secure care regime;
- The *Act* protects vulnerable youth through detention despite the Convention’s position that detention is an appropriate measure to address exploitation or addiction issues (Society for Children and Youth of B.C., 2001: 18).

The Society recommended that to improve the legislation’s compliance with the *Convention*, the legislation should be amended to, among other things, allow for voluntary secure treatment of children, and require that a range of less intrusive programs and measures be established and fully utilized before involuntary secure care be considered (2001: 19).

x) The *Secure Care Act* Fails to Address Systemic Inequality

Critics argued that the *Act* did nothing to address the root causes of youth sexual exploitation. Similar to criticisms of late nineteenth and early twentieth century legislation dealing with prostitution, opponents noted that the systemic and structural inequality that many sexually exploited youth experience was not challenged by a secure care regime. These claims-makers questioned how the involuntary detention of sexually exploited youth changed the dismal reality from which many of them come, and would subsequently return following their release from a secure care facility:

Nobody finishes high school and says, “Oh gee, I could work at Save On Foods, or I could flatback downtown.” It’s not a choice made by adults with secure mature developed abilities to assess risk and to make conscious decisions. It’s made by desperate young people who don’t see that they have any choices (Horton, October 22, 2002).

There are huge histories of why girls are out there. A huge proportion of them are Aboriginal girls...It’s generations of poverty and destruction of their communities, abuse and on and on. And its not a matter of getting them to lock them up...It’s so simplistic. But they figured if you could force them into treatment, if you could lock them up, then that would get them out of the scene...And from our standpoint? Until there is a range of services that are voluntary and that are adequate – and by that I mean that they don’t completely alienate young women, but they actually deal with what’s going on in their lives. So everything from poverty to serious and horrific male violence...Until the resources can deal with that and take their mothers out of poverty, take their families out of poverty. Then if after you do all that you still have a handful of young women who are seriously down and out and can’t be reached, then bring in secure care. But let’s not start with locking girls up (Webb, October 24, 2002).

Webb further noted legislators frequently implement quick solutions that focus on confining sexually exploited girls for their protection to solutions that challenge underlying power structures in society and inequality that flows out of this. These latter solutions would entail a long-term commitment from government:

Thinking in four year terms is not going to solve the issue. Solutions that involve a framework that’s based in social justice are not neatly packaged into a four year term. And they’re not so popular, and they’re not catchy and they’re not “look we’ve solved the problem” because it doesn’t work that way. If you’re trying to eliminate social inequality, that would in our analysis and our argument would eliminate child sexual exploitation and poverty and addiction and all other things that are supposedly intervening in secure care (Webb, April 24, 2003).

xi) Concerns Regarding the Use of the Secure Care Board

Anti-secure care claims-makers noted that the establishment of a Secure Care Board to determine matters involving the involuntary detention of a youth in a secure care facility was problematic. Several critics felt that these matters should be decided

within the formal court system and that these decisions should not be made by a mechanism of the bureaucracy. They further questioned the ability of an administrative tribunal to adequately address complex matters such as issues around rights and due process.

Tim Agg described his difficulty with the government's decision to establish a Secure Care Board and remarked that this was contrary to what was recommended by the Secure Care Working Group:

I had a couple of major problems with the legislation as it ultimately came forward... I was just appalled that we would be looking at questions of fundamental liberty without allowing the independent courts to adjudicate those decisions. Essentially leaving it up to what would inevitably be well-intentioned bureaucrats like me. I just don't think it's appropriate for in any situation administrative tribunals to have the right to remove fundamental freedoms... If you're going to take somebody's freedom away, if you are going to lock somebody up against their will, then it should be [in] an open court in front of a judge... The original recommendations... would have required a court process than an administrative tribunal process (Agg, March 18, 2002).

Alan Markwart noted that in addition to the courts being a more appropriate venue to deal with removing an individual's liberty, it would also be more cost-effective as establishing the Secure Care Board would be financially costly:

God knows why they wanted to do an administrative tribunal in the first place, but it is a very expensive way of doing business to set up [a] whole separate quasi-legal structure to deal with these cases. And second, the courts are better positioned to protect the rights of kids than an administrative tribunal (Markwart, November 1, 2002).

During the debate over the legislation several opposition MLA's expressed similar difficulties with delegating decisions regarding secure care to an appointed board rather than the courts:

Instead of a new bureaucracy, why not have these applications come before a family court judge? These very skillful people make these judgements now. Are we prepared to give someone outside the judicial process the right to lock kids up?...Judges have the ability to order resources for kids. There is accountability in the court process. An appointed board will not obtain a similar level of accountability (Reid, Hansard, June 29, 2000).

We disagree with the creation of a new directorate and a new board – a new bureaucracy – to deal with these matters, when we have the family courts. They're good at what they do. It's the courts that should be involved in making these decisions, not some new bureaucracy (Krueger, Hansard, July 5, 2000).

I think it gives the Ministry for Children and Families and this new board that is going to be set up the ability to provide jobs and work for friends and insiders. At this point we don't know who those individuals will be, what their qualifications will be and whether or not they will be able to bring to the decisions they will have to make the objectivity that is required, as opposed to perhaps the courts being involved and the court system being the people who are making the decisions on the children who are going to be taken into secure care (Stephens, Hansard, July 5, 2000).

Justice for Girls was critical of the powers delegated to the Secure Care Board under the *Act*. First, section 26 of the *Act* allowed the Board to, “dispense with a requirement” of the *Act* if the Board, “is satisfied that it is in the best interest of the child to do so.” The advocacy group posed the question: “What is the point of having laws if Boards are given the unquestioned authority to dispense with them?” The group contended that this is, “an alarming degree of power for any authority to possess” (Justice for Girls statement, 2000: 5). Second, Justice for Girls found the provisions of section 22 problematic, which stated that, “proceedings of the board must not be challenged, reviewed or called into question by a court.” The group argued this section, “eliminates a young woman’s access to procedural fairness and indeed nullifies her options for recourse” because the Board cannot be held accountable by any court and is not subject to any form of judicial review (2000: 6).

Similarly, MLA McKinnon noted:

Forming a Secure Care Board with the powers described in this Bill is a power that only our judges should have. What type of training will these people have? My understanding is that we will not be able to challenge any decision this board makes. There is no appeal process. These children are the most vulnerable of society, and I don't have a lot of faith in having a Secure Care Board without any safeguards. If we don't have safeguards, there is always the potential for abuse (McKinnon, Hansard, June 29, 2000).

Responding to the Backlash: Demise of the *Secure Care Act*

In May of 2001, B.C. voters elected a Liberal provincial government, to replace the NDP administration. In response to the widespread opposition to the *Secure Care Act* by anti-secure care claims-makers including multiple advocacy groups, service providers and individuals in the community, the newly elected government announced its plans to replace the legislation. In a letter to B.C. stakeholders, the new Minister of Children and Family Development, Gordon Hogg, stated that, following public consultation that occurred between November 2000 and February 2001 and a careful review of submissions, "significant concerns were raised" about the *Secure Care Act* including:

- the considerable expense to create the Secure Care Board;
- the definition of "high risk" and the potentially broad scope of the legislation;
- the potential for lengthy period of detainment;
- the authorization of medical treatment without a child's consent;
- existing voluntary services first need strengthening and improvement to support *Secure Care Act* services;
- the potentially disproportionate impact of secure care services on Aboriginal youth;
- the unproven benefit of the intention must be weighed against the potential risk of driving youth underground to avoid detainment;
- the need for strengthened enforcement/deterrents for abusers;
- high costs, including that funding may be insufficient for the broadly defined target population (Hogg in Letter to B.C. stakeholders, 2001).

As one of their “New Era commitments” the provincial Liberal government announced its plans to “fight child prostitution” with, “legislation aimed at providing greater protection to children at risk of exploitation” (New Era Commitments, B.C. Government, 2001). The government noted that new “safe care” legislation would be developed which, unlike the broadly-mandated *Secure Care Act*, would focus exclusively on protecting sexually exploited youth.

Unlike the former *Secure Care Act*, the *Safe Care Act* would utilize a court-based adjudicative process that would better protect the rights of youth. Further, Hogg wrote that the new legislation would feature shorter maximum periods of detention and that, “existing legislation will provide the framework for individual consent for medical treatment” (Hogg, 2001). Services supporting the new legislation would be designed so that their delivery is, “streamlined, effective and efficient” (2001). Hogg noted that the Ministry was working with the Ministry of Public Safety and Solicitor General to, “identify additional legislative options to impose penalties on those who abuse children and youth through commercial sexual exploitation” and committed to continue urging the Federal government to raise the age of consent (2001).

The Ministry for Children and Family Development reconfirmed its commitment to develop safe care legislation in a recently released discussion paper (2004) that, unlike the former legislation, would be more in line with the recommendations submitted by the Secure Care Working Group in 1998. In particular, the Ministry noted the influence that anti-secure care claims-makers voicing their concerns about the *Secure Care Act* had in their decision to reconsider the legislation:

In light of this substantial input from stakeholders...there are three major elements of the *Secure Care Act* and services that must be reconsidered (Safe Care Discussion Paper, 2004: 7)

The discussion paper validated anti-secure care claims-makers concerns, asserting that the former legislation was too broad, that there was a lack of research demonstrating the success of involuntary detainment, and that the formerly proposed Secure Care Board would be, “too cumbersome and too expensive” (2004: 7). Further, the Ministry argued that the potential maximum period of detention under the *Secure Care Act* was, “too long, unnecessary and potentially counterproductive” (2004: 8).

The Ministry subsequently recommended that the government replace the *Secure Care Act* with the *Safe Care Act*. The latter legislation would, “focus policy direction and services on the commercial sexual exploitation of children” and would address many of the concerns that were noted in the consultation process (2004: 8). The Ministry responded to the concerns raised by anti-secure care claims-makers by asserting that proposed safe care legislation would (2004: 8-9):

- Focus exclusively on children at risk of commercial sexual exploitation rather than the broader spectrum of high-risk youth;
- Detainment of youth would depend on an order from the court, rather than a certificate issued by a Secure Care Board;
- All apprehensions must be reviewed by within 24 hours (not 3 days under the former legislation);
- The maximum length of time a youth may be held in safe care would be 30 days;
- Youth would be able to provide or withhold consent for medical treatment unless they do not have the capacity to give consent;
- Detained youth would have the full range of rights assured to youth under the *Child, Family and Community Services Act*;
- Additional resources would be provided for voluntary services to strengthen the continuum of community supports. Voluntary safe beds will be established to ensure there are alternatives to involuntary detainment and potentially as a transition from involuntary to voluntary services.

The new safe care legislation was expected to be brought forward in 2004/2005 with its implementation scheduled for 2005/2006. Minister Stanley Hagan, the current Minister responsible for Children and Family Development, recently announced that these plans would be delayed and that safe care legislation would be introduced in 2005/2006, with implementation delayed to 2006/2007.

Evaluation of the *Protection of Children Involved in Prostitution Act*

The evaluation of Protective Safe Houses in Alberta, one feature of that province's Protection of Children Involved in Prostitution initiative, was publicly released in October of 2004. The report details the number of apprehensions made under the PCHIP legislation and notes a significant decrease in the number of youths committed to Alberta's three Protective Safe Houses. In particular, the total number of youths by year dropped by 18.7 percent from fiscal year 2001-2002 to fiscal year 2002-2003 (Report, 2004: 23). The report further notes that of those youth who are apprehended, many of them have repeat stays (2004: 25).

The evaluation report notes the overall characteristics of "protective safe house clients" (2004: 24). These findings support academic research that suggests that various precipitating factors often play a role in a youth's involvement in prostitution. Youth who are apprehended under Alberta's initiative:

- Usually have either former or current child welfare status;
- Few clients have had stable two-parent families: many are runaways and have been living on the street or with friends;
- Have in most cases, previously been the victim of sexual and/or physical abuse above and beyond their victimization through prostitution;
- Usually are heavily involved in alcohol and drug abuse;
- Have a high degree of undiagnosed Fetal Alcohol Syndrome and attention disorders.

A review of the report indicates that many of the concerns raised by anti-secure care claims-makers in B.C. are validated by the Alberta evaluation. As anticipated by anti-secure care claims-makers, a breakdown of “client characteristics” indicate that the vast majority of apprehended youth are female. Specifically, the three protective safe houses (Calgary, Edmonton and Lethbridge) have “provided services” to a 192 females while only 13 males were apprehended during the two year period reviewed (2001-2003).

Further, the report indicates that a high percentage of clients of one of the protective safe houses were of Aboriginal background, validating anti-secure care lobbyists’ claims that Aboriginal youth would be at particular risk for apprehension under “secure care” legislation (2004: 25). To this end, stakeholders noted that an increase in Aboriginal programming and staff would be helpful (2004: 34).

The report relays a number of “unintended consequences” of the PCHIP initiative as reported by stakeholders and protective safe house staff. The report notes that discussions around these unintended consequences were “contentious” and that there was “little agreement” on the unintended impacts of the protective safe houses specifically, or of PCHIP generally.

Focus groups and interviews revealed that some stakeholders and protective safe house staff felt that one of the unintended impacts of the PCHIP initiative was that the protective safe houses had “driven child prostitution away from the public eye” (2004: 37). Consistent with claims made by the anti-secure care network, a number of Alberta stakeholders argued that child prostitution is “increasingly moving into trick pads or more commonly operating through word-of-mouth rather than through traditional strolls”

(2004: 37). In addition to moving the youth sex trade underground, Alberta stakeholders also noted that the PCHIP initiative may have resulted in youth being moved out of the province by organized crime groups or pimps. Vancouver and Toronto are both named as areas to which these youth are being transported (2004: 38).

Further validating claims made by the anti-secure care network, Alberta stakeholders also reported that for many youth, there may have been some “negative repercussions” from pimps, friends or others as a result of a youth being apprehended under Alberta’s *PCHIP Act* (2004: 38). The report indicates that the issue of retaliation was debated amongst interviewed stakeholders as some believed that children were better protected as they could blame their apprehension on child welfare workers or police officers. Stakeholders further noted that clients often felt that they were being, “punished rather than helped by the program” (2004: 3).

As anticipated by anti-secure care claims-makers, Alberta stakeholders noted that apprehended youth often feel that those in authority are not dealing with the pimps and johns. These youth were described as being “angry” that the community is more focused on locking them up than on punishing the men involved in exploiting them (2004: 38). For some youth, trust in social agencies and staff diminished as a result of being forcibly detained in a protective safe house (2004: 38)

Among the Report’s recommendations that follow from the research findings and conclusions were the following (2004: 61-64):

- Preventative education on the issue of youth sexual exploitation should be promoted in schools and with parents/guardians;
- Increased training to professionals (e.g. child welfare workers, police) on the PCHIP legislation;

- More effort and processes to ensure that protective safe house do not result in the recruiting of children into more “hardcore” prostitution or drug use;
- More consistent and comprehensive Aboriginal staffing;
- More regular and consistent counselling;
- The system of apprehending children under PCHIP needs to be reinvigorated so that apprehensions increase;
- Further work should be undertaken with respect to identification and punishment of pimps and johns;
- PCHIP workers should consistently follow-up with former clients after they are released from the protective safe houses.

Further, the report recommends that a more extensive evaluation of the PCHIP initiative be undertaken to allow for the comparison of the voluntary components of *PCHIP Act* with that of the protective safe house. The report also recommends further community consultations to continue to examine the overall impact of the PCHIP initiative. The report fails to provide any empirical data that demonstrates the effectiveness of a secure care response in reducing the number of youth involved in prostitution.

Secure Care in Other Provinces

Despite the lack of evaluative data demonstrating the effectiveness of secure care measures in reducing the number of youth involved in prostitution, other Canadian provinces have recently taken steps to enact similar measures to protect sexually exploited youth. In 2002, the Province of Ontario passed the, “*Rescuing Children from Sexual Exploitation Act.*” The legislation allows a police officer or a Children’s Aid Society social worker to apprehend a child under 18 years of age, with or without a warrant, if it is believed, on reasonable grounds, that the child has been sexually exploited for commercial purposes or is at risk of being commercially sexually exploited. The youth must be taken before the court within 24 hours for a show cause hearing. The

youth may be confined in a safe facility for up to 30 days. Under this legislation, the Province can recover costs associated with protecting the youth from a person who sexually exploited the youth for commercial purposes. Further, the legislation authorizes the suspension of a person's driver's licence on conviction of a prostitution-related criminal offence if a motor vehicle was used in the commission of the offence. While legislation has been proclaimed, it has yet to be implemented.

Saskatchewan passed the, "*Emergency Protection for Victims of Child, Sexual Abuse and Exploitation Act*" in 2002. While this legislation has been proclaimed, the Province has focussed its efforts on developing a strategy to prevent the exploitation of children through the sex trade, rather than implementing the legislation. The strategy focuses on deterring those who exploit children for sexual purposes through the use of Emergency Intervention Orders which enable police, social workers or community outreach workers to keep offenders away from sexually exploited children and stroll areas (Saskatchewan Press Release, 2002). Further, the strategy offers protective services for children and youth. Included in these services is the establishment of a safe house in Regina and 26 residential care spaces for victims of sexual exploitation. The strategy emphasizes prevention and early intervention and understanding the root causes of youth sexual exploitation. Awareness training workshops for various community agencies, police and prosecutors will be offered.

Finally, although not specifically designed to protect sexually exploited youth, both Nova Scotia's *Children and Family Services Act* (2002) and Quebec's *Youth Protection Act* (2005) provide authority for secure treatment orders for youth determined

by the court to be in need of protection. Sexual exploitation is considered a condition warranting the protection of a youth.

The B.C. provincial government's decision to replace the *Secure Care Act* responded directly to concerns articulated by anti-secure care claims-makers. Both the creation and the demise of the secure care legislation illustrate how claims-makers and lobby groups can be effective in influencing legislative change. The claims-making activity of groups lobbying for the protection of sexually exploited youth was key in the creation of the *Secure Care Act*. Likewise, the activity of groups opposing the legislation was instrumental in the legislation's demise. The following Chapter offers some concluding remarks regarding claims-making activity.

Chapter Six: Discussion And Conclusions

Claims-making activity has played a fundamental role in influencing policy makers, at all levels of government, and has resulted in various legislative reforms. In particular, as this thesis has sought to demonstrate, claims-making activity has played an important role in both the historical as well as the contemporary reactions to youth involvement in prostitution.

Contemporary claims-makers in B.C., led largely by Diane Sowden, called on the provincial government to enact greater measures to protect the victims of sexual exploitation. Sowden sought to mobilize public support by exposing the issue of youth sexual exploitation in the media. She challenged traditional explanations of youth prostitution that focus on the role of precipitating factors, such as a history of sexual abuse, social and economic marginalization, and an abusive family background in a young person's involvement in prostitution. Rather, Sowden and other supportive claims-makers highlighted the role of the predatory pimp in luring unsuspecting youth into prostitution, often through the use of drugs. These contemporary claims were reminiscent of claims made by early nineteenth and late twentieth century claims-makers who portrayed the exploiters of girls and women as "shadowy figures" who used manipulative recruitment tactics to lure them to work as prostitutes.

Sowden and her supporters estimated the extent of the problem and emphasized its magnitude, by providing incidence estimates, growth estimates and range claims. The

issue of youth sexual exploitation was represented as an escalating social problem that cut across all socio-economic, racial and geographical boundaries. The message that was relayed repeatedly in news items was simple: no one was immune to the persuasive power of the predatory pimp. It could happen to anyone; it could happen anywhere. Although it is difficult to find research that supports these claims, secure care advocates successfully motivated the B.C. government to design policy based on them.

Having defined the problem and emphasized its magnitude, Sowden and other supportive claims-makers pointed out the historical and contemporary ineffectiveness of legislation, resources and services in remedying the problem of sexually exploited youth and in protecting the victims of sexual exploitation. These claims-makers lobbied the Provincial Government to legislate protection for these victims. Re-asserting claims that sexual exploitation and drug addiction often go hand in hand, Sowden and other claims-makers argued that, in many cases, sexually exploited youth not only needed to be protected from the predatory pimp, they also needed to be protected from themselves. To this end, they urged the government to create “secure care” legislation, that would allow authorities to forcibly detain and confine service-resistant youth who were being sexually exploited through their involvement in prostitution.

The Secure Care Working Group (SCWG) was formed in February of 1998 by the Provincial Government in response to claims-makers’ advocacy for the creation of secure care legislation and one of its functions was to explore such an option. Sowden was included as a member of the Working Group. Following community consultations, the Working Group released its final report and recommendations in August 1998. Among the Working Group’s recommendations was the development of a short-term, “safe care”

option, “as part of a continuum of services for children, youth and families that would begin with prevention and move through more intensive interventions” (Secure Care Working Group Report, 1998: 40). Dissatisfied with the Working Group’s recommendation for a “short- term, 72 hour” safe care option, Sowden asserted that such a secure care option should be more long-term. Sowden’s dissenting, minority position was included in the Working Group’s report.

The *Secure Care Act* was introduced by the New Democratic Party provincial administration in July of 2001. The legislation mandated the involuntary detention of a youth in a secure care facility in situations where it was determined that the, “child has an emotional or behavioural condition that presents a high risk of serious harm or injury to the child,” and when he or she was, “unable to unwilling to take steps to reduce the risk of harm” (*Secure Care Act*, section 8 (1)(a)(b)). The *Act* specified that the emotional or behavioural condition could be demonstrated by, “severe substance misuse or addiction or the sexual exploitation of the child” (section 2(2)). Despite the Secure Care Working Group’s recommendation for a short-term secure care provision, the legislation mandated the involuntary detention of eligible youths for up to 30 days upon application to the Secure Care Board. Further, the secure care certificate could be renewed up to two times. This provision was consistent with the position Sowden advocated in her opposition to the Working Group’s recommendation for a short-term, 72 hour secure care option.

Explaining Legislative Reform through Claims-making Activity

The social constructionist emphasis on the claims-making activity of lobby groups presents us with a viable means of explaining and understanding certain aspects of policy and legislative reform. This thesis has sought to illustrate how claims-makers have played

a significant role in the development of legislation and policy related to youth sexual exploitation. Both secure care advocates and their detractors have achieved success in influencing the government to respond to their respective concerns about youth involvement in prostitution.

The most fundamental form of claims-making activity begins with defining a problem or giving it a name (Best, 1990). Both late 19th and early 20th Century, as well as contemporary secure care advocates, led largely by Diane Sowden, defined youth prostitution as sexual exploitation and abuse. Through this conceptualization, youths involved in prostitution are seen as victims in need of protection. Conceptualizing youth involved in prostitution as victims of sexual exploitation is foundational to the efforts of both historical and contemporary claims-making activity.

By defining youth involved in prostitution as “victims,” claims-makers’ calls for protection-oriented legislation are legitimized. Bittle notes that the “victim discourse” creates an atmosphere where “help at any cost becomes the slogan” (Bittle, 2002: 327). To suggest a discourse other than the dominant victim discourse became more difficult. Sowden-led claims-making activity dichotomized rhetoric about youth involvement in prostitution. By claiming that secure care was the only recourse available to save the lost victims of sexual exploitation, anyone arguing against secure care was put in the position of implicitly consenting to the exploitation of youth.

Bittle notes that the “discursive formations” that conceptualized youth involvement in prostitution as sexual exploitation and abuse, “produced a powerful frame of reference” or “precursor” to policy reform (Bittle, 1994, 104). Sowden-led claims-making presented youth sexual exploitation as a pressing and increasingly alarming

social problem that required a swift response by policy makers. Sowden's status as a credible, middle-class businesswoman and mother, coupled with her ability to speak experientially on the issue, resulted in her becoming the authority to whom people, including policy-makers, turned for advice. The provincial government subsequently responded to Sowden's call for action and introduced the secure care legislation in July of 2001.

Social problems do not exist objectively, but rather, are the result of claims-making activity (Spector and Kitsuse, 1977). The current research has applied the concept of claims-making activity by providing an empirical illustration of the process that lobby groups or "claims-makers" used in the process of creating the social problem of "sexual exploitation of youth." It provides an empirical illustration of this defining process, and highlights the decisive role that one parent lobby group played. The thesis documents Diane Sowden's demands to introduce secure care legislation, and describes her victory, albeit short-lived, in the *Secure Care Act* of 2001. Also, this research has documented the role that "counter claims-making" activity had on policy makers' response to youth sexual exploitation.

Following the announcement of the secure care legislation in 2001, numerous service providers, youth advocates and non-governmental organizations announced their opposition to the *Secure Care Act*. Also, two members of the Secure Care Working Group publicly expressed their concerns about the new legislation. These "anti-secure care" claims-makers were effective in mobilizing a strong voice of opposition against the *Act* by effectively countering many of the claims made by secure care advocates. Anti-

secure care claims-makers sent a clear message to officials from the Ministry for Children and Family Development to replace the secure care legislation.

Among concerns raised by anti-secure care claims-makers was the concern around the failure of the *Act* to address the root causes of youth sexual exploitation which have been well-established within the research literature. Anti-secure care claims-makers asserted that the legislation was a “quick fix” solution that focused on confining sexually exploited girls for their protection.

Bittle asserts that the “relations of power – or the conditions that make prostitution a choice for some youth – remain unchallenged” by a secure care response (Bittle, 2002: 320). Secure care and the “victim approach” to the problem of youth involvement in prostitution “conceptualize change, help or support as being associated with responsibility, not relations of power” (2002: 342). Anti-secure care claims-makers subsequently called on the government to make a commitment to address the social conditions that make prostitution an option of survival for some youth and to take measures to empower these youth.

Further troubling to many anti-secure care claims-makers was that the new measures continued to fail to address the male purchasers of sex. The *Secure Care Act’s* exclusive focus on girls involved in prostitution paralleled previous 19th and 20th Century responses to the problem of youth involvement in prostitution.

Despite the intentions of policy makers to “protect” women and girls involved in prostitution, early enforcement efforts and, more recently, the lack of charges under section 212(4) of the *Criminal Code*, have all demonstrated a lack of commitment by authorities to target the male purchasers of sex. Thus, in historical and contemporary

times, girls and women involved in prostitution are held responsible for their, “non-normative sexual behaviour” while the male purchasers of sex continue to be granted immunity (2002: 343).

The newly elected Liberal provincial government of 2001 responded to anti-secure care claims-making by announcing its plans to replace the *Secure Care Act*. The government contended that “significant concerns” had been raised about the legislation and committed to conducting further public consultations (Hogg, in Letter to B.C. stakeholders, 2001). The government committed to responding to the concerns raised over issues such as the appropriateness of a Secure Care Board, the scope of the legislation, and the length of the detention.

Still troubling to anti-secure care claims-makers is whether secure care is an appropriate response to youth prostitution. The provincial government confirmed its commitment to “fighting child prostitution” with, “legislation aimed at providing greater protection to children at risk of exploitation” and committed to introduce “safe care” legislation that would focus exclusively on protecting sexually exploited youth. (New Era Commitments, B.C. Government, 2001).

The success of counter claims-making was demonstrated in the ultimate demise of the secure care legislation. This success, however, appears to be limited in that, to date, the government has committed only to amending the “process-oriented” issues with the legislation, and remains committed to introducing some kind of secure care law. Counter-claims made regarding the inappropriateness of secure care as a response to the “problem” of youth prostitution remain unaddressed.

While limited, the success of the activities of anti-secure care claims-makers in the replacement of the *Secure Care Act* demonstrates how policy makers are responsive to coordinated campaigns waged by lobby groups.

Clearly, protectionist claims-making activity, led by Sowden, has revitalized the victim discourse and perpetuated calls for the greater protection of sexually exploited youth through secure care measures. Her rhetoric continues to influence B.C. policy makers. The victim discourse, which remains the dominant discourse, is still resulting in protectionist interventions. Protectionist policy and legislation appear to be gaining momentum, as evidenced by the introduction of secure care measures in other provinces. Despite their popularity, protectionist interventions are not evidence-based – the effectiveness of eliminating or even reducing the number of youths involved in prostitution has yet to be established.

As noted repeatedly by anti-secure care claims-makers, secure or safe care measures do nothing to “alter the social structures which make prostitution a logical means of subsistence for defamilied youth” (Lowman, 1986: 212). Protectionist approaches to this issue perpetuate the discrimination against females who choose to engage in prostitution out of economic necessity as, “one of a very limited array of options” (Backhouse, 1991: 32). Similarly, Bittle contends that the victim discourse used to characterize youth involvement in prostitution must be re-visited as it appears that this discourse “has failed to produce positive outcomes”: such rhetoric does not entertain the possibility that, for many youth, “the choice to prostitute stems from their social conditions” (Bittle, 2002: 344).

As history has demonstrated, such measures are too often applied disproportionately to marginalized and disadvantaged groups. Until a long-term commitment to addressing the root causes of youth involvement in prostitution is made, youths will continue to be involved in prostitution.

Appendices

Appendix A: Research Participants

(i) Members of the Secure Care Working Group

- Tim Agg (Executive Director of PLEA)
- Phillip Bryden (UBC Faculty of Law professor)
- Dr. Roy Holland (Clinical Director of the Maples Adolescent Centre)
- Diane Sowden (Executive Director of Children of the Streets Society)

(ii) Provincial Public Servants from the Ministry of Children and Family Development and the Ministry of the Attorney General and Treaty Negotiations

- Dr. Jacqueline Nelson (Director, Federal/Provincial Policy, Ministry of Attorney General and Treaty Negotiations)
- Alan Markwart (Assistant Deputy Minister, Provincial Services, Ministry of Children and Family Development)
- Jeremy Berland (Assistant Deputy Minister, Children and Family Development Service – Transformation, Ministry of Children and Family Development)
- Mark Sieben (Acting Executive Director, Childcare Programs and Services, Ministry of Children and Family Development)

(iii) Service Providers

- Merlyn Horton (Project Coordinator of Safe Online Outreach Project (SOLO))
- Raven Bowen (Agency Coordinator of Prostitution Alternatives Counselling Education (PACE))
- Sandy Cooke (Executive Director of Covenant House Vancouver)
- John Turvey (former Executive Director of Downtown Eastside Youth Activities Society (DEYAS))
- Jerry Adams (Executive Director of Urban Native Youth Association (UNYA))
- Deb Mearns (Downtown Eastside Neighbourhood Safety Office)
- Annabell Webb (Justice for Girls)

Appendix B: Interview Schedule

- 1) How did you first come to be involved in B.C.'s secure care initiative?
- 2) What factors do you think were involved in B.C.'s decision to move forward on a secure care option?
- 3) What role do you think the following factors may have played (if any) on the initiative?
 - Lobby Groups
 - Alberta's Protection of Children Involved in Prostitution Act (PCHIP)
 - Concerns around youth involvement in the sex trade
 - Concerns around youth involved in drug use
 - 1984 Badgley Report
 - Media
- 4) What was your response to the *Secure Care Act* when it was passed in July 2000?
- 5) What factors do you think led to the decision by the provincial government to not implement the *Secure Care Act*?
- 6) Could you please outline your primary concerns that you had with the *Secure Care Act*? (if any)
- 7) In your opinion, what should be done to deal with the identified problem of youths engaging in high-risk behaviour such as involvement in the sex and/or drug trade?
- 8) (If participants are service providers) What services does your agency offer this particular population of youth?
- 9) Is there anything else you would like to add?

Appendix C: Interview Schedule for Berland, Markwart, Sieben and Nelson

- 1) What was your particular role (and particular Ministry's role) in the secure care initiative?
- 2) What factors do you think were involved in B.C.'s decision to move forward on a secure care option?
- 3) What role do you think the following factors may have played (if any) on the development of the secure care initiative?
 - Lobby Groups
 - Alberta's Protection of Children Involved in Prostitution Act (PCHIP)
 - Concerns around youth involvement in the sex trade
 - Concerns around youth involved in drug use
 - 1984 Badgley Report
 - Media
- 4) When do you believe the sexual exploitation of youth became a priority for the provincial government?
- 5) How has government in the past attempted to deal with youth sexual exploitation?
- 6) Many have noted the apparent discrepancy between what was recommended by the Secure Care Working Group and what was ultimately legislated. How do you view this? How might you account for this discrepancy?
- 7) What factors do you think led to the decision by the provincial government to not implement the *Secure Care Act*?
- 8) What is the future of the secure care initiative? How will the newly proposed safe care legislation differ from the previous legislation?
- 9) Is there anything else you would like to add?

Appendix D: Organizations Voicing Opposition to the *Secure Care Act*

- Union of B.C. Indian Chiefs
- P.A.C.E. (Prostitution Alternatives Counseling Education)
- U.N.Y.A. (Urban Native Youth Association)
- Vancouver Youth Voices
- Justice for Girls
- United Native Nations
- Child, Youth and Family Advocate of B.C.
- Aboriginal Friendship Centre
- Covenant House
- D.E.Y.A.S. (Downtown Eastside Youth Association Society)
- B.C.C.L.A. (British Columbia Civil Liberties Association)
- Save the Children Canada
- P.L.E.A. (Pacific Legal Education Association)
- A.M.S.S.A.
(Affiliation of Multicultural Societies and Service Agencies of B.C.)
- B.C. Coalition of Women's Centres

Appendix E: Research Reviewed by the Secure Care Working Group

Asarnow, J.R., W. Aoki and S. Elson. (1996) "Children in residential treatment: A follow-up study." *Journal of Clinical Child Psychology*, XXV 2: 209-214.

Borduin, Charles M. (1994) "Innovative models of treatment and service delivery in the juvenile justice system." Special Issue: Task Force Report on Innovative Models of Mental Health Services for Children, Adolescents and Their Families, *Journal of Clinical Child Psychology* XXIII (Suppl): 19-25.

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