



 A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE	
SUBMISSION NUMBER	6
DATE AUTH'D FOR PUBLICATION	13/07/2011 Bl.

24 February, 2011

Vicki Dunne
Chair of the Standing Committee on Justice and Community Safety
GPO Box 1020
Canberra ACT 2601

Dear Ms Dunne and Committee Members,

Inquiry into the operation of the Prostitution Act 1992

I am a Canberra sex worker who has worked in the ACT sex industry for fourteen years as both a sole operator (private worker) and in brothels (studios). I have also worked as an outreach officer with the Sex Worker Outreach Project (SWOP) and as a member of the executive of Scarlet Alliance, the National Sex Worker's Association.

There are a number of issues that should be addressed in the current Prostitution Act to enable sex workers to pursue their work without undue harassment and disadvantage, and I am grateful for the opportunity to raise these issues with the Committee.

For those members of the Committee or other MLAs who would like more information about the ACT sex industry I would highly recommend contacting SWOP (02 6247 3443) to attend their Sex Worker Awareness Training, provided to those who may encounter sex workers in the course of their work to enable them to make informed decisions about their interactions with the sex industry.

If you would like to contact me to discuss this submission, please feel free to email me to arrange a meeting time.

Yours Sincerely,
Shelle Mulvay


Submission to the Inquiry into the operation of the Prostitution Act 1992 - Shelle Mulvay

1) The form and operation of the Act

While the Prostitution Act clearly aims to provide a framework for the sex industry to operate legally in the ACT, there are significant problems in areas that relate to the traditional

methods by which sex workers engage in sex work. This leads to some sex workers being unable to comply with the legislation without compromising their privacy and personal safety, and thus increases their risk of experiencing problems with OH&S and harassment.

Currently sole operators in particular experience unrealistic restrictions relating to the way that they work, including the requirement to register as a sole operator (part 2, Section 12) and the inability to legally share premises with other sole operators (Part 2, Section 5).

Registration serves no clear purpose other than to create a list of sex workers who are operating within the bounds of the law, and no useful function at all. Sex workers currently experience significant discrimination when their sex work status is disclosed and so most sex workers rigorously protect their privacy with regard to work. Registration is seen as a significant risk to their privacy and this obviously affects willingness to comply with this requirement.

The registration process varies depending on the current policy of the Office of Regulatory Services. While the Prostitution Act does not require that the list of sole operators be maintained after they have finished working in the ACT sex industry (part 2, Section 9), it also does not require that the list be destroyed either.

In one instance a sex worker registered as a sole operator after being told that her name would be removed on request after she had ceased working. When she contacted the Office of Regulatory Services to have her name removed she was told that policy had changed and she 'should expect her name to remain on the list for the rest of her life'.

The list of sole operators is accessible by public servants and police, which many sex workers regard as a risk to privacy. Past incidents of inappropriate persons being given access to this list have demonstrated that privacy is not adequately protected.

Sole Operators must provide photo ID, pay \$263 per year (pro rata) and give a business address. Many sex workers travel for work and it is seen as unreasonable to pay for registration for the rest of the registration period (expiry on 30th September each year) to work in the ACT for only a few days or weeks.

The requirement of a business address means that sex workers who work from hotels are expected to update their registration, and be issued with a new certificate of registration. Thus, if a sex worker works one day a week from a hotel and it is a different hotel each week, they would be expected to update their registration 52 times a year, and be issued with 52 certificates of registration.

Obviously these issues make it extremely difficult for sex workers to comply with the current registration requirements, which are seen as unwieldy, discriminatory and punitive.

Removing the requirement for sole operators to register would greatly reduce the lack of compliance with the Prostitution Act and allow sex workers to operate without fear of accidental disclosure.

The restriction that does not allow sole operators to work together without being considered a brothel significantly increases OH&S problems and ignores the tradition of sex workers working together for the purposes of increased safety and reduced overheads.

If two or more private workers are able to work together the number of jobs each sex worker must complete per week to cover overheads such as rent, advertising etc is greatly reduced and allows sex workers more flexibility to reduce their work hours and the number of clients they see per week. Reducing the number of jobs needed to cover overheads also allows greater flexibility when screening clients, increasing sex workers' ability to make risk assessments based on safety rather than financial need.

2) The Regulation, enforcement and monitoring of commercially operated brothels

Private sex workers that work together are regarded as illegal commercial brothels under the current model, regardless of the particulars of their working environment (Part 2, Section 5). Even two workers who see one client together for a job are considered to be running an illegal brothel.

This causes significant disadvantage to sex workers, particularly when compared to other owner-operated small business collectives, for example General Practitioners.

The commercially operated brothels in Fyshwick and Mitchell have operated with minimal external monitoring, and maintain excellent compliance with the current legislation. It is unfortunate that the nature of the industry means that the rare incidents where compliance has failed have resulted in inflammatory media coverage and a distorted view of the daily operation of the ACT sex industry.

In my experience as both a sex worker in ACT brothels and as a SWOP outreach worker, the ACT brothels are very aware of their responsibilities and practice careful self-monitoring to comply with the regulations.

3) Identifying regulatory options, including the desirability of requiring commercially operated brothels to maintain records of workers and relevant proof of age, to ensure that all sex workers are over the age of 18 years

In light of the dismal failure of the system of registration relating to sole operators, and that one of the primary reasons for this is reluctance of sex workers to be registered because of privacy concerns, I would strongly advise against any system requiring further registration of sex workers.

During my fourteen years in the ACT sex industry I have known of only three instances of people under 18 working in the sex industry, two of whom presented fake ID to the brothel managers, which obviously would not have been prevented by a system of registration. In my experience brothel management is extremely cautious about the possibility of people under 18 working in their establishments and people under 18 working in the sex industry is extremely rare.

While it is common for management to ask to see proof of age from a sex worker who appears to be under 18, requiring a sex worker to register to be able to work in a brothel would be unrealistic. There is a significant difference between allowing a manager to see ID, and allowing someone to make a record of the sex worker's employment at the brothel with their real name and details. Incidents where the privacy of registered sex workers has been breached in the Northern Territory, where sex workers employed at escort agencies are required to be registered, demonstrate that there are real and significant harms associated with registration.

Obviously this issue has arisen due to the death of a 17 year old sex worker in a Fyshwick brothel in 2008. It is worth remembering that one incident does not make a trend. It is not necessary or desirable to further restrict the industry by requiring registration of all workers. It would seriously discourage sex workers from working in the registered brothels in Fyshwick and Mitchell, and provide a pool of disenfranchised brothel-based sex workers for potential operators to access for staffing illegal brothels.

I can think of no better way to encourage the development of a culture of illegal brothels in the ACT than introducing compulsory registration of brothel workers.

4) The adequacy of, and compliance with, occupational health and safety requirements for sex workers

Both brothels and individual sex workers have a high degree of awareness of OH&S requirements in the ACT and how to comply with them. Sex workers are proactive with regard to their health and safety at work and information and resources are provided to them by SWOP during outreach. SWOP's ability to provide support for sex workers to make informed decisions about their health and safety is limited mainly by SWOP's decision making process not being driven by sex workers themselves.

Sex workers in the ACT would greatly benefit from SWOP being independently funded rather than as a project of another organisation with its own separate community. Allowing SWOP to function as an independent, sex worker driven organisation would allow sex workers to assess and meet the needs of the ACT sex industry with regard to OH&S without the process being driven by those who have no experience of the sex industry.

In light of the success of peer education in the Australian sex industry in preventing HIV and STI transmission, and the exceptional work done by the sex workers currently employed at SWOP, it makes most sense to support SWOP to become independent.

5) Any links with criminal activity

I have seen no evidence that the ACT sex industry has links with either organised crime or trafficking. This seems to be raised as a concern regularly because people find it difficult to believe that the sex industry can be operated in a responsible, ethical manner by brothels and sex workers, but this is merely another example of how stigma and ignorance can lead to mistaken assumptions.

6) The extent to which unlicensed operators exist within the ACT

As I explained previously, the process of registration of sole operators in the ACT is problematic, as such private workers find the current system unreasonably difficult to comply with and are not always able to operate as licensed.