IN THE NEIGHBORHOOD: ENFORCING CHILD SEXUAL ABUSE AND SEXUAL EXPLOITATION STATUTES IN STRIP CLUBS AND ADULT BOOKSTORES

“Child abuse has been ignored because children have no political muscle, no effective way of articulating their needs to those of us who write the law.” —Hubert Humphrey

By: Victor I. Vieth, Cordelia Anderson, and Stephanie Smith

INTRODUCTION

Law enforcement officers and prosecutors often struggle to enforce the criminal code against the patrons and owners of sexually exploitive businesses such as strip clubs and adult bookstores. Since much of the illegal activity takes place in darkened corners or on couches or beds in partitioned rooms, it is difficult to gather the necessary evidence to make arrests or file charges. These difficulties and the limited resources of many departments may result in law enforcement officers focusing on other crimes. Since many of these establishments are lucrative businesses with prestigious law firms that combat any attempt to regulate even the most obvious criminal activity, some law enforcement officials may look for easier targets.

Given the widespread social acceptance of criminal acts such as “lap dancing” it may even be that some law enforcement officers and prosecutors no longer recognize these acts to be blatant violations of the law. Equally concerning, many public policy makers are reluctant to pass ordinances designed to deter criminal activity and to protect the children and young women, primarily teenagers, who are exploited in these establishments.

This article lists common portions of the criminal code that are routinely violated in these establishments and offers suggestions for law enforcement officials seeking to enforce these statutes. The article also offers suggestions for policy makers desiring to make it easier for law enforcement officers to enforce the criminal code in these establishments. As an illustration of the potential impact public policy makers can have in addressing this issue, the article also includes a discussion of the differing approaches to this issue taken by public policy makers in the neighboring cities of St. Paul and Minneapolis, Minnesota.

2 Director, National Child Protection Training Center.
3 Past-President, National Coalition to Prevent Child Sexual Abuse & Exploitation; Director, Sensibilities.
4 Director, NCPTC Southern Regional Center.
5 For example, a Texas strip club charged criminally for employing a 14 year old girl promptly sued the girl and the girl’s parents for “swindling.” Edecio Martinez, CBS News, Strip Club Sues Seventh Grade Stripper, June 22, 2009, available online at: http://www.cbsnews.com/8301-504083_162-5102701-504083.html.
7 In her book about working in Minneapolis strip clubs, Cody Diablo notes that her fellow dancers “were mostly teenagers” and that “a couple of them were still in high school” including one who was still a high school cheerleader. According to Diablo, the cheerleader was a typical high school student except that she “routinely got nude and dry-humped guys her father’s age.” DIABLO CODY, CANDY GIRL: A YEAR IN THE LIFE OF AN UNLIKELY STRIPPER (2006) (Kindle edition, chapter entitled “Girls, Girls, Girls”).
Possible criminal conduct in sexually exploitive businesses

Sexually exploitive businesses often allow, even encourage various violations of existing criminal statutes. For example, strip clubs allowing “lap dances” are blatantly committing acts in violation of most state criminal codes. According to research from the University of Pennsylvania, "modeling, nude dancing, lap dancing, and similar sexually provocative activities frequently are used to lure girls into prostitution".10 The children sexually exploited in strip clubs and other establishments come from communities of all sizes with some evidence suggesting a large number of children coming from rural communities.11 In discussing the sexual exploitation of girls in these establishments, Jean Hopfensperger of the Minneapolis Star Tribune writes, there are many “rural girls lured into ‘just dancing’ at strip clubs during hunting season, and then denied a ride home until they have sex with a few men.”12 For example, Hopfensperger tells of a 17 year old girl kicked out of her home for drugs. The girl worked as a stripper and eventually was forced by a pimp to perform acts of prostitution at the strip club and in hotel rooms.13

When children work in these establishments, it is a near certainty that they will be victims of sexual abuse. In Minnesota, for example, a dancer below the age of 16 who is conducting a lap dance for a “customer” who is at least 48 months older is the victim of a felony level act of child sexual abuse even if there was no exchange of money.14 If the child is under 18 and the conduct otherwise meets the definition of prostitution, the “customer” has committed a felony with a maximum penalty that includes a five year prison sentence.15 If the owner of the establishment is intentionally deriving profit from dancers below the age of 18 engaging in acts of prostitution, he or she has committed a felony with a maximum penalty of 20 years.16 Even if the child is not touching customers or being touched, an owner knowingly permitting a child to work at a club has committed unlawful activity in most states.17

Furnishing alcohol or drugs to children

In addition to sexual abuse, underage workers in a strip club may have been abused physically and emotionally. Child workers may also have been supplied with alcohol or drugs.20 To this end, investigators and prosecutors should explore multiple options for filing charges for the unlawful behavior of the patrons and owners of these establishments. Keep in mind that even if a dancer is of legal age to work in the establishment, she may not be of legal age to consume alcohol.21 Accordingly, owners that supply alcohol to these dancers or encourage customers to purchase alcohol for underage dancers are engaging in unlawful activity.22

Obscene performances

Many criminal codes also prohibit “obscene” performances. For example, the Minnesota criminal code prohibits anyone from “participating in an obscene performance that includes ‘physical contact or simulated contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex…in an act of apparent sexual stimulation or gratification.’”23 Obviously, any lap or bed dance which involves touching, even over the clothes of intimate parts of the body, violates this statute. In the same vein, the simulated sexual intercourse taking place in a “bed dance” runs counter to the law.

9 See generally, DIABLO CODY, CANDY GIRL: A YEAR IN THE LIFE OF AN UNLIKELY STRIPPER (2006) (detailed work inside Minnesota strip clubs and other sexually exploitive establishments). The book contains many descriptions of activity most prosecutors would consider unlawful. One description of unlawful activity in the chapter entitled “Entertainer” reads: “They led a succession of suckers in to the private suites…Some of them canoodled with the same men all night…stroking them off beneath the linen-covered tables.” Id.
10 For an account of this practice in at least one Minnesota strip club, see the chapter “Big Pink” in DIABLO CODY, CANDY GIRL: A YEAR IN THE LIFE OF AN UNLIKELY STRIPPER (2006) (KINDLE EDITION).
14 MINN. STAT. § 609.345, Subd. 1(b).
15 MINN. STAT. § 609.324, Subd. 1(c)(1)(2).
16 MINN. STAT. § 609.322, Subd. (a)(1)(2)(c).
20 In a book about her experiences working in Minneapolis Strip Clubs, Diablo Cody comments on how many of the dancers were below the age of 21. Specifically, Diablo describes her first experience in a club this way: “As the bartender checked my ID, I noticed a pride of disarmingly childlike strippers drinking soda pop and smoking near the bar.” DIABLO CODY, CANDY GIRL: A YEAR IN THE LIFE OF AN UNLIKELY STRIPPER (2006) (Kindle edition).
21 See e.g. MINN. STAT. SEC. 340A.503, SUBD. 1 (2011) (prohibiting furnishing alcohol to anyone below the age of 21).
22 MINN. STAT. § 617.241, Subd. 1(b), Subd. 2(b).
23
**Prostitution**

All fifty states prohibit prostitution and many acts taking place in sexually exploitive businesses, including lap dancing, violate these codes. In Minnesota, for example, prostitution is defined as “engaging or offering or agreeing to engage for hire in sexual penetration or sexual contact.” Sexual contact includes “the intentional touching by an individual of a prostitute’s intimate parts” or “the intentional touching by a prostitute of another individual’s intimate parts.”

If a dancer is nude while performing a lap dance, the customer’s body is intentionally touching intimate parts of the performer. Although it is not clear if the dancer’s touching of the clothing covering the man’s genitals violates this statute, certainly any touching of the actual genitals would be criminal. In at least two states, appellate courts have upheld prostitution convictions in which the underlying conduct was a lap dance.

In addition, the close proximity between the customer and dancer invites sexual conversation which may include an offer to hire the dancer for more explicit sexual contact. Even if the dancer does not accept, the mere offer by the customer violates Minnesota’s prostitution statute.

**Lewd or lascivious behavior**

In many states, the criminal code prohibits lewd or lascivious behavior. In Minnesota, for example, it is unlawful to engage in “gross lewdness or lascivious behavior.” Several appellate opinions throughout the country have held that lap dancing constitutes lewd behavior. As a matter of common sense, paying a woman or girl to grind her body against a man’s genitals is “gross lewdness or lascivious behavior.”

**Enforcing existing statutes: tips for investigators**

In reigning in, if not eliminating the criminal, sexual exploitation of women and children in adult establishments, the following investigative tips may help.

**Show of force.** Many strip clubs or other adult businesses feel comfortable because there is virtually no police regulation of their establishments. When a strip club is visited rarely by the police it sends a clear message to the owners, the perpetrators, and the victims of sexual exploitation that this form of unlawful activity is not going to be reined in, or is at least of little importance. On the other hand, when uniformed police officers periodically visit a club and look for unlawful activity, there is a clear message that law enforcement is aware of the potential dangers in these clubs and is willing to act. In some cities, such as St. Paul, Minnesota, ordinances allow law enforcement officers to inspect these businesses at any time during business hours and to demand identification from workers.

**Visit the club’s social media pages.** The official websites, Twitter and Facebook pages may not contain unequivocal evidence of criminal activities but may suggest unlawful actions. Look for phrases such as “guaranteed close encounters,” “we do more for less,” or establishments that advertise private rooms containing beds.

Many establishments boast that the photos are of actual dancers and other employees at the clubs. Compare these photographs with any lists your department has of missing or runaway children. Keep in mind, however, that many children have never been reported as missing or runaway. Parents who kick out a teenage child are unlikely to report her missing or, if they know the child is fleeing abuse, may not want the child found for fear of law enforcement. This may be true for fear of law enforcement will discover the crimes of the parents. According to a statistic from the National Center for Missing & Exploited Children, in 2010, there were 38,868 reported cases of child abuse and neglect. Additionally, it is important for law enforcement to have strong relations with schools and truancy officers who may be aware more quickly when a child is absent from school or home and may be at risk of sexual exploitation in a strip club or other exploitive establishment.

**Visit customer websites and blogs.** In most large communities, there are websites in which patrons of these establishments explicitly describe or “rate” their experiences at these clubs. Although a law enforcement officer may have to pay to enter the sites, he or she will likely find valuable information as to which clubs condone or encourage criminal activity. For example, a site reviewing Minneapolis strip clubs included this explicit description:

I have been to this club at least 10 times so far in the last several years and it is always unpredictable. Sometimes there are nice girls and sometimes not. Most of the girls allow you to touch them if you take them to bed (bed is $90 for 3 songs)...(a) few months ago there was a girl...she was hot. Lot of 2 way contact happened between both of us. …

---

25 MINN. STAT § 609.321, Subd. 9.
26 MINN. STAT § 609.321 Subd. 10(ii).
27 Steinbach v. State, 879 S.W.2d 835 (Tex. Ct. App. 1994) (holding that Texas statute prohibiting sexual conduct for a fee is violated by lap dancing even if there is not flesh on flesh contact);
28 In her book describing experiences working in strip clubs in the Warehouse District of Minneapolis, Diablo Cody describes an incident in which a customer asked her to accompany him to the “erotic loft” in which there were no cameras and “more” could be done. DIABLO COZY, CANDY GIRL: A YEAR IN THE LIFE OF AN UNLIKELY STRIPPER (2006) (Kindle edition, chapter entitled “Some Girls”).
29 In Minnesota, prostitution includes “offering…to engage for hire in sexual penetration or sexual contact.” MINN. STAT § 609.321, Subd. 9.
30 MINN. STAT § 617.23, Subd. 1(iii).
32 Is always wise to have two officers visit the establishment together. If there is unlawful activity between a patron and dancer, this will allow the participants to be quickly interviewed separately. Because there have been instances in which an officer is accused of unlawful activity with a dancer, a policy of two officers inspecting the club together will reduce any suspicion or possibility of corrupt actions.
33 To review these and other St. Paul regulations of these businesses, See ST. PAUL CODE OF ORDINANCES, SECTION 426.01-10 available online at: http://library.municode.com/index.aspx?clientId=10061&stateId=23&stateName=Minnesota&customBanner=10061.jpg&L=cl=10061.txt (last visited January 31, 2012).
34 For example, one website the authors viewed promotes “the dancers come provide close up entertainment...” Although this language may not evidence criminal conduct, it suggests the club warrants additional inquiry.
35 To avoid any possibility this is not being done for legitimate law enforcement reasons, money expended to enter such a site should be done with supervisor approval, should include police reports of the information discovered and, if such a unit exits, should be handled by a special victims unit.
36 Because the site this quote was taken from is being used to market illegal activity, NCPTC is not providing a website address as part of this newsletter.
Needless to say, paying a club money in order to touch the intimate parts of a woman or to engage in “2-way contact” is criminal activity. If the dancer is underage, this is an act of child sexual abuse in which the child is in need of protection or services and the customer needs to be prosecuted. Law enforcement officers and prosecutors may wish to attempt to trace postings such as this back to the customers. Officers may also simply use these websites in selecting which clubs to target for undercover investigations.

**Undercover investigations.** In posing as a customer in these establishments, an officer can inquire of dancers approaching him or her about the prices for various acts and the uses of various partitioned rooms, particularly rooms with beds. An officer posing as a customer can also inquire of other patrons as to their experiences with various dancers. If another customer hires a dancer for a lap or bed dance, ask him or her about their experiences and, if he describes unlawful activity, consider the possibility of an arrest. However, consult with a prosecutor in advance of the investigation to have a clear understanding of corpus delicti issues in your jurisdiction. In other words, what else is needed to convict beyond the circumstances in your jurisdiction.

**Look where the cameras are not.** In some establishments, dancers and customers note the absence of cameras in certain parts of the establishment—such as where the beds are located. In a book about her experiences as a dancer in strip clubs in the Warehouse District of Minneapolis, Diablo Cody notes that many young men preferred to hire dancers for the “erotic” locker in one of the clubs. The loft contained beds—no surveillance cameras. If you have such an establishment in your community, the chance of illegal activity in such a room is great. If a customer describes to an undercover officer unlawful activity in such a room, execute a search warrant to document the absence of cameras in this portion of the facility, photograph the beds, and search for semen and other bodily fluid. In other words, treat it as the crime scene that it is.

**Visit the hallways.** Sexually exploitive establishments that boast of peep shows will often have men loitering in the hallways looking for others to engage in sexual activity with. Visit these hallways as an undercover officer to determine if unlawful sexual activity is taking place with a particular concern that underage boys may be selling themselves. Check the peep show booths for cut out holes in the wall where men may place their penises and money can be exchanged from room to room.

**Kleenex boxes.** Many peep show booths have tissue boxes—a blatant admission that men masturbate in the booths as they watch women do the same behind a glass in exchange for money. If a man acknowledges these activities in a booth to an undercover officer, photograph the booth, seize the tissue box and any used tissue on the floor, and otherwise search for semen.

**Involve Child Protective Services.** If the investigation involves the exploitation of boys or girls in these establishments, it is critical to involve child protective services from the beginning and to develop a plan for providing services to these children. Law enforcement officers should never arrest a juvenile who has been sexually exploited in these establishments. Instead, these children should be treated as the victims that they are and appropriate child protective services put in place. Keep in mind that many of these children are fleeing abusive homes and thus it will be important not only to explore their victimization in these establishments, but any victimization at the homes from which they fled.

**Investigate the hierarchy of these establishments.** Officers and prosecutors should not focus simply on the men who sexually exploit women and children in these establishments but should pursue an investigation against the owners of these establishments who profit from the victimization. If investigators and prosecutors can document widespread criminal activity on these premises, any number of charges against the owners may be appropriate including conspiracy to commit various crimes and aiding and abetting. After all, who purchased the beds in some of these “businesses”? Investigators and prosecutors should also consider forfeiting the assets of these businesses, including the buildings in which unlawful activity occurred. If there is some evidence or at least strong suspicion of criminal activity but the owners, employees, customers or others are uncooperative, it may be appropriate to work with prosecutors in conducting a grand jury investigation.

---

35 Corpus delicti is Latin for the substantial fact that a crime has been committed, and in popular crime jargon, the body of the murder victim.

36 The victim may fear loss of her job or retaliation from a club owner or customer.


42 Id.

43 WAVE Television News in Louisville, Kentucky went undercover in an adult theater and documented criminal activity similar to what is described in this article. To review their undercover news coverage, visit: http://www.myrocktoday.org/upload/media/5-25-10-WAVE-Videos/5-25-10Videos.html (last visited January 31, 2012).

44 In Minnesota, numerous prosecutors and law enforcement officers have publicly stated that sexually exploited children forced to sell their bodies will no longer be treated as delinquents. Laura Yuen, Prosecutors Change Tactics in Child Prostitution Cases, Minnesota Public Radio, February 25, 2011, available online at: http://minnesota.publicradio.org/display/web/2011/02/25/child-prostitution-prosecutions/ (last visited January 31, 2012).

45 In her account of work in Minneapolis strip clubs, Diablo Cody describes a man biting her breast and drawing blood, another man attempting to place his fingers in her vagina, and a third man trying to place his penis in her pants. In each instance, she says, the manager at the Minneapolis strip club she was working at “scoowed me for ‘allowing’ these assaults to happen.” DIABLO CODY, CANDY GIRL: A YEAR IN THE LIFE OF AN UNLIKELY STRIPPER (2006) (Kindle edition, chapter entitled “Girls, Girls, Girls”).

Enacting regulations designed to prevent criminal activity

Many communities, including St. Paul, Minnesota, and Louisville, Kentucky, have enacted stringent city ordinances of sexually exploitive industries and thus have had significant impact in reducing criminal or other unlawful activities in these establishments. Suburbs and smaller communities have also effectively regulated these establishments by focusing on preventing criminal activity.

At a minimum, city, county and state governments should consider the following regulations designed to prevent the criminal exploitation of women and children in these establishments:

- **Protecting children.** Sexually exploitive businesses should be required to prove that each employee is above the age of 18. At a minimum, they should check a valid governmental identification that includes a photograph and this should also be required of all patrons entering the establishment.

  However, if a child is working with a pimp, she may have been provided a realistic, albeit false ID. Accordingly, it may be necessary to do more. One possibility is to require everyone working in such an establishment to register with the city and have a license to work in this high risk environment. In this way, the city can determine if the employee is of age, is a runaway or is otherwise at risk.

- **Alcohol.** Either alcohol should be prohibited at these establishments or, if alcohol is allowed, the employees should all be at least 21 years of age. In this way, the customers will have limited opportunities to supply alcohol to those who are underage.

  - **Prohibiting booths or partitioned rooms.** Other than bathrooms or storage rooms, sexually exploitive businesses should not be allowed to have separate booths or “VIP rooms” in which customers and employees can engage in conduct that is not clearly visible and may be unlawful. The use of beds in sexual performances, as a matter of common sense, should also be prohibited.

  - **Prohibiting contact with dancers.** Obviously, if there is no physical contact with the dancer, committing criminal acts becomes much more difficult. This can be done by requiring a reasonable distance between the dancer and the customer of ten feet or more, by placing glass or plastic partitions between the customers and dancers, and by prohibiting tips to dancers (it is for “tips” that dancers allow or engage in touching).

  Given that lap and bed dancing is already a crime and often leads to other crimes, these sorts of regulations, that have proven effective in protecting the public in a number of communities should become commonplace across the country.

A Tale of Two Cities: Regulating Sexually Exploitive Businesses in Minneapolis and St. Paul

In the 1980’s, former St. Paul Mayor George Latimer rode with law enforcement officers to witness the prostitution and other forms of criminal activity which he and other leaders concluded was related to the proliferation of strip clubs and pornographic theaters.

In addition to adopting a rigid code regulating these establishments, the City of St. Paul went so far as to use eminent domain powers and purchased many of these establishments. As a result of these regulations, the intensive police scrutiny, and the exercise of eminent domain, many of these establishments simply moved across the river to the city of Minneapolis.

The actions taken by law enforcement officials and public policy leaders in St. Paul have been enormously successful. Twenty years later, there is only one remaining strip club in the city and one of the dancers at this club unerringly acknowledged the impact of regulating criminal activity at or associated with these establishments. Specifically, she told a reporter from the St. Paul Pioneer Press “I’ve worked at other strict clubs, and this is by far the strictest...People tell us all the time ‘I’m going to Minneapolis where I can touch, or I can do this or that.’”

In contrast, Minneapolis has historically taken the position there is little that can be done to regulate these establishments. As a result, Minneapolis has approximately 20 of these establishments in one downtown district—a district that also hosts family establishments including Target Center and Target Field. This presents a great irony. Although Minneapolis prohibits these establishments from operating within 500 feet of a school or day care, parents and children who take public transit to the Warehouse District/Hennepin County Station to attend a ballgame or other family event will exit directly in front of a strip club.

Frederick Mayo, *St. Paul’s Last Adult Bookstore Quietly Closes*, St. Paul Pioneer Press, September 27, 2010 (quoting an employee in St. Paul’s only remaining strip club that “I’ve worked at other strict clubs, and this is by far the strictest...People tell us all the time ‘I’m going to Minneapolis where I can touch, or I can do this or that.’”)

See generally, Melanie Kahn, *Changes are coming to Louisville strip clubs after recent Supreme Court ruling*, www.whas11.com (last visited August 2, 2011) (noting the city council ordinance prohibits full nudity, lap dances, alcohol, and prevents customers from directly tipping dancers).

See Mayo, note 49.

WEST ST. PAUL CODE §1177.01.

The ordinance for West St. Paul provides “No owner, manager, or employee may allow a person under the age of 18 to enter the business. The licensee shall require proof of age from all persons entering the premises. Proof of age may be established only by: a valid driver’s license or identification card issued by Minnesota, another state or a province of Canada; a valid military identification card issued by the United States Department of Defense; or by a valid passport, all of which shall include a photograph and the date of birth of the person to be identified.” WEST ST. PAUL §1177.13, SUBD. 2A.

For example, West St. Paul requires a distance of ten feet and also prohibits performers from soliciting money and patrons from offering tips. West St. Paul §1177.13, subd. 4.

This history is detailed in Faust Theater on OutHistory.org available online at: http://outhistory.org/wiki/Faust_Theater.

St. Paul requires cabarets to provide “written proof” that all employees are at least 18 years of age, allows for inspections by city health, fire and police officers and requires anyone performing in such an establishment to provide identification upon the officer’s demand. St. Paul also strictly regulates touching between patrons and employees. See St. Paul Code of Ordinances, Section 426.01-10 available online at: http://library.municode.com/index.aspx?cl=10061&stateid=23&stateName=Minnesota&customBanner=10061.jpg&imageclass=L&Lci=10061.txt (last visited January 31, 2012).


Target Center is home to the WNBA Minnesota Lynx and the NBA Minnesota Timberwolves. Target Field is home to the Minnesota Twins. According to the city’s metro transit site, visitors to Target Center should exit at the Warehouse District/Hennepin County Station—a station that has riders exiting directly in front of a strip club. See Metro Transit website at: http://metrotransit.org/warehouse-district-hennepin-station.aspx (last visited January 31, 2012).

Minneapolis Code of Ordinances Section 549.39(a)(b).

Specifically, fans attending an event are encouraged to use the Warehouse District/Hennepin County Station which exits at 23 North 5th street. See http://metrotransit.org/warehouse-district-hennepin-station.aspx (last visited January 31, 2012). The “Dream Girls” strip club is located at 14 North 5th Street.
Conclusion
Law enforcement officers, prosecutors, social workers and public policy leaders serious about limiting, if not eliminating the sexual exploitation of women and children should not ignore the correlation between these unlawful activities and the proliferation of sexually exploitive businesses. Although these businesses are protected by the first amendment, there is no constitutional protection allowing businesses to engage in criminal activity. In Louisville, St. Paul and other cities, history has shown that regulating these unlawful activities not only protects women and children from exploitation, these regulations make it difficult for the businesses to continue altogether. This fact suggests that it is primarily unlawful activity, and the funding derived from such conduct, that keeps these businesses operating. Once this activity is prevented, there are no longer enough viable activities to sustain the business.

See generally Mayo, note 49 and accompanying text.

FOR MORE INFORMATION
The National Child Protection Training Center (NCPTC) at Winona State University provides training, technical assistance and publications to child protection professionals throughout the United States. In addition, NCPTC assists undergraduate and graduate programs seeking to improve the education provided to future child protection professionals. In partnership with CornerHouse, NCPTC also assists in the development and maintenance of forensic interview training programs utilizing the RATAC® forensic interviewing protocol. For further information, contact NCPTC at 507-457-2890 or 651-714-4673. Please visit our website at www.ncptc.org.