

TESTIMONY OF ASSISTANT DISTRICT ATTORNEY SUSAN HERRON

ON BEHALF OF

LYNNE ABRAHAM, DISTRICT ATTORNEY OF PHILADELPHIA

BEFORE THE

SUBCOMMITTEE ON CRIME AND CORRECTIONS OF THE

HOUSE JUDICIARY COMMITTEE

HOUSE BILLS 212, 213, 214 and 215

APRIL 29, 1999

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Good morning Chairman Birmelin and members of the Subcommittee on Crime and Corrections. Thank you for inviting me to speak on the proposed bills about prostitution. I am Susan Herron and I am here on behalf of Lynne Abraham, the District Attorney of Philadelphia. Ms. Abraham regrets that a prior commitment prevents her from being here today.

The problems created by prostitution are raised at virtually every community meeting the District Attorney attends. From Center City to North Broad Street, Fishtown, the Kensington Avenue corridor, the neighborhoods surrounding the newly developing waterfront and just about every community in between, people complain about prostitutes. And justly so. The activity is rampant. It goes on twenty-four hours a day and it diminishes the quality of life for everyone unfortunate enough to be confronted with it.

Prostitution does not exist by itself. It brings with it drugs and alcohol, open lewdness and sexual behavior, noise, filth,

and criminal behavior of every kind imaginable. It drags down the economic viability of neighborhoods by discouraging business opportunities. Worst of all, it creates a very unhealthy environment in which to live and raise a family.

We are, of course, not naive enough to think we can eliminate prostitution altogether and I am not here to offer a quick fix. There will always be prostitution. But in order to change the nature of it, there are basic premises we need to come to grips with and there are some proactive things we can do.

We are concerned about all hookers: those so-called high-class women who turned tricks for the Mayflower Madam in New York or Heidi Fleiss in Los Angeles; the baby strollers - the 12-, 13- and 14-year-old girls and boys who hook on the streets and who, in a matter of years, will probably die from drugs, from malnutrition, from AIDS, or from beatings at the hands of their pimps; and those who might fall prey to the mass murderers who have traditionally picked on prostitutes. Jack the Ripper wasn't the first serial killer to target prostitutes; Gary Heidnick and John Wayne Gacy certainly aren't the last.

I have spent a great deal of time reading and speaking with people about prostitution. What I learned didn't surprise me, and shouldn't surprise you, but I'd like to share some of it with you. I spoke with a wide range of people - from the Public Health Department, the World Health Organization, CDC, social service professionals, ex-hookers, law enforcement personnel, and others and read a number of articles.

What I learned is this:

1. Prostitution is not a victimless crime. The real victims are the prostitutes themselves.
2. The legal system's efforts to combat prostitution have been futile at best and counterproductive at worst.
3. Almost all young prostitutes have run away from sexual and physical abuse in their homes. Upon apprehension, they are returned to these homes by courts which are often oblivious to the causal link between sexual abuse in the home, runaway teenagers, and prostitution.
4. Runaway teenagers often engage in prostitution. When they are picked up by law enforcement, they are identified as status offenders and not identified or treated as having been involved in prostitution. Upon arrest and conviction after the age of eighteen, females then are categorized and criminalized as prostitutes by the legal system.
5. Prostitutes are most often the victims of coercion. Most women do not choose freely to prostitute themselves. Prostitution is an attempt to survive.
6. Ninety percent of street prostitution is controlled by "pimps" who use a variety of coercive methods to control the prostitute. The stories are all too familiar: girls held in virtual slavery by men who appropriate their money and dole them piecemeal the food they need to survive and the drugs to which they have become addicted.

7. Prosecutions for male clients and pimps are nearly nonexistent. The male client generally is thought to be less culpable than the prostitute. In actuality, they are more culpable as they are the ones who organize, maintain and pay for the institution of prostitution.

8. Prostitutes receive more severe treatment in the courts, the jails and at bail hearings than do their clients.

9. Prostitution cases rarely go to trial. The prostitute usually waives the right to trial and to counsel in exchange for a sentence of time served.

10. Rape of a prostitute is rarely reported, investigated, prosecuted or taken seriously.

11. The criminal justice system is spending enormous amounts of money on sanctions that fail to significantly deter prostitution.

If we can hope to do anything for and about prostitutes, rehabilitative efforts and therapeutic options are critical. Effective treatment programs must be established which offer prostitutes realistic alternatives to prostitution. Training must be provided to social service workers who deal with young runaways with the goal of identifying those who are at risk of becoming prostitutes and offering them realistic alternatives to street prostitution. Judges need to be informed and sensitized about the true nature of prostitution and the causal link between juvenile and adult prostitution. Substance abuse treatment for prostitutes is perhaps the most important component of all.

We also must address the public health issues because, as we all know, there is a clear connection between prostitution, sexually transmitted diseases (STDs) and AIDS. Common knowledge suggests that prostitutes spread AIDS. I am told that in reality, the incidence of female to male transmission through sexual contact is minimal. The greatest risk of AIDS is to the prostitute who is more likely to become infected by her client and then infect her later-born children.

San Francisco has taken an innovative, holistic approach in dealing with the problem of street prostitution by drawing together the resources of law enforcement, public health and various private agencies to address the root of the problem: sexual exploitation, abuse, addiction, illness and violence. The First Offender Prostitution Program (FOPP), comprised of three primary components (educating customers, providing services to girls, young women and adult women in and out of custody and system reform) represents a paradigm shift from solely criminal prosecution to prevention, early intervention and rehabilitation of both customers and prostitutes.

It is, of course, too early to measure the success of San Francisco's project, but the likelihood of its success is greater than that of a much touted Portland, Oregon program. In the early part of this decade, Portland aggressively impounded and forfeited john's vehicles. While the targeted areas were indeed cleared of prostitutes, the sheriff in charge of the program candidly admitted to me that they had merely succeeded in displacing the problem.

Perhaps the Legislature would be interested in forming a multi-disciplinary task force to examine the societal and personal problems posed by prostitution in Pennsylvania, its relationship with substance abuse and the spread of AIDS and other STDs. The task force could include psychologists, psychiatrists, law enforcement, public health officials, academics, social workers and ex-prostitutes. It can't hurt and such an effort could lead to measures that would go a long way toward significantly changing the lives of many people - prostitutes, their children, the johns and, certainly, the people who live in the neighborhoods where prostitutes ply their trade.

That said, please allow me to briefly discuss the bills before the Committee. The District Attorney has in the past supported legislation, both City and state, dealing with prostitution and, in fact, supports these bills. We do believe that something akin to the San Francisco program is perhaps the best way to go, but until that happens, we have no issue with targeting johns, as these bill do. Targeting johns focuses on the simple economic principle of supply and demand: where there's no demand, there's no viable reason for supply.

House Bill 212 concerns the suspension of operating privileges upon conviction of patronizing a prostitute. It is a good idea, but bear in mind that we don't see a lot of arrests for patronizing for the simple reason that it's extremely difficult to prosecute. We would never have the prostitute available to offer testimony that the john solicited sex so arrest and prosecution generally

only occurs when the Vice Squad is involved and, for example, an undercover police officer poses as a prostitute. Even where we do get a conviction, people in Philadelphia would probably drive with suspended licenses anyway. But Philadelphia isn't the only county in the state, and if it will help other jurisdictions, we certainly support it.

House Bill 214 would permit impoundment of a vehicle "used in prostitution." Although we very much like the idea of impounding cars, there are some issues that should be thought through. First, impoundment puts a minimum of two police officers out of action: one to arrest the driver and the other to stay with the car until the tow squad comes. Do we want the police impounding john's cars or arresting robbers? In addition, the car would have to be stored in a secure lot, the contents inventoried and the condition noted. I can assure you that every car impounded will, according to the driver, be dent-free and have a Monet and a fur coat in the trunk.

Second, Philadelphia enacted a similar ordinance in 1992. It is not enforced because the City Solicitor issued an opinion stating the ordinance was legally deficient in at least three ways: it failed to provide for a prompt hearing; it required payment of a fine prior to releasing the car, in effect requiring an unconvicted offender to post his vehicle as security for payment of a fine he might not be required to pay should he be found not guilty of the underlying offense; and, there was no state enabling legislation. House Bill 214 would obviate the third concern, but

to address the other two concerns, we would recommend that the bill be amended to require a prompt hearing.

Regarding House Bill 213, the Chief of our Forfeiture Unit is concerned that forfeiture of a vehicle upon conviction of patronizing prostitution would be found by our Supreme Court to be an excessive fine. Over time, the courts have been slowly restricting the ability of the Commonwealth to forfeit property connected to crime. In an April 20, 1999 drug forfeiture case, Commonwealth v. 5043 Anderson Road, (56 M.D. Appeal Docket 1998), our Supreme Court held that forfeiture of a twenty-four-acre parcel described in a single recorded deed was excessive when drugs were found only in the house and the detached garage.

If the Committee decides to go forward with House Bill 213, we would recommend that it more closely track the drug forfeiture law found in Title 42, Chapter 68. Chapter 68 has been on the books since 1988 and a body of case law interpreting its various provisions already exists. We would be happy to work with the legislature in redrafting House Bill 213 if the committee determines it is necessary.

Thank you for the opportunity to speak on behalf of the District Attorney of Philadelphia about this very serious issue. Prostitution is a high priority for Ms. Abraham; she stands ready to offer whatever assistance she can in helping the Legislature fashion effective responses to reduce the incidence of prostitution in Philadelphia and throughout the Commonwealth.