

**REPORT**  
**1998 SEPTEMBER 28**

CITY OF BURNABY  
COMMUNITY POLICING COMMITTEE

*HIS WORSHIP, THE MAYOR  
AND COUNCILLORS*

RE: BILL C-397 PROSTITUTION A DUAL OFFENCE

RECOMMENDATION:

1. *THAT* Council support Bill C-397 as outlined in the *attached* report.

REPORT

The Community Policing Committee, at its meeting held on 1998 September 10, received the *attached* report responding to a request from the members of the Committee for a report on the effects of Bill C-397 should it become law.

Respectfully submitted,

Councillor D. Evans  
Chair

Councillor J. Young  
Member

<p>: COPY - CITY MANAGER - DEP. MGR.-CORP. LAB. REL. - DIR. PLNG. &amp; BLDG. - OFFICER-IN-CHARGE, R.C.M.P.</p>
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**TO: CITY MANAGER**

**FROM: OFFICER IN CHARGE  
BURNABY DETACHMENT R.C.M.P.**

**SUBJECT: BILL C-397 PROSTITUTION A DUAL OFFENCE**

**PURPOSE: TO RESPOND TO A REQUEST FROM THE COMMUNITY POLICING  
COMMITTEE OF COUNCIL FOR A REPORT ON THE EFFECT OF  
THIS BILL SHOULD IT BECOME LAW**

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**RECOMMENDATION:**

1. THAT the Community Policing Committee of Council support Bill C-397

**REPORT**

Offences under the Criminal Code of Canada can be categorized three ways:

- i) Summary conviction
- ii) Dual procedure
- iii) Indictable

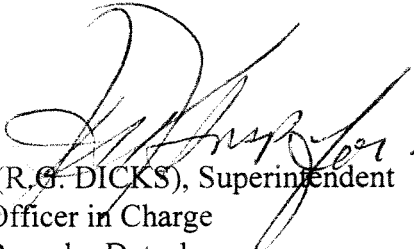
Generally speaking summary conviction offences are considered less serious and the manner in which the legal system treats them reflects this. A police officer must find the suspect committing the offence in order to arrest and charges have to be laid within six months of the occurrence. There is no authority under the *Identification of Criminals Act* to fingerprint or photograph the accused for a summary conviction offence. Unless otherwise provided by law, the maximum penalty available upon summary conviction is a fine of two thousand dollars, imprisonment for six months, or both. The 'street' prostitution offences set out in s.213 of the *Criminal Code* (eg. impeding pedestrian and vehicular traffic and communication for the purposes of prostitution), and some bawdy house offences set out in s. 210 (2) *Criminal Code* (eg. found in, transporting to, or being a landlord permitting a bawdy house) are summary conviction offences.

Dual procedure offences are those that provide for the option of either proceeding via summary conviction or by indictment and the penalties and legal procedures vary according to the option selected. This is a decision made by Crown Counsel during the charge approval process and is contingent upon the circumstances surrounding the offence. However prior to the charge being laid, from a police point of view the offence is treated as indictable. This allows the police officer to arrest a suspect not only found committing, but also where there are reasonable and probable grounds to believe an offence has been committed. Police also have the authority to fingerprint and photograph the accused. At present there are no prostitution related offences that are dual procedure.

Indictable offences are the most serious and carry the greatest penalties upon conviction. Unlike summary conviction, there are no time limitations on proceeding with indictable offences. Otherwise, the same particulars outlined for dual procedure offences apply to indictment. Indictable prostitution related offences are s. 210 *Criminal Code* (Keeping a common bawdy house) and s.212 *Criminal Code* ('pimping' offences).

Bill C-397 proposes s. 213 of the *Criminal Code* be made dual procedure, the reasoning set out in the attached correspondence from Eric Lowther, Member of Parliament for Calgary Centre. I agree with this proposal, primarily due to the fingerprinting and photographing provisions of the *Identification of Criminals Act* that would become available through this change rather than any increase in penalty or police priority it would afford. Historically the latter has depended more on the circumstances of the problem giving rise to enforcement rather than the nature of the criminal law.

However tracking of persons involved in the sex trade is difficult under current law. In regard to prostitutes, we often have a hard time accurately identifying these people. Many don't carry picture ID and provide false names upon arrest to avoid being associated to other charges or identified as under age. Most are transient and will move to another jurisdiction upon being charged or convicted and in the absence of a criminal record it can be impossible to determine the full extent of their involvement in the sex trade. With reference to 'johns', it's an unfortunate truth that many prey upon prostitutes. Photographing and fingerprinting them upon arrest would assist in the identification and monitoring of violent offenders, while at the same time offering the potential deterrence of a criminal record.

  
(R.G. DICKS), Superintendent  
Officer in Charge  
Burnaby Detachment



CORRESPONDENCE  
1998 JUNE 01



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES

Note  
It is suggested that this item of correspondence be referred to the Community Issues and Social Planning Committee.

OTTAWA OFFICE  
Room 254 Wellington Building  
House of Commons  
Ottawa, ON K1A 0A6  
613-995-1127  
Fax: 613-995-7111

Eric Lowther, M.P.  
Calgary Centre

May 19, 1998  
Ottawa

RE: Bill C-397 – Prostitution a dual offence

Dear Mayor and Council:

In response to the concerns of the residents and business community in my urban riding, I have submitted to Parliament Bill C-397, which proposes to make communicating for the purposes of prostitution (section 213 of the *Criminal Code*) a dual or "hybrid" offence.


Currently, communicating for the purposes of prostitution results in a summary conviction. As a result, usually only minor fines are given, and no identification record of offenders is kept. Over time, police tend to prioritize their efforts elsewhere, and residents and businesses affected are left to "just live with it."

Changing section 213 of the *Criminal Code* to a dual offence would allow such offences to be prosecuted as either a summary or indictable conviction. If treated as an indictable offence, authorities could fingerprint and photograph offenders. Such identification tools could assist in locating runaways, and help track repeat or dangerous johns. One of the recommendations of the Government of Alberta "*Children Involved in Prostitution*" task force was to make the changes contained in Bill C-397. This bill also has the support of three levels of government in my community, as well as that of the Alberta Justice Minister and local business and community groups.

I encourage you to consider supporting this initiative by sending a letter of support to my Ottawa office. While there is no one initiative that will solve the prostitution issue, our citizens who pay the bills have a right to expect safe streets. This initiative is a step in that direction. Please contact my Ottawa or Calgary office for additional information, or to receive a copy of a petition related to this issue. Thank you for your consideration.

Sincerely,

: COPY - CITY MANAGER  
- DIR. PLNG. & BLDG.

  
Eric Lowther, MP  
Calgary Centre



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Eric Lowther, M.P.  
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FOR IMMEDIATE RELEASE

May 1, 1998

## GET SERIOUS ABOUT PROSTITUTION... GIVE BETTER TOOLS FOR IDENTIFICATION

Ottawa – Today, Calgary Centre MP Eric Lowther tabled a private member's bill that has won the endorsement of three levels of government and the Alberta Justice Minister.

"I am proud to follow through on my pledge to Calgary Alderman Jon Lord, Alberta MLAs Heather Forsyth and Wayne Cao, and Alberta Justice Minister Jon Havelock and table this private member's bill today. But especially, I am pleased to serve those community citizens who have asked for this type of initiative," Lowther said.

Lowther's bill proposes to make communicating for the purposes of prostitution a dual or "hybrid" offence. Currently, such offences result in a summary conviction and usually only minor fines are given. Changing section 213 of the *Criminal Code* to a dual offence would allow such offences to be prosecuted as either a summary or indictable conviction. If treated as an indictable offence, authorities could fingerprint and photograph offenders. Such identification tools could assist in locating runaways, and help track repeat or dangerous johns.

"Anonymity is the greatest asset of many of these offenders, and the fines that are given are often just the price of doing business," said Lowther. "This proposed change is a positive step towards greater deterrence and safer streets. The people whose taxes pay for the streets should be able to feel safe upon them."

Lowther will be contacting municipalities across Canada to gain their support. A petition in support of this initiative is also available through his offices in Calgary or Ottawa.

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For more information, call:

Eric Lowther, MP (613)-995-1127

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