

REPORT
REGULAR COUNCIL MEETING
1986 May 26

THE CORPORATION OF THE DISTRICT OF BURNABY

COMMUNITY STANDARDS COMMITTEE

HIS WORSHIP, THE MAYOR
AND ALDERMEN

Madam/Gentlemen:

REPORT OF THE COMMUNITY STANDARDS COMMITTEE

RECOMMENDATIONS:

1. THAT Council accept and endorse the Community Standard defined in Part II of this report.
2. THAT the following resolution be submitted to the Lower Mainland Municipal Association and the Union of British Columbia Municipalities:

WHEREAS it is deemed necessary to address the problem of pornography through both regulatory action and preventative educational measures;

THEREFORE BE IT RESOLVED that the Provincial Government:

 - (a) establish a process for classifying videos and magazines;
 - (b) implement legislation that would provide for the licensing of specific outlets for the sale of X-rated material;
 - (c) include the subject of sexual abuse of children in the provincial school curriculum;
 - (d) review the science textbooks at the Grade 6 and 7 level to ensure that they are anatomically complete and accurate;
 - (e) act upon the educational recommendations (#102 to 108 inclusive) of the Fraser Commission Report on Pornography and Prostitution in Canada.

3. THAT the following resolutions be submitted to the Federation of Canadian Municipalities:

(A) WHEREAS it is deemed necessary to address the problem of pornography through both regulatory action and preventative educational measures;

AND WHEREAS the Special Committee on Pornography and Prostitution submitted its report to the Federal Government in 1985;

AND WHEREAS the Federal Government has not yet addressed the recommendations with respect to pornography contained in the special committee's report;

THEREFORE BE IT RESOLVED that the F.C.M. urge the Federal Government to act on the recommendations of the Fraser Commission.

INTERNAL DISTRIBUTION:

: - AGENDA - 1986 May 26
: - COPY - MUNICIPAL MANAGER
: - DIRECTOR ADMINISTRATIVE & COMM. SERV.

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- (B) WHEREAS the Report of the Special Committee on Pornography and Prostitution does not address the problem of the use of telecommunications systems for the transmission of pornography;
- THEREFORE BE IT RESOLVED that the Federal Government, through the C.R.T.C., address the problem of the use of federally regulated telecommunications systems for the transmission of pornography.
- (C) WHEREAS the fines listed under Recommendation 7 of the Report of the Special Committee on Pornography and Prostitution appear inadequate to deter manufacturers and distributors of pornography;
- THEREFORE BE IT RESOLVED that the fines listed under Recommendation 7 of the Report be substantially increased.
- (D) WHEREAS the Report of the Special Committee on Pornography and Prostitution acknowledges the problems created by graphic depiction of violence;
- AND WHEREAS the Report makes no specific recommendations with respect to graphic depiction of violence;
- THEREFORE BE IT RESOLVED that the Federal Government establish a section of the Criminal Code to deal with the graphic depiction of violence in a manner similar to that proposed for sexually explicit material.

4. THAT copies of this report be forwarded to the Federal Department of Justice, the Provincial Attorney General's Department and the Burnaby M.P.'s and M.L.A.'s.

R E P O R T

INTRODUCTION

If the problem of pornography is to be effectively addressed, action must be taken at all three levels of government. The current report proposes recommendations to be forwarded to the Federal and Provincial Governments. Recommendations for action at the Municipal Government level will be dealt with in a separate report.

This report is divided into four sections. Part I contains an analysis of the problem of pornography with specific reference to three methods of dealing with the problem. Censorship, regulation and education are discussed in this section. Part II defines the Community Standard for Burnaby based on the briefs submitted to the Committee. Part III gives a brief history of the Report of the Special Committee on Pornography and Prostitution (The Fraser Commission) and discusses our own Committee's findings in relation to this report. Part IV contains recommendations for appropriate action at the Federal and Provincial levels of government.

Part I

The problem of pornography in present day society

Churchill once said: "Without having improved appreciably in virtue or enjoying wiser guidance, it (mankind) has got into its hands for the first time the tools by which it can unfailingly accomplish its own extermination." He was talking about nuclear weapons. One can draw similar parallels to the problem of pornography. Man's essential nature has not changed and pornography has been around for a long time, but modern technology has mass produced decadence and created a situation that is spiralling out of control. Even the gentlest soul who would never actively seek pornographic material can be confronted by offensive images and be subjected to distress. We should also keep in mind that for every pornographic film that exists, someone has had to perform in it. If we rent, buy, market, or even shrug off the existence of such videos, we are participating in the degradation of other human beings.

The toleration of sexual abuse and deviation in one generation leads inevitably to personal, family and social distress in the next, as can be verified by those working in the spiritual and helping professions. Sowing the wind, we reap the whirlwind!

The issue of pornography is very serious because of the wake of damaged lives it leaves behind in the form of broken marriages, abused women and children, addiction to selfish pleasure, alienation and a general rise of amorality at many levels. Community leaders would be wise to take concerted action to stem the tide of this soul-polluting and dehumanizing trade, even as they would surely do if our water supplies or air space was threatened by life-destroying substances.

We are faced with a dual dilemma: the increased volumes of such material and its degenerative effect upon society, and our modern aversion to censorship and invasions of our civil rights. There are three possible ways to cope with this dilemma; censorship, regulation and education. We believe a combination of all three are in order.

Censorship

Censorship is an unpopular word today, but the term must be brought into perspective. In practice, parents participate in censorship constantly as they raise their children, and not to do so would be an abdication of responsibility. Proper judgement requires maturity, and pornographic material should not be flaunted before young people, not only because of the adverse effect such material has on the young, but because of the message that is imparted when no limits are set.

If pornography is made easily available it appears to have society's stamp of approval, and material created with the express purpose of exploiting human sexuality or displaying graphic, gruesome violence should not have society's stamp of approval. We know such material will continue to exist, but it is not the norm and should not be accepted as "Normal". Sex is normal, but voyeurism and exhibitionism are not. Violence is entirely antisocial. Like drugs and alcohol, pornography creates a bizarre type of stimulation which, if it became the norm, would undermine the entire fabric of our society. Pornography degrades and destroys our value system. We must not become so obsessed with rights of the individual that we forget about our responsibilities to society as a whole.

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The existing Criminal Code proscribes much "hard core" pornography, but this code is proving ineffective. The vagueness of the wording has resulted in inconsistent judgements that provide little deterrent for offenders. The Fraser Commission has proposed several amendments to the Code. It specifically spells out material which should be proscribed and gives valid justification for such action. It makes provision for artistic or educational defences which would remove material of artistic or literary worth from the bounds of censorship. However, the Fraser Commission does not specifically address the problem of graphically violent material. This is an unfortunate omission.

Violence abounds in our society. We pride ourselves that we are more civilized than the Ancient Romans or the Elizabethans, for we neither throw Christians to the lions or indulge in grisly public executions. However, we suspect we are merely more hypocritical, for today, clever special effects combine with photography to cater to the sadistic mentalities that are gratified by such exhibitions.

How do we justify censorship of violent material? Opponents of censorship say Shakespeare's plays would be cut to shreds if gory and gruesome scenes were proscribed. However, these people are overlooking the fundamental difference between works of art and works of bloodlust. When we watch Shakespeare, we are aware that we are witnessing tragedy; we feel horror, and we struggle through agonies of the spirit with the characters in the play. But when the violence itself becomes the entertainment, we have entered the realms of pornography. A literary work is designed to stimulate the mind, not merely the senses. Thus literature elevates the human spirit, whereas pornography dehumanizes, because watching horror without feeling horror is self destructive and soul destroying. Sociologist Marvin Wolfgang states: "The portrayal of violence tends to encourage the use of physical aggression among people who are exposed to it".

The Fraser Commission acknowledges the problems created by graphic violence as follows: "We are of the opinion that the government should give consideration to establishing a section in the Code which would deal with violent material in a manner similar to the one we are proposing for sexual material". In our view, such legislation should be an integral part of the proposed amendments to the Criminal Code. The problem of graphic depiction of violence cannot be put on hold while the issue of sexual material is dealt with.

Regulation

Regulation of pornographic material that is not proscribed must be precise if it is to be effective. We have many bylaws to deal with pollutants. Strict rules govern the sale of alcohol or the disposal of waste. Liquor stores, incinerators and sewage disposal plants are centralized units, because centralization increases government control over the release of potentially harmful substances. Similar controls should be developed to handle the sale of pornographic material. These controls would depend upon an efficient classification system at the Provincial level. Such regulations would be merely common sense. It would in no way impinge on individual rights or civil liberties if we were to prohibit minors from buying pornographic material or entering premises where such material is offered. The municipality should also use its powers under Section 513 of the Municipal Act to revoke or suspend the business license of anyone

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convicted of violations. It is important to bring in legislation as soon as possible to help stem the problem but equally important to formulate legislation that has a chance of standing up in the courts of law because judges have a tendency to declare void a complete statute rather than picking out the offensive parts and leaving the balance intact.

Education

One of the submissions forwarded to the Community Standards Committee contained this comment: "Personal taste reflects our educational and social maturity". This is a valid statement. The current boom in pornographic material forces one to draw depressing conclusions about society's level of maturity.

Today's educators are battling frightening economic realities, and we do not refer to government restraint programs. Our economy is based upon a materialistic, commercial and exploitive society. It is hard for teachers to instill a sense of responsibility in their students when our throw-away society encourages perpetual consumption. This insane quest for the best product necessitates a callous disposal of the imperfect or inconvenient article, whether it be a toy, a pet or a marriage. Einstein once said that a tranquil life stimulates the creative mind, yet it is difficult for teachers to foster creativity when all but the most frenetic lifestyle is considered boring. How does one cultivate good taste when prime time programming suggests that the majority of people must have their senses hit with a sledgehammer before an emotional response is generated.

The Fraser Commission addresses the need for educational solutions to the problem of pornography: "As will have been apparent throughout our Report, we do not believe that legal action alone can deal with the disturbing and pervasive nature of many aspects of the media and of pornography in particular. Most clearly, of course, legal remedies cannot address the lack of understanding about human behaviour and specifically human sexual relations which appear to lead some people into believing that media and pornographic representatives are truthful and accurate depictions of people. Accordingly, the Committee is making a series of recommendations about public educational programs".

Good programming is important; good materials are also essential. Current science textbooks at the Grade 6 and 7 level are outdated and inaccurate. Better information will eliminate the need for school children to seek out pornography to satisfy their natural curiosity. However, schools cannot cope alone. Neither can people expect governments to solve their problems for them. There must be a conscious movement on the part of society to create a stable and responsible world. In the matter of pornography, governments can set out procedures, but it is only the will of the people that will make these procedures effective. People are becoming more aware of the magnitude of the problem, but we must ensure that the general public understands how to use the law. It will be by the coordination of effective, practical procedures from governments and conscientious effort from the public that the problem of pornography will be alleviated.

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SUMMARY

Modern technology has escalated the problem of pornography, and unless legislative and regulatory action is taken at all three levels of government, we will have an intolerable situation on our hands. Such action as is taken should simultaneously address both sexually explicit and violent material. Both proscription and regulation are necessary, and citizens should be made aware of the avenues of recourse available to them when they witness violations. We perceive that the general public is sufficiently anxious about the spread of pornographic material that it will be supportive of positive action taken by government officials.

Part II

Definition of the Community Standard

The majority of people who submitted briefs to the Community Standards Committee were in agreement upon the following points:

- (1) Pornography is undesirable and "harmful to the values of society".
- (2) Any material which combines sex with crime, rape, horror, cruelty, violence or sexual abuse or exploitation of children or any other person is entirely unacceptable. This view is compatible with the existing Criminal Code and with the proposed amendments recommended by the Fraser Commission Report.
- (3) Tighter controls should be placed upon the pornographic material that is not proscribed by the Criminal Code.
- (4) Sexually explicit adult materials, other than bona fide educational materials, should not be sold to children or openly displayed in areas frequented by children.

Part III

The Report of the Special Committee on Pornography and Prostitution (The Fraser Commission Report)

In the last decade, the contemporary realities of pornography and prostitution have been the subject of increasing public debate in Canada. With conflicting descriptions of the problems, have come equally conflicting views of the social and legal solutions. There have been sharp lines of division in the debate; perhaps few other social issues have so divided public opinion. In an attempt to resolve some of the issues and concerns related to pornography and prostitution, the Special Committee on Pornography and Prostitution (The Fraser Commission) was established by the Federal Department of Justice in June 1983. The Committee was to investigate the current situation in Canada with respect to pornography and prostitution and make recommendations, as appropriate, for legal and social reform. A series of public hearings were held by the Committee between January and June 1984 in 22 centres across Canada. The Burnaby Community Standards Committee has referred extensively to the 1985 report of the Fraser Commission and its many recommendations (copies of the Fraser Commission Report Summary have been included separately for Council's consideration).

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The conclusions reached by the Community Standards Committee closely parallel the views presented by the Fraser Commission Report, which provides the following rationale to justify governments taking regulatory action: "It is also, in our view, a significant social fact that many people are offended by sexually explicit material. These feelings of offence and disgust, we can believe, justify restraints on the display of pornography. We also believe that young people should be protected from exposure to pornographic materials." Our Committee endorses this position and with only minor reservations, supports the recommendations of the Fraser Commission Report.

We wish to draw Council's attention to particular strengths within the Fraser Commission Report that would appear to support the recommendations brought forward by our own Committee:

1. The proposed amendments to the Criminal Code clearly spell out proscribed material and consequences for violations.
2. Recommendation 6 acknowledges the responsibility for both provinces and municipalities to "play a major role in regulation of the visual pornographic representations that are not prohibited by the Criminal Code through film classification, display bylaws and other similar means."
3. The administrative recommendations (21-29) allow for tighter controls on material passing through customs.
4. Recommendation 49 suggests classification for video recordings, a process that will be essential if regulatory controls are to be implemented.
5. Recommendation 106 acknowledges the role education must play in alleviating the problem of pornography and suggests implementation of specific programs.

We have certain reservations about the Fraser Commission Report, and perceive three potential problems that should be addressed by the Federal Government before the Report is endorsed in its entirety:

1. Before the term "obscenity" and the heading "offences tending to corrupt morals" are removed from the Criminal Code, legislation must be drawn up and implemented to deal with graphic violent material. If this is not done, a whole new industry devoted to unadulterated violence could be inadvertently created.
2. The fines listed under Recommendation 7 seem small when one considers that persons charged under such a section might have been involved in conspiracy to commit murder. Also many of the fines would not be significant enough to make much impact in such a lucrative trade.
3. No section exists to deal with telephone companies. This area of communications has been overlooked.

The Burnaby Community Standards Committee feels that these concerns need to be addressed immediately. However, our Committee, in the recommendations listed on Page 8, is requesting the Federal Government to act on the Fraser Commission's Report and recommendations contained therein.

Part IV

Recommendations

1. THAT Council accept and endorse the Community Standard defined in Part II of this report.
2. THAT the following resolution be submitted to the Lower Mainland Municipal Association and the Union of British Columbia Municipalities:

WHEREAS it is deemed necessary to address the problem of pornography through both regulatory action and preventative educational measures;

THEREFORE BE IT RESOLVED that the Provincial Government:
 - (a) establish a process for classifying videos and magazines;
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AND WHEREAS the Federal Government has not yet addressed the recommendations with respect to pornography contained in the special committee's report;

THEREFORE BE IT RESOLVED that the F.C.M. urge the Federal Government to act on the recommendations of the Fraser Commission
- (B) WHEREAS the Report of the Special Committee on Pornography and Prostitution does not address the problem of the use of telecommunications systems for the transmission of pornography.

THEREFORE BE IT RESOLVED that the Federal Government, through the C.R.T.C., address the problem of the use of federally regulated telecommunications systems for the transmission of pornography.

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- (C) WHEREAS the fines listed under Recommendation 7 of the Report of the Special Committee on Pornography and Prostitution appear inadequate to deter manufacturers and distributors of pornography.
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- (D) WHEREAS the Report of the Special Committee on Pornography and Prostitution acknowledges the problems created by graphic depiction of violence;
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4. THAT copies of this report be forwarded to the Federal Department of Justice, the Provincial Attorney General's Department and the Burnaby M.P.'s and M.L.A.'s.

Respectfully submitted,

Alderman L.A. Rankin
Chairman
Community Standards Committee

Alderman Egon Nikolai
Member

Alderman S.G. Veitch
Member

Ms. Carol Jones
School Board Representative

Mr. William Hartley
Member

Reverend Bruce Robertson
Member

Mr. N.R.K. Stainton
Member

Mrs. Elizabeth Elwood
Member

