



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

February 17, 2014

14-04

Prostitution-Related Cases Will Continue in B.C.

Victoria – In response to a recent decision of the Supreme Court of Canada, the Criminal Justice Branch (the “Branch”) has provided British Columbia prosecutors with guidelines to assist them in assessing the public interest in proceeding with prostitution-related offences.

Contrary to what may be the perception of some members of the public, these guidelines do not tell Crown Counsel that most prostitution-related prosecutions in British Columbia will not, or should not be continued. This Media Statement is intended to correct any misunderstanding the public may have about the approach that the Branch is taking.

On December 20, 2013, the Supreme Court of Canada ruled in *Canada (Attorney General) v. Bedford*, 2013 SCC 72, that some of the *Criminal Code*’s prostitution-related offences are unconstitutional. Specifically,

- Keeping or being in a common bawdy-house (Section 210);
- Living on the avails of prostitution (Section 212(1)(j)); and
- Communicating for the purpose of prostitution (Section 213(1)(c)).

The Court suspended its declaration of invalidity for one year, so that Parliament has an opportunity to respond with legislative amendments if it so chooses. The Supreme Court did not rule that all prostitution-related offences were unconstitutional. For example, prostitution offences under the *Criminal Code* that relate to minors were not affected by the ruling.

In addition, as the Court suspended its constitutional determination for 12 months, the specific *Criminal Code* provisions that were before the Court remain valid law during this period.

The guidelines issued to Crown Counsel inform the assessment of the “public interest” that is carried out in all cases under the Branch’s charge assessment policy. The guidelines identify a continued public interest in the prosecution of:

- charges for communicating for the purpose of prostitution against clients (especially where the solicitation was made to an undercover police officer);

Branch Vision

Courageous, Fair and Efficient – A Prosecution Service that has the Confidence of the Public.

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- charges involving bawdy-houses laid against the persons running the bawdy-house or their clients where an exploitive context exists, or there is evidence of actual exploitation;
- charges for living on the avails of prostitution where an exploitive context exists, or there is evidence of actual exploitation.

Given the issues identified in *Bedford*, the guidelines identify a diminished public interest in proceeding with a prosecution on charges of communicating for the purpose of prostitution (typically street solicitation cases) against sex trade workers, or prosecution of bawdy-house charges against sex trade workers.

The Branch guidelines are to be applied on a case-by-case basis. While some prosecutions that do not meet the public interest test may be terminated as part of Crown Counsel's independent assessment of the cases, Crown Counsel will continue to consider police requests for charges in relation to all prostitution-related offences.

Police agencies retain authority for the continued investigation of prostitution-related offences, and for submitting Reports to Crown Counsel where they deem it appropriate. The Branch will review any investigative files that are submitted on a case by case basis, utilizing the guidelines referenced above.

It has been inaccurately reported that the "B.C. Attorney General, Suzanne Anton, announced that the province would no longer proceed with prostitution-related charges."

As a matter of general practice in British Columbia, the Attorney General does not become involved in the conduct of individual prosecutions. Under the *Crown Counsel Act*, the Branch is responsible for independently approving and conducting all prosecutions in British Columbia that are not within the jurisdiction of the federal prosecution service, as well as any appeals and ancillary proceedings arising out of these same prosecutions

The Attorney General has supervisory authority over the Branch, and under the *Crown Counsel Act*, she may issue directives to the Branch. When issued, these directives must be in writing and published in the *Gazette*. The Attorney General has not issued any directives to the Branch on the prosecution of prostitution-related offences.

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<http://www.ag.gov.bc.ca/prosecution-service/>

or Justice B.C. :

www.justicebc.ca/en/cjis/index.html