



'Common house-keeping' is against the law!

This booklet is not meant to replace legal advice. If you might be in trouble with the law, **YOU NEED A LAWYER!**



“Wrong! We’re not under arrest for putting the ad in! You’re under arrest for answering it!”

SAY NOTHING TO THE POLICE!

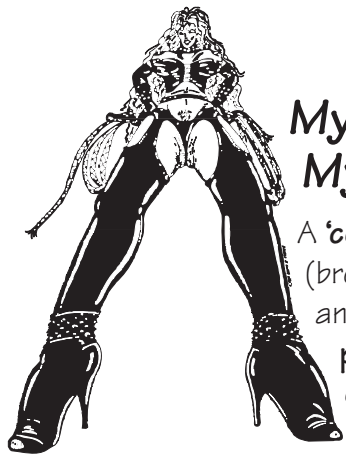
If you are under arrest:
co-operate, be polite, **DON’T**
fight or swear, and **SAY NOTHING**
but your name and address
until you have spoken to a lawyer!

If you need help getting a
lawyer, or are harassed by police,
contact:

Maggie’s

The Toronto Prostitutes’ Community Service Project

(416) 964-0150



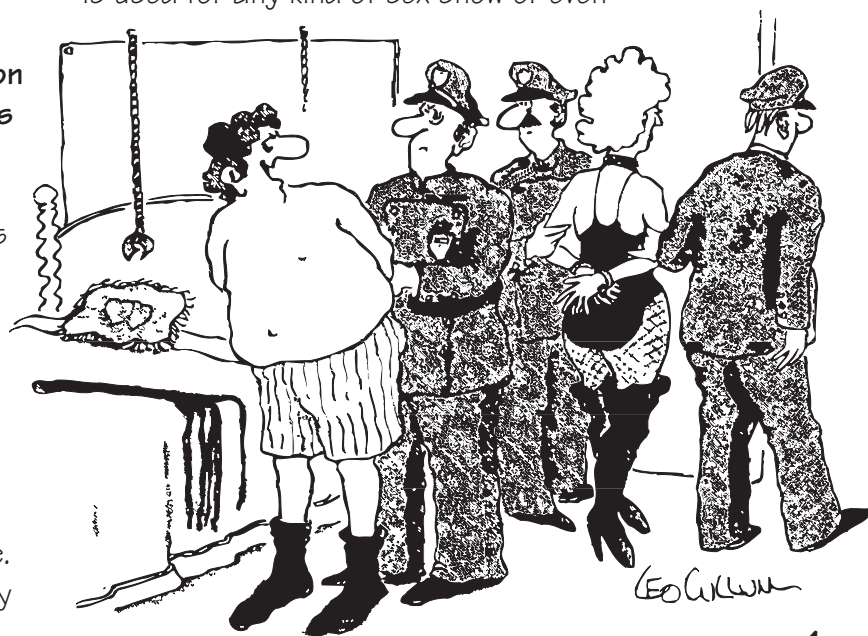
My Bawdy's My Business

A 'common bawdy-house' (brothel, whore house) is any place used 'for the purpose of prostitution or the practice of acts of indecency.'

Any place you **regularly** use to see your dates is a common bawdy-house. This includes using **your own home**, the same hotel room, or even the same parking lot. There doesn't have to be a lot of people working out of a space for it to be a bawdy-house; just using a place on your own is illegal.

Doing anything for the **purpose** of prostitution makes a place a bawdy-house. You can be charged if dates give you money

to do **anything** that turns them on, **even if you don't touch them**. You don't have to be doing lays or blow jobs in order to be charged. A place is also a bawdy-house if it is used for any kind of sex show or even



"Could you tighten those up a notch?"



domination. In theory, any place used for any part of running a prostitution business—even for answering the phone to book outcalls (going to your client's place) could be considered a bawdy-house. But no one has ever been charged this way.

A place is also a bawdy-house if it is used regularly to do things that might be **indecent**. You don't have to be charging money. The law does not say exactly what types of things are indecent in a bawdy-house. But they are likely to include things like domination, fetishes, golden showers and group sex. (See page 16, Who all gets nailed with bawdy-house charges.)

In order to bust you, the cops must have evidence that you are using a place to

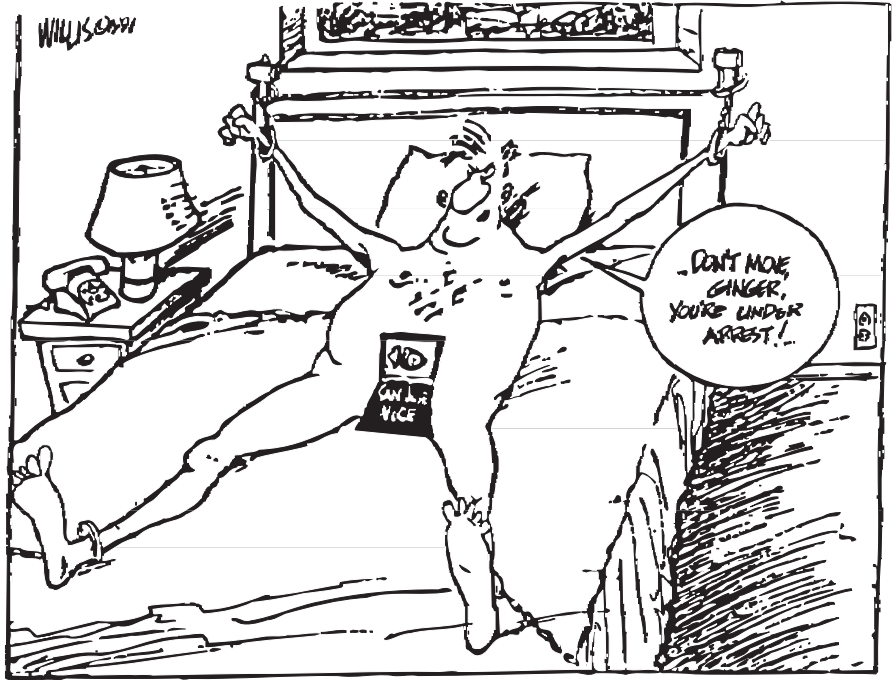
give sexual services for money or for indecent acts. They'll come to see you pretending to be clients or wanting work. They do not have to tell you that they are cops, **even if you ask**. They can decide that you are a prostitute if you say or do anything that they think is sexual. Even if you are only charging for something like your time, or dinner, or a massage,



they call it prostitution if you offer sex during the date. Offering sex includes: saying that you'll do something sexual, saying that you have sex with other clients, or doing something sexy (like undressing, or touching them). Cops do not need to have sex with you to prove that you are using the place for prostitution. But **they are allowed to have sex**, and often they do.

To lay bawdy-house charges, the cops have to prove that the place is used regularly. They have to send in at least two undercover cops, each on a different day. They can also say that you told them that the place is used often.

In addition to sending in several cops, they can show that you use the place



Scout Wilho -- Mercury News

regularly by watching to see how many people come to your place and by taking your appointment book once they have a search warrant.



If the police can show a Justice of the Peace that the place where you work is likely being used for prostitution or indecency, they can get a warrant to search it. If you do not live there, the police can't search your home as well without a separate warrant.

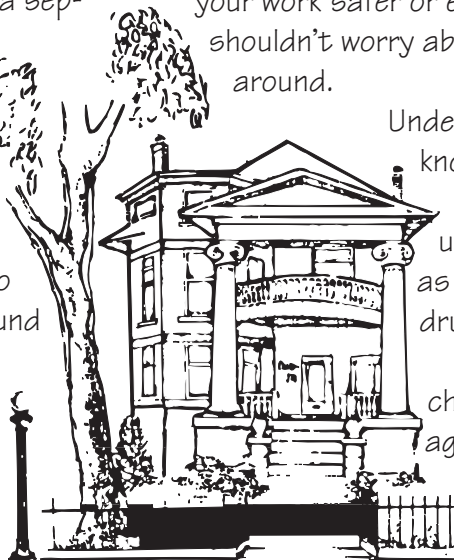
READ THE WARRANT BEFORE LETTING COPS IN.

With a search warrant they are allowed to enter the place named on it without your permission. They can arrest everyone who works in the bawdy-house or is found there when they arrive (including clients). They can also take anything they think shows that the place is a bawdy-house (appointment books, lube, sex toys, mas-

sage oil, etc.). This type of evidence, however, is not as important as what the cops say happened when they pretended to be dates. The things they take are only icing on the cake. So if these things make your work safer or easier, you probably shouldn't worry about keeping them around.

Undercover cops have been known to ask pros to supply drugs. Police often use prostitution arrests as an excuse to search for drugs.

There are several charges that they can lay against the people they think are involved with a bawdy-house.



Keeping a Common Bawdy-House Section 210 (1)

This law is used to charge managers and owners of in-call services. This charge can be laid against anyone who has a say about what goes on even if they don't own or rent the space. Things like having ads, phone lines and keys could be used to prove that you have some interest or control in running the business.

'Keeping a common bawdy-house' is an **indictable** offence. This makes it the most serious

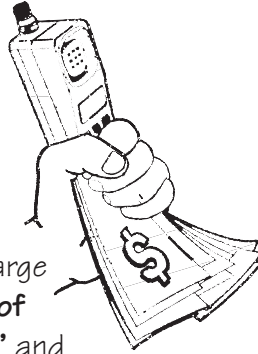
bawdy-house charge. If you are convicted, the courts could send you to jail for up to two years. If you don't have a long criminal record, though, you will probably have to pay money (a fine) instead.

Keeping a common bawdy-house is an **enterprise crime** – the courts think that you are running an illegal business to make a lot of money. If you are charged with keeping a bawdy-house, any money you have earned, and anything you have bought with that money, are considered to be **proceeds of crime**. If the



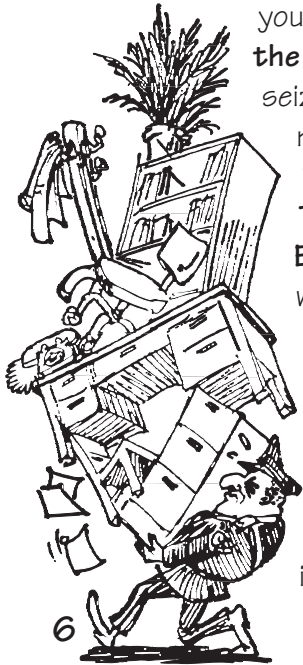
cops believe that you got things like money, cell phones, furniture, your car or house by keeping the bawdy-house they can charge you with '**possession of the proceeds of crime**' and

seize them. The courts will eventually return these things **IF YOU CAN PROVE THAT YOU BOUGHT THESE THINGS WITH MONEY YOU EARNED LEGALLY.** Undercover cops will often pay you with 'marked' money so that they can prove you got it from keeping the bawdy-house. This money is not usually physically marked; the cops write down the serial numbers of the bills so they can identify them after the bust.



Inmate of a Common Bawdy-House Section 210 (2)(a)

Once the cops decide that a place is a bawdy-house, anyone living or working there can be charged with being an **inmate**. You can be charged with this summary offence even if you are not using the place for





prostitution, but other people are. The cops only need to see a few people in order to charge everybody.

***Being found, without
lawful excuse, in a
common bawdy-house***
Section 210 (2)(b)

Anyone living or working in a bawdy-house is considered to be an **inmate**. Anybody else discovered there can be charged with being **'found in a common bawdy-house.'** This

charge is a summary offence usually laid against clients. It could also be laid against someone like a receptionist or a maid (although they could be charged with being an inmate instead).



***Knowingly permitting the premises to
be used as a common bawdy-house***

Section 210 (2)(c)

This charge can be laid against anyone who has control over a place and lets it be used as a bawdy-house, such as a landlord, tenant or someone who has a say in how the place is used. To be charged, the person must have **known** that the place was used





as a bawdy-house, and must have allowed or encouraged this use. This charge is different from a **keeping** charge because the person isn't actually running the bawdy-house.

Inmate, found-in and permitting the premises are all summary offences (less serious). For a summary conviction the most you can get is a

\$2,000 fine and/or six months in jail. But for these prostitution charges you would probably get a smaller fine, or probation. The judge decides what the punishment should be based on your situation. There is also the chance of a discharge, especially if you don't have a criminal record. It is unlikely that you would go to jail, unless you have a long criminal record.

What about your landlord?

Section 210 (3)&(4)

It is a summary offence to **knowingly** let someone use your place for a bawdy-house.

If you are convicted of **keeping** a common bawdy-house, the courts will tell your landlord. You will probably be evicted once your landlord knows about the bawdy-house, since she or he can be charged if you are



caught using the place again. Even without a charge or conviction, your landlord can still evict you if she or he has a good reason to think that you are doing anything illegal out of your place. This is part of Ontario's **Landlord and Tenant Act**.

Transporting person to bawdy-house

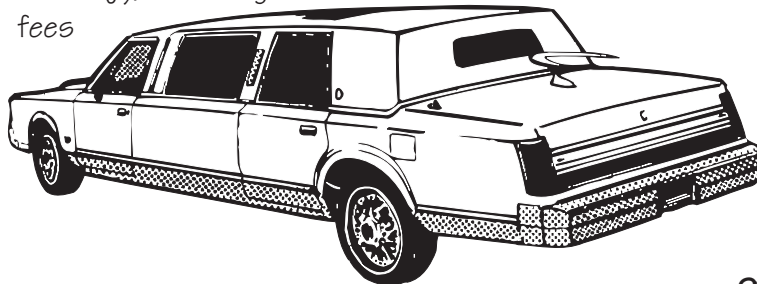
Section 211

It is a summary offence to take someone to a place that you **know** is a bawdy-house. It is even illegal to **offer** to take someone there or even to **tell** them where a bawdy-house is. The cops must prove that you knew that the place was a bawdy-house.

Procuring

Section 212

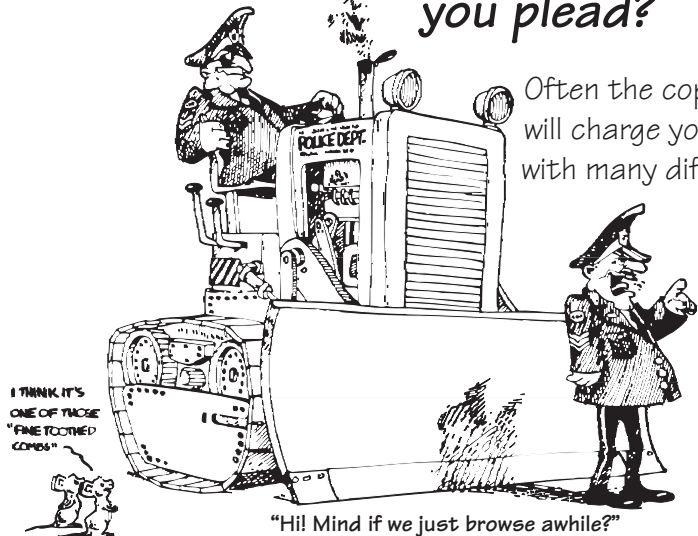
The '**procuring**' law makes it illegal to help anyone buy or sell sexual services. It is an indictable offence so you can get from five years (for trying to hire someone under the age of 18 years) to fourteen years (for '**living on the avails**' of someone under 18). Referring clients to your friends or other pros, giving advice on how to work (especially to someone new or someone from another country, or about how to work in another country), or taking fees



for referring calls or for protection ('**living on the avails**') all can get you up to ten years in jail. Police usually need the cooperation of a **complainant** in order to press procuring charges.

How should you plead?

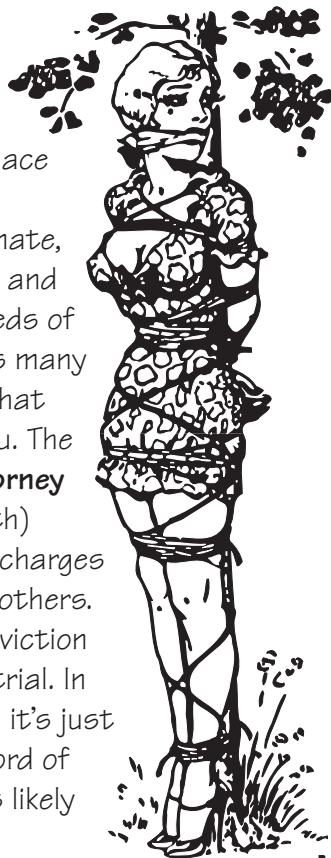
Often the cops will charge you with many dif-



I THINK IT'S
ONE OF THOSE
"FINE TOOTHED
COMBS"

"Hi! Mind if we just browse awhile?"

ferent bawdy-house offences. For example, if you are using your own home or sharing a workplace with a friend, you can be charged with keeping, inmate, permitting the premises, and possession of the proceeds of crime. Police try to lay as many charges as possible so that they can bargain with you. The cops and the **crown attorney** (the lawyer they work with) then offer to drop some charges if you will plead guilty to others. This way they have a conviction without having to go to trial. In most prostitution trials, it's just your word against the word of the police so the judge is likely



"Ah! who will save her !"

"IN LAYMAN'S TERMS..."



/ to find you guilty. If you and your lawyer think that you will be found guilty of some charges at a trial but not of others, plea-bargaining might be a good choice. You are more likely to get a lighter sentence when you plead guilty than when you are found guilty by the judge.

YOU SHOULD TALK TO A LAWYER BEFORE MAKING ANY DECISIONS ABOUT WHAT TO DO IN COURT.



Out-calls

Prostitution itself (exchanging sex for

money) is not illegal in Canada. **Going to see a date at his hotel room or home is okay.** In theory, a date could be charged with keeping a bawdy-house if he has pros over regularly. This means that you could be charged with being an inmate or found-in if you were caught in his home. This rarely, if ever, happens.

You could be charged with 'communicating for the purpose of prostitution in a public place' if you





discuss services or prices in a **public** place like a bar, elevator or car. 'Communicating' is a summary offence. (See: **Trick or Trap?**) Once you are in a date's home or hotel room, you can talk about anything you want since you are in a **private** space.

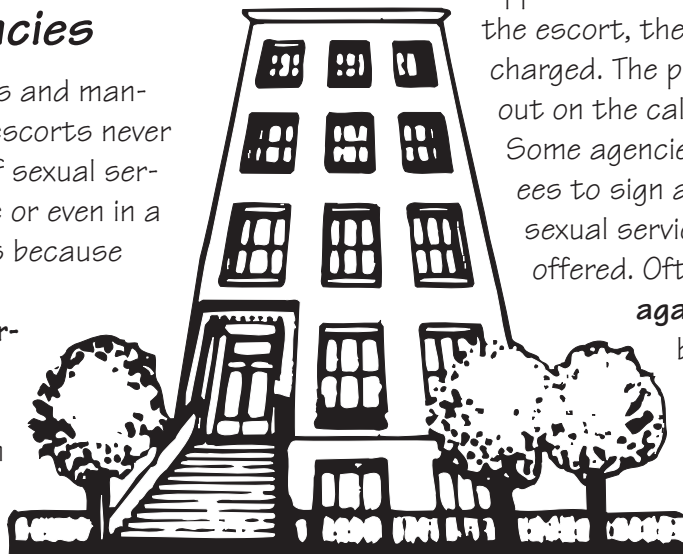
Escort agencies

Often agency owners and managers will tell their escorts never to mention prices of sexual services over the phone or even in a private place. This is because the agency could be charged with 'procuring' or 'living on the avails of prostitution' (pimping). Even if the agency tells

the client that he is paying for the escort's time only, and that anything else that



happens is between the client and the escort, the agency can still be charged. The person actually going out on the call cannot be charged. Some agencies ask their employees to sign a statement that sexual services are not being offered. Often this is used **against** the agency because it shows that they thought prostitution might be going on.



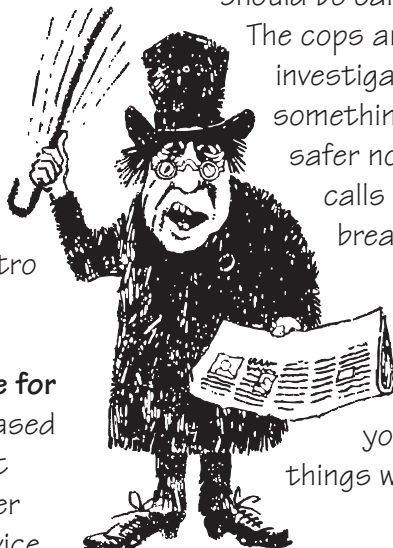


Advertising

It's okay to advertise your services in a newspaper or on a phone line. Some advertisers have individual rules

about what you can say in your ad. No place knowingly accepts ads from people under 18 because it's against the law for people to hire them for sex.

In September 1990, the Metro Toronto police charged a weekly newspaper (Toronto's **NOW**) with **'communicating in a public place for the purpose of prostitution'** (based on 14 different ads in 14 different issues). All the charges were later dropped so listing a price or service



in your ad is probably safe.

The cops

do use the ads to start their investigations. They call your number, ask for information and try to book appointments. You should be careful what you say in your ads.

The cops are probably more likely to investigate someone who advertises something clearly illegal, so it might be safer not to say that you offer in-calls (which indicates that you are breaking the bawdy-house law).

Listing a general price (or fee for time) might be safer than quoting prices for particular services. But once you have been charged, those things won't make much difference.



Telephones

Many people worry about what they should say over the phone. The police cannot charge you with **'communicating for the purpose of prostitution'** based on a conversation over the phone. It is alright to offer sexual services for money in a private place, and the courts consider the telephone private.



It would be unusual but police could probably charge you with **'communicating'** for discussing sexual services on cell

phones or pay phones. Conversations on cellular phones are not considered private since cell phones use **public** airwaves. Pay phones may not be considered private since they are open to **public view**.

If undercover cops call, they could decide to continue investigating for bawdy-house charges if you offer to provide a place for services. Chances are that they will try to send in undercover cops even if you try to make it sound like you are not doing anything sexual.

Without other evidence, what you say on the phone is not enough proof to convict you. You





might want to speak
openly on the phone
if you feel that it
makes your business safer
and better.

If police can show a judge that you are doing something illegal and that they need to tap your phone for more evidence, they can get a warrant to do so. Wire tap evidence is admitted with charges like drug trafficking or distributing pornography. It's a good idea never to discuss or even joke about drugs or breaking the law on the phone.



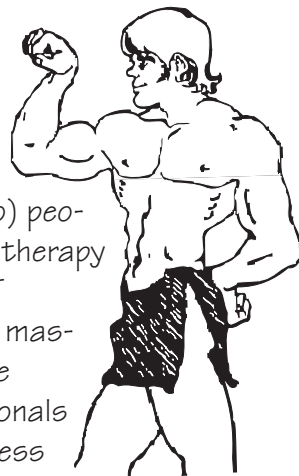
What about licensing?


There are some municipalities like Mississauga which use by-laws to issue licences to body-

rub parlours. Even in a licensed parlour it is **STILL ILLEGAL** to provide a sexual service, like massaging the genitals, even if you are not charging extra money.

Registered Massage Therapy (RMT)

In some provinces (including Ontario) people with formal training in massage therapy can register and be licensed. A RMT licence allows you to advertise as a massage professional rather than in the adult entertainment/business personals sections of local papers. Police are less likely to investigate you, but you increase the risk of a potential client complaining to the paper, the police or the licensing body if you offer sexual services. If you are convicted you will lose your licence on top of other hassles.






Is it entrapment if police go out of their way to charge you?

It is only entrapment if a cop behaves in a manner that forces you to do something that you would **never** have done under normal circumstances. The police are allowed to give you the opportunity to commit an offence if they suspect that you are already involved in the crime. With prostitution, this could be because they know you have an ad in the adult classifieds, or that you've been charged with prostitution-related offences in the

past, or because you're standing in an area known to be a stroll.



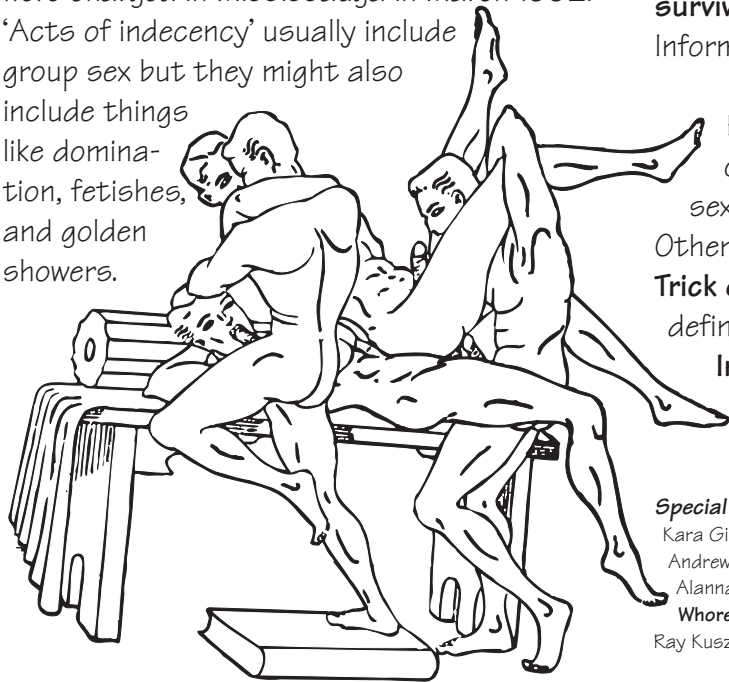
Who all gets nailed with bawdy-house charges?

Prostitutes and their associates (managers, clients, lovers) aren't the only ones police target with the bawdy-house laws. Police can also lay bawdy-house charges in a place kept **'for the purpose of the practice of acts of indecency.'** Strip clubs have been charged as recently as February 1994, leading to important court decisions. (See: **The Bare Facts.**)

Gay bath houses and bars have been targetted for years. In February 1994,



175 gay men in a bar in Montréal were charged for being in a bawdy-house. Swingers' clubs have also been charged. 150 people (three 'keepers' and 147 'inmates') were charged in Mississauga in March 1992. 'Acts of indecency' usually include group sex but they might also include things like domination, fetishes, and golden showers.



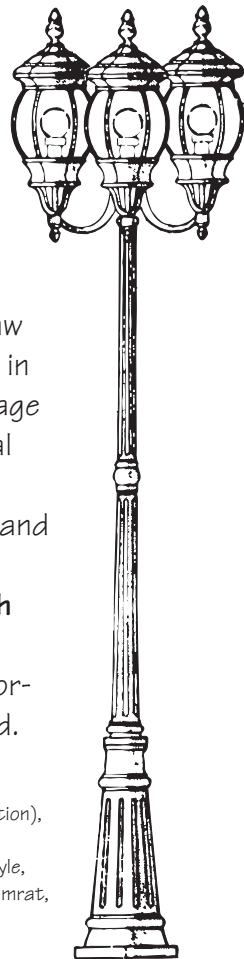
For more information about Canadian laws related to prostitution and sex work look for the other sections of **Trials of the Sex Trade: A survival guide to Canada's legal jungle.**

Information about court, drugs, family law and pressing charges can be found in **Holding Court.** Information about age of consent and the law against anal sex can be found in **Who's Jail Bait?**

Other sections include: **The Bare Facts**, and **Trick or Trap?** Legal terms in **bold** are defined in **Legal Ease.** **Freedom Through Information** encourages people to reproduce and distribute this information; we would like to be credited.

Special thanks to:

Kara Gillies (research & original copy), Atlas Studios (production), Andrew Sorfleet (design), Chris Bearchell, Julien Francisco, Alannah, Carrie, Jackie, Jennifer, Beth Wolgemuth, Kenn Quayle, **Whorezine**, Will Pritchard, Paul Aboud, Laura Jacobs, Irit Shimrat, Ray Kuszelewski and the Parkdale Community Legal Clinic.



Some legal services (416 area code)

Legal Aid

- Old City Hall598-0200
- College Park.....598-1260
- Duty Counsel (24 hours).....868-0720

Parkdale Community Legal Services531-2411

Community & Legal Aid Services (CLASP)736-5029

Aboriginal Legal Services408-3967

Justice for Children and Youth (under 18)920-1633

Dial-a-law947-3333

Lawyer Referral Service
(includes free half-hour consultation)947-3330

Outside Metro Toronto

Lawyer Referral Service.....1-800-268-8326

Student legal aid services

Kingston1-613-545-2102

London1-519-661-3352

Ottawa.....1-613-564-5855

Windsor1-519-253-7150

THE WHORESIDE

BY MARY CARSON



Harold was confident his years in community theatre would pay off on his first day on the vice squad.



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