



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Prostitution Act 1992](#))

Members:

**MRS V DUNNE (The Chair)
MR J HARGREAVES (The Deputy Chair)
MS M HUNTER**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 13 JULY 2011

**Secretary to the committee:
Dr B Lloyd (Ph: 6205 0137)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Privilege statement

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Amended 21 January 2009

The committee met at 10.35 am.

WOODS, MS SHIRLEY, Outreach Coordinator, Project Respect

Evidence was given via teleconference—

THE CHAIR: I welcome you to this public hearing of the Standing Committee on Justice and Community Safety inquiry into the operation of the Prostitution Act in the ACT. I presume you have been sent a copy of our privilege statement?

Ms Woods: Yes.

THE CHAIR: Do you understand the implications of the privilege statement?

Ms Woods: Yes.

THE CHAIR: Okay. Hansard are recording, and that will give us a transcript of our hearing this morning. That will be sent to you when it is finalised for you to review.

Ms Woods: Okay.

THE CHAIR: Could I ask you to begin by introducing yourself?

Ms Woods: I am the outreach coordinator here at Project Respect. I am a social worker. I have been here for seven years and during that time I have been conducting outreach to legal brothels within the Yarra, Monash, north and western suburbs of Melbourne. We have recently, in the last two years, taken on another worker who is covering the South Melbourne and eastern suburbs area and more recently a part-time worker who is specifically employed to work with victims of trafficking. So we are getting out to a good two-thirds of the legal brothels in Melbourne now, which is great.

In the seven years that I have been going out to the brothels I have met, I think I worked out at one stage, over 2,000 women and worked with a lot of women on a one-on-one basis with several extra issues. I have good relationships with a lot of brothel managers and owners. So hopefully I will be able to answer your questions.

THE CHAIR: You have said a little bit about what Project Respect does. Could you elaborate a little more? Also you made the point on two occasions that you are in contact with legal brothels.

Ms Woods: Yes.

THE CHAIR: To what extent are you in contact, if at all, with people who are not in the legalised system in Victoria?

Ms Woods: In the early days of doing outreach there were attempts made to get into illegal brothels when we got tipped off as to where they were. We just found it particularly difficult to get entry. The owners would just say, “We don’t do sex here,” and shut the door or come up with some reason not to let you in. So we do not tend to. Because we are particularly busy, we really do not have the time to be doing that.

I guess the only time that we would act on any information given to us in regard to an illegal brothel would be if the information provided to us was maintaining that women were being held there against their will. If we thought it was a trafficking situation or if there were women in danger or having violence perpetrated against them, we would perhaps follow it up. But apart from that we stick with the legal brothels.

THE CHAIR: What is the nature of the outreach work that you do?

Ms Woods: Essentially when you go out to the brothels one of two things can happen. You can walk in and the women can want absolutely nothing and it is general chitchat. At other times you walk in and women are lining up to speak to you about something.

The issues are varied. I think in the last two to three years the biggest issues appear to be housing and mental health issues. Homelessness is an issue in society, full-stop, and ever increasing, so I guess that fits with that too. With the mental health issues, there just seems to be a lot more women. We have all noticed, as outreach workers in the last few years, that women have been diagnosed with bipolar—bipolar seems to be a big one—and certainly post-traumatic stress disorders coming out of childhood abuse. So it is varied. I guess those are the two really big ones.

Apart from that, I do a lot of court support with women who are dealing with perhaps DHS issues, a lot of time in Children's Court, Family Court with violent partners, drug and alcohol and gambling issues, domestic violence—the whole gamut, really. Pretty much anything you can think of, I have had to deal with.

THE CHAIR: So in your dealings with the women—presumably it is mainly women—can I just interpose there and ask: would you deal with men in prostitution as well?

Ms Woods: No, we do not. It is not because we do not want to. We have just always been very limited. We do not get recurrent funding. We survive on project funding, so we are quite limited in what we do. We have had a couple of occasions where brothels who were once operating as all-women brothels end up having a mixture of transgender and women in there. What we tend to do is refer. I had that situation where there was a brothel that was bought by somebody and they took it over and it became sort of transgender and the person was not post op. So they were actually still a male but dressing as a female. What I tend to do is find referral services for them, find services that actually work with those particular people and can address their issues and understand their issues a lot better than I would.

THE CHAIR: You say you get project funding. What are the sources of your funding?

Ms Woods: At the moment, as far as covering my wage, there is one day a week from Monash council, two days a week from Yarra council and two days a week from proceeds of crime funding from POCA. The other full-time outreach worker is fully funded by POCA and the part-time outreach worker is funded by the Department of Justice. And then it is really mixed up. The boss here gets partial funding from POCA, some from DOJ. We get money to run our activity programs for women and

weekends away through Lord Mayor's Foundation and Cabrini Hospital. We have had project funding in the past from Helen Macpherson Trust and Wright Stein.

THE CHAIR: So it is quite diverse.

Ms Woods: Yes, a lot of it is philanthropic.

THE CHAIR: You describe some of your outreach as providing assistance for people who have a range of problems with the law and drug and alcohol. What proportion of people would you see in brothels who are essentially trouble free?

Ms Woods: I do not think I would be exaggerating to say 10 per cent.

THE CHAIR: Ten per cent?

Ms Woods: The majority of women that I come across have got issues. It does not always come out the first time that you see them, of course. It is particularly easy to tell when you have been working around the industry for a while and once women get to know you they generally come to you or they will see you helping one woman and then they will feel safe enough to come to you. I have met very few women who have not got something going on outside of work that has pushed them in there or is keeping them in there.

THE CHAIR: So what you are saying is that the women that you are dealing with in the legal brothels are not necessarily there as a free career choice?

Ms Woods: It all comes down to how you look at choice. People say that women choose to do prostitution, and I guess there is some truth in that. But we look at that as a choice that is made when there are no other choices or people are not aware that there are other choices. We have a community lunch here every Friday that women can just come along to. It is nothing formal; they just eat lunch and they sit and chat. We find that most women who are wanting to transition out of the industry will start coming along for lunch. They will get ideas from other women and they will talk about, "How can you fill the gaps on your resume?" and "How did you find it going for your first job interview?" and they sort of bounce off each other.

The majority of women that I meet are looking at getting out of the industry. I help a lot of women get into courses. I will go to open days at universities and TAFE with women, take in a TAFE guide and go through it with them and talk to them about what courses they might like to do. I do not know too many women—I have met a handful of women who have gone in with a plan to save perhaps for a deposit for a house and they have done that and got out, but it is a big minority.

MS HUNTER: Your website talks about Project Respect being a feminist community-based organisation aimed at empowering and supporting women in the industry, including trafficked women. It goes on to say that it is "to support women in the sex industry of Australia and to help prevent the exploitation and enslavement of women". I am just trying to get some sense of where you put your work. You did talk about the sorts of issues that you deal with when you go out to see women in their places of employment.

Ms Woods: Yes.

MS HUNTER: You just touched on it then around a number wanting to transition out of the industry. So what percentage of your time do you think would be spent on working with women to support them to move on to other employment as opposed to supporting women who choose to work in the industry to ensure that there is proper occupational health and safety and—

Ms Woods: I think it is about half and half. Even some of the women who would actually like to get out of the industry and express that they do not like it are not actually looking at getting out of the industry at that time. They are in a financial position or for some reason they are just unable to leave, generally due to finances at that time. We here at Project Respect support women whether they want to leave or not.

What I have found over the last seven years is that if you can help women with whatever the issue is—let us say for example it is a domestic violence issue that is happening for them—and you can support them through that and they can get away from that situation and get rehoused and settled, they will often then say, “I want to leave the industry now.” So it is often about whatever the problem is that is kind of keeping women there, and if that problem can be addressed they eventually say, “Hey, thanks for helping me with that and now I’d really like to start doing a course.”

It all happens in turn anyway, but we support women regardless. I support women who tell me that they find it empowering and they are quite happy. I do not say, “I don’t believe that.” I just say, “Hey, if that’s working for you, that’s great, what can I help you with?” But I think it is about fifty-fifty.

MS HUNTER: My next one was around whether you saw a distinction between prostitution as a form of violence and sex work as a form of employment. This is an issue that has come up. Obviously when you are reviewing and looking into the operation of the Prostitution Act it can bring up quite different views and opinions. So I am just wondering about that distinction between those two.

Ms Woods: I, and Project Respect as well, do not see it as viable employment. I guess a lot of that comes from feminist ideals around work, with a worker being valued in our society. If someone does not work, they are a bludger or whatever. So there is that whole idea around work, and we certainly do not see that women in prostitution are valued.

At the same time, I can understand that women in the industry would struggle to get their heads around that because in the sense of the word “working” as in putting some energy into something, it is very hard work. We in all our statements, our speaking and our written things will say “women in prostitution”, “women in the sex industry”, “women doing prostitution”. We do not refer to it as work because we do not think that it is valued.

Also, the way that it operates, which is what you are interested in, certainly is not like any other form of work. There is no occupational health and safety. I can tell you now

that half the brothels in Melbourne would be shut down if Workcare walked in tomorrow.

The women do not get super, there is no holiday pay and there is no sick pay because they supposedly work for themselves. But you have got brothel owners who are not acting as employers in that they have to pay sick pay and super et cetera, but they act as employers in saying, “You have to work an eight-hour shift, you have to be here at 10 o’clock, you have to finish at seven, you have to see every client who walks in the door.” It is a win-win for brothel owners.

THE CHAIR: Perhaps there is some scope for some research into sham contracting then.

Ms Woods: I just see it as a win-win. Brothel owners struggle with it; they say, “You can’t run it as a business because we’re not allowed to advertise for staff et cetera.” I am not saying all brothel owners; there are certainly some out there who will allow women to turn up at whatever time they want and leave at whatever time they want, within reason. If a woman starts turning up and being there for three hours and then leaving, they would probably tell her a week later there are no shifts available. But the majority are quite strict with that and I find that quite frustrating—the fact that there are none of the usual what you would call worker benefits for the women and yet they want to treat them like employees.

MS HUNTER: You just made the comment that if WorkCover or your equivalent down there, Worksafe, walked in half the brothels, they would be closed down. What role does your organisation play in that? Do you alert—

Ms Woods: Essentially, only if the women want us to do something. If I saw something that was particularly dangerous and I thought someone was going to be harmed, I might make a phone call myself. But we generally do what the women want us to do. I have written a couple of letters to WorkCover over the years where I have had women get together in a group when I have gone out to a brothel and ask me to write a letter and they have told me all of their complaints. But how much was done about it, I really do not know.

What I have been told in the past when I have looked into it—I think it was CAV that I asked a while back about a letter I sent in—is that they have said, “We often don’t know whether it’s just a disgruntled woman who has been sacked from a brothel and now she’s having a whinge.” So my understanding is that it is not really checked out.

THE CHAIR: What is CAV, Shirley?

Ms Woods: Consumer Affairs Victoria.

THE CHAIR: So they are responsible for health and safety?

Ms Woods: Yes, those kinds of things. It is a real mixed bag here in Victoria, which is a big part of the problem. The councils give the planning permits, the business licensing authority deals with the licensing and CAV deals with another part of it. This is one of the things we have always said is the problem and everybody passes the

buck.

THE CHAIR: And what is the role of the police?

Ms Woods: As you know, there is no vice squad anymore. My understanding of what they are looking at here in Victoria is wanting to involve the police a lot more, which I think could be a good and bad thing. Hopefully, it will be a good thing. But generally police do not go out to brothels unless they are called.

My experience of police in brothels has been quite positive. My understanding is that the police have perhaps better respect for women who are in legal brothels than those on the streets because they see that they are doing the right thing by working in a legal premises. So they tend to be pretty responsive when they are called. Generally, police are called when there is an issue with a client—a drunk client who has done something wrong or something like that.

THE CHAIR: Do police, for instance, have the powers or the remit to check for underage workers or to check for drugs in—

Ms Woods: Yes, they do. With the raids that they do here, I think it is a member from the police, which is generally the AFP, somebody from Immigration and somebody from CAV. This seems to be what they have been doing for about the last year consistently. So members of those three—the police, Consumer Affairs and Immigration—will all go out together and hit the brothel at the same time. They are all looking for different things in there for different reasons but they will hit it at the same time.

THE CHAIR: I see, and they are unannounced visits?

Ms Woods: That is right, yes. Well, that depends on whether the brothel owners have a tip-off or not. That happens a lot.

THE CHAIR: Project Respect first came to my attention through its work with trafficked women. You said that you work mainly in the legal system unless you get an explicit tip-off. In the seven years or so that you have been working there, how many trafficked women would you have come across?

Ms Woods: I have worked one-on-one and quite intensively with 10 or 11 women but I have met quite large numbers. I would have met a couple of hundred women that have been trafficked. It is difficult to explain but it is not always something that I can do anything about. I am often told by the police that I have to take a back seat and let them do their investigation because they do not want to catch the small fish; they want to do a thorough investigation and catch the big fish. So it is quite frustrating.

THE CHAIR: Have the changed visa arrangements that came about four or five years ago made a difference to your work because of the capacity of people—

Ms Woods: It has in the sense that there are brothels where there are trafficked women that I would not have a hope of getting into. I think what has been a good thing is the relationships that have been built through outreach with Australian women.

We have done quite a bit of work—we do a bi-monthly newsletter and at least twice a year we put an article in there relating to trafficking. It might be, “Would you know if you were working with a victim of trafficking?” We have really educated Australian women in the sex industry about what trafficking is and how to recognise it.

So the bulk of the information that I get now about where trafficked women are actually comes from Australian women who have stumbled across it by moving to a new brothel, which is great, and it is also a safer way because it is quite dangerous to be stumbling across trafficking, which used to happen to me a lot when I first started doing outreach, and then you kind of learn where it is happening. Of course, we go out in pairs or we avoid it altogether and pass the information on to the police.

THE CHAIR: On the subject of Australian women, what proportion of women that you are dealing with would be Australian women as opposed to foreign women?

Ms Woods: It depends on the area where I am doing outreach. Out in the Monash area, of the eight brothels out there, six of them all have Asian women, but then, for example, out in the western suburbs it is probably a little bit of a mix. I walk in and there might be eight women there; there could be five Australian women and three Asian. So it really depends on the particular area of the suburbs where I am doing outreach. I guess if you add them all up and you divide it, I would be working with more Australian women than I would Asian, but then if you asked Vicky it would be the opposite—because of the areas that she is in, she would be working with more Asian women.

THE CHAIR: And has there been a noticeable change in the ethnic mix of people that Project Respect deals with over time?

Ms Woods: Yes, there has. Initially, particularly with the trafficked women, we were only working with Thai women. We have now been working with three Malaysian women for quite some time. Of course, the trend in the last few years has been Korean women with trafficking. But that has been a lot harder for us to break into as well. It is just a little bit different culturally in the sense that they are quite afraid of social workers. Culturally, we have found it quite difficult.

The interesting thing was that we had a student here for six months from Korea and she was doing outreach. Of course, because she was a social worker, it was quite difficult and the women were not really engaging and she left after being here for six months. Within about a month of her leaving, we started getting phone calls here from Korean women who had finally got up the nerve to ring and say, “You have someone there who speaks Korean,” and it was too late. But it just shows how long it takes for them to build up that trust.

THE CHAIR: Are these women from the north or the south, or don’t you know?

Ms Woods: South.

THE CHAIR: I wanted to go back to a discussion of the sorts of programs that you offer. So there are exit programs for women who want to get out of prostitution and—

Ms Woods: No, we do not have an exit program anymore. We got some funding to run what we called a pathways program a couple of years ago and then we did not get continued funding. We put in a tender for the one that the government put up last year, or maybe it was at the end of the year before, and we did not get that. RhED got that, which is Resourcing Health and Education in the Sex Industry—another organisation here. They are part of Inner South Community Health. So we do not specifically do that. We do one-on-one work with women in regard to that. We have put in for funding again and we are looking at wanting to run something but at this stage we do not have funding.

THE CHAIR: So when you did have funding, what sort of programs were they?

Ms Woods: Initially we had four women who had been in the sex industry develop the program. For the first month or so we were talking with women about the skills they may have gained from being in the sex industry and how those skills could be transferable into other types of work. We let women talk about what kinds of guest speakers they would like to get in. We had a psychologist come in and talk about post-traumatic stress disorder. We had some people come in from the Fitzroy legal centre. We kind of let the women run it.

The part that was planned out was helping women work through. Women often talk about one of the biggest things as being living the lie. So not living the lie anymore and how to cover your tracks is one of their big concerns after leaving the industry—being recognised perhaps by a future employer. So working around those kinds of things—anything that is going to be of concern to women after getting out, essentially.

THE CHAIR: The work that you do now is a modified version of that because it is on a one-on-one basis?

Ms Woods: Yes, and it does depend on the women. Some women want you to help them set up studying online. Some of them actually want to go and do a TAFE course but they are not sure what to do. They are too afraid to go to an open day by themselves. A lot of it is just very practical and, of course, building their self-esteem, helping women realise that they are capable of doing these courses. I have spent a lot of time with a woman who was doing a social work degree, looking over her assignments for her because she was so unsure of herself all the time. Of course, she got great marks, but it was just the whole self-esteem thing.

THE CHAIR: So to what extent is self-esteem an issue for the people you are dealing with?

Ms Woods: Huge. Some women can gain what I call probably false self-esteem going into the industry and sometimes it can go the other way. If a woman goes into the industry with particularly low self-esteem and then a lot of men want to spend money and book her, it can give her a sense of “Oh well, maybe I’m not that bad because all these men want me.” That quickly wears off, but it can give a boost for the short term. If you get other women who are going in with low self-esteem and men do not want to stay with them and they do not make money, it absolutely destroys them because they base their whole self-worth on whether these men want to stay with them or not.

THE CHAIR: I was thinking about the work done by Mary Sullivan, for instance, that deals with what she says is the failure of legalised prostitution in Victoria. Do you and/or Project Respect share those views?

Ms Woods: Most definitely. I think her book was very true regarding exactly what is happening out there. Definitely, we would be on the same page with her.

THE CHAIR: Getting back to my initial question, I suppose—the question about the extent of illegal prostitution—do you have a feel for the size of the illegal industry compared to the legal industry in Victoria?

Ms Woods: Yes. I know that quite a few years ago now, maybe seven or eight, the police estimated that there were four times as many illegal brothels as there were legal. I would suggest that would be even more now because that was before the brothel licences went up. When they went up, they did not just go up by a couple of hundred dollars; I think when they increased the brothel owners' licences they increased them from something like \$500 to \$2,000 or something ridiculous like that.

THE CHAIR: Do you know what the licence fees are?

Ms Woods: No, I do not, off-hand.

THE CHAIR: We can do that research.

Ms Woods: Yes. I know that when the increase came it was not a small one; it was really big. There was a lot of talk from brothel owners then saying that all it was going to do was create more illegal brothels because people would not want to pay the licence fees. So I would suggest that there is some truth in that and that if police estimated back then four times as many, and that was 400, let us say, I would suggest it would be even more.

THE CHAIR: So there are roughly 100 legal brothels in Melbourne?

Ms Woods: Anywhere between 93 and 95 at any given time. There are always some shutting down and new ones opening.

THE CHAIR: Are they evenly spread or are there pockets in Melbourne?

Ms Woods: No, they are not really. In Yarra, for example, who were the first ones to ever give us funding, there are 16 brothels in the Yarra shire. In the Melbourne CBD, of course, there are a lot there, and then you get some shires that have only got one or two in their shire. So it is not a particularly even spread.

THE CHAIR: Do you know what the motivation is for giving planning approval and then saying, "We need outreach workers"? Does there seem to be a disconnect there at the council level?

Ms Woods: Their basic thing is really just providing the planning permit and all they are looking at is what they legally have to look at—whether everything fits with the environmental issues that go with that. It has to be a certain number of kilometres

away from a hospital and a school. I do not think they really look at any of the social or moral issues in regard to prostitution.

I think the reason that we ended up getting funding from them was that when Kathleen, who founded this organisation, started doing outreach off her own bat she was finding indicators. She was doing it around the Yarra area because that is where she lived and she found indicators of what she knew to be trafficking. After working in the Philippines for five years, she was quite familiar with this. I think initially she approached somebody at the council and said, “You’ve got trafficked women in your brothels in Yarra; what are you going to do about it?” Somebody there said, “We’ll give you some funding to do outreach and try and find out some more and help the women.” So that was how it all got started.

Of course we approached other councils and the only one that has done anything is Monash, who fund us one day a week. But if every council area that had a reasonable number of brothels in it would do the same, it would be great. Essentially, the councils do not see that they are responsible, I guess.

THE CHAIR: So they are just responsible for ticking off on the planning?

Ms Woods: Yes, for the planning and permit. I do not think they see their responsibility as being beyond that. They cite that they are under-resourced et cetera.

MS HUNTER: You have just mentioned that you support the work by Mary Sullivan around the failure of legalised prostitution. I am wondering what it is that you would support. Is it around the need to improve current legislation and so forth or is it your organisation’s view that we should be moving away from legalised prostitution?

Ms Woods: We advocate for the Swedish model—so addressing the demand, which does not really seem to be looked at a lot in Australia. That is what we advocate for, so for the women not to be punished and for the buyers of prostitution to be punished. Of course, with the Swedish model there is also a lot of support for women. They do not just make prostitution illegal, punish the clients and then not help the women. They have quite a good system set up to help women with housing, education and moving on.

THE CHAIR: You would see that as where you would like to see Victoria ending up?

Ms Woods: Yes, definitely.

THE CHAIR: Does Project Respect have any practical experience or have you observed the Nordic model in operation?

Ms Woods: No. We have had a student out here on placement who, of course, filled us in a lot. We get all the up-to-date research sent through to us all the time. But we have actually got an application in for me to go and spend three weeks with a Swedish organisation that works with women in prostitution next year. So that should be a really good insight.

THE CHAIR: What is the organisation?

Ms Woods: I have no idea. My boss has applied for it. All I had to do was give her my CV. She has done all the paperwork. I will find out when I go next year. But it should be an interesting experience. I would like to see first hand how it works there. From what I understand from different research that I have read, there is controversy as to whether it has worked or not. Anyway, I will find out when I go, I guess.

THE CHAIR: Thank you very much for your time. We have taken you over time.

Ms Woods: That is all right.

THE CHAIR: Thank you very much for your contribution. Is there anything that you feel that we have not covered that we need to cover before we close off?

Ms Woods: What are the main points that you are really wanting to look at, in a nutshell?

THE CHAIR: What we have been charged with doing is reviewing the legislation in the ACT which provides a structure for legalised prostitution, which is somewhat similar to the Victorian model.

Ms Woods: Yes.

THE CHAIR: So we are looking for a range of views about the effectiveness of that model and whether there are alternative models. You have probably covered those issues.

Ms Woods: Yes. I certainly would not be modelling anything off the Victorian one; that is for sure. The most recent one—and I do not know how well that is working either—in Australia would be Queensland. I know that they—

THE CHAIR: They are currently doing a review—

Ms Woods: Yes, because I think they modelled off ours but they made a few changes. My understanding from some women here in Victoria that I know that go and do prostitution in Queensland—I was told these particular women had to go into some centre and watch a video on how to put a condom on properly and stuff around safe sex before they were actually taken on in the brothel. So I think they have put a few things in place that we do not have here.

THE CHAIR: A sort of workplace induction?

Ms Woods: Yes, something like that. I do not have a full understanding of it, but I know when I was told about it I thought “Okay, that’s certainly different to what we do here.” I think for women going into the sex industry, if it is going to be legal, there does need to be something like that.

THE CHAIR: Yes, I take your point. Thank you very much for your time. When we get a proof version of *Hansard*, the committee secretary will send you a copy. If there

is anything that you are concerned about, could you raise that with the committee secretary before we finalise the *Hansard*.

Ms Woods: No problem.

THE CHAIR: Thank you very much for your time this morning, Shirley.

DAVID, MS FIONA, Visiting Fellow, Centre for International and Public Law, College of Law, Australian National University

THE CHAIR: Thank you, Ms David, for agreeing to attend today's public hearing. Are you familiar with the privilege statement?

Ms David: Yes, I am.

THE CHAIR: Do you understand the implications of needing to tell the truth and the like?

Ms David: Yes.

THE CHAIR: We also are aware that some of the issues that may be raised in these hearings can be quite sensitive and we have been open to hearing particular issues in camera.

Ms David: What is your guidance on hearing things in camera? What is your litmus test or your threshold?

THE CHAIR: I think the litmus test is if a witness says, "I think I need to tell you this in camera," then we can hear it, keep a record of it and then make a decision about whether or not the material should be published, which we would always do in consultation with the witness.

Your particular area of interest is in relation to the trafficking of persons; is that right?

Ms David: That is right. I am not at all an expert, as Shirley is, in the operation of the sex industry. I am really here just in that very narrow area of inquiry, as your inquiry relates to trafficking in persons.

THE CHAIR: In your submission you made a substantial point about the definition of what trafficking is. Through your research, where are we with being able to quantify the number of people who are trafficked generally into Australia and then, more specifically, trafficked for sex? I have just made the rookie mistake myself by presuming that anyone who is trafficked is trafficked from overseas. To what extent is there internal trafficking of vulnerable people as well?

Ms David: I should start by giving some context. When I first started working on trafficking issues, the very first work I ever did on it was in 1994 and that was as an intern with the Office for the Status of Women as it then was. My first professional work was in 1999, before there was a human trafficking protocol. At that time the AIC, the Australian Institute of Criminology, seconded me to what is now known as the UN Office on Drugs and Crime. I worked on a project in the Philippines, which was one of the first anti-trafficking projects in the world.

In terms of where our state of knowledge is, I have watched the position that we were at in 1999 versus where we are at today. We have much more information today than we did then. So that is a good thing. How much information do we have now? I would

say we have a very incomplete and partial picture. What we can say reliably is entirely based on the responses that we have in place. For example, since we have had criminal laws against trafficking we have had investigations, we have had prosecutions. We have documented information about those known cases.

What we do not have information about is that great unknown about how many cases are either not reported in the first place or they might be reported but they are completely not recognised as being a crime or a crime called trafficking, and then other cases where people are just in no situation to seek help at all. I would describe the great unknown as really the larger part—if this is our knowledge set, we know this much and the rest is the great unknown.

THE CHAIR: I seem to recall there was an inquiry by the Joint Committee on the National Crime Authority or some—

Ms David: In 2004?

THE CHAIR: In 2003-04, where they quantified the number of people trafficked at, I thought, about 3,000 people. Do we have any advance on our knowledge from 2003-04 about the quantum of people we are talking about?

Ms David: I really do not think we do. I often think it is a bit like the situation with domestic violence or sexual harassment. When these concepts were kind of new, 20 years ago or 30 years ago, people in the community were talking about the fact that there was this problem that people were being assaulted in their homes by their partners. But until we had the services in place, the police response, the prosecution response, we really had no idea of how big the problem was. We know there is a problem in Australia. We do not know how big it is.

THE CHAIR: From your work do you have any feeling for the extent to which the ACT is a player in the area of trafficking?

Ms David: In terms of trafficking in all of its forms, I am certainly aware of cases that have come out of the ACT. There is obviously the case that you would be aware of that has been reported in the media that involves allegations of sexual servitude, forced prostitution, bringing women in for a forced prostitution situation. But there are also other cases that you may not have heard about in the media that have involved domestic workers in embassy households, domestic workers, workers in other industries. In terms of how many cases versus other areas of Australia, I would say we are talking about very small numbers—under five.

THE CHAIR: From your now fairly lengthy experience in the area, you are talking about five documented cases?

Ms David: Five cases that people who have direct experience of working on those cases have told me about.

THE CHAIR: We have had brought to our attention the issue that there are recognised conduits for trafficking around the place—particular sorts of industries that attract a range of people to work in the industry and who may be brought in from

overseas, and that that might be a conduit for moving those people from that particular industry or occupation into sex. One of the issues was a range of beauty parlours that have become more prominent in Australia generally. Are you aware of the beauty parlour/nail salon as a conduit for people being brought into the country who may end up working in brothels?

Ms David: I do not have any direct knowledge of it, no.

THE CHAIR: You heard the evidence of Ms Woods from Project Respect. From your research and the work that you have done, do you see that there is a particular model of policing prostitution that is more effective at highlighting areas of crime when we are talking about trafficking or that might afford better protections for people? Ms Woods was saying there are legal brothels in Victoria but it is estimated that there are four times as many illegal brothels that they cannot get access to. Do you see that that is a problem and that there may be better ways of addressing prostitution so that you can protect vulnerable people or the trafficked people?

Ms David: As somebody who thinks about trafficking in persons, I tend to think about trafficking in any industry or sector. Of course, the cases I see, as I have mentioned, do involve domestic workers, construction workers or even chefs in restaurants. So I tend to think about what is a framework for addressing trafficking across any sector in which it may happen.

Having read many case transcripts over a number of years and having interviewed many police, prosecutors and so on, the criminological model that I find most useful is one that comes out of writing on organised crime. It talks about the conjunction of criminal opportunity—a nice, fancy term. Effectively, it means looking at three factors. Is there a capable and motivated offender and what can you do about that? Is there a suitable target, otherwise known as a victim? What can you do about that? And the third thing is looking at your guardians or your oversight. What can you do about that? They are your three levers. What levers have you got to address this issue of a motivated and capable offender? What levers have you got to address risk and vulnerability of victims? What levers have you got for oversight?

Thinking about those three factors, something I thought about when Shirley was talking about outreach in the sex industry is that that is essentially a form of guardianship or capable oversight—having people out there in the industry who are going out to workplaces, talking to people, finding out what is going on, being a direct link to support and assistance.

Police are obviously another form of capable guardianship and oversight. Occupational health and safety—I think Shirley mentioned this. I do not actually know anything about this but certainly the lack of oversight of occupational health and safety is an issue across all industries.

In terms of individual vulnerability of victims, what I found in the research I have done is that vulnerability tends to reflect a complex range of factors. It can be everything from your migration status to the level of your debt. For example, if you have paid \$30,000 for the opportunity to come and work in Australia, you are in a very different situation from someone who has just come here, having paid the price

of your air ticket. It can be that you have a sick child back in your home country. Your mother has asked you to do this because your father is sick. There is a whole range of factors that impact on vulnerability. The more they stack up, the worse the situation is, the more likely the offender is to have something over you.

In terms of thinking about policy responses and legal responses, how can you assist people to address their vulnerability as much as possible? For me personally, I have a different opinion to Shirley. I tend to think that one of the ways to address vulnerability is to have situations in workplaces where people can come and go without fear of, for example, their clients being arrested or themselves being arrested, irrespective of what that model is, whatever name you want to give it.

The thing that I have noticed, for example, around the research on trafficking in women for sexual purposes in Australia is that sometimes we have had clients come forward as the key informants in trafficking cases. We have also had women themselves fronting up to police stations and seeking help. So there are two ways there that you have got people seeking help, and I think it is important to bear both of those in mind.

THE CHAIR: The other part is the sort of willing perpetrator. What do you see as the levers there that might create a disincentive for that?

Ms David: That is a good question.

THE CHAIR: I suppose what I am leading to is that if there is not a market for the trafficked person, for whatever reason that would be, one of the disincentives is that if you cannot sell a product, why bother? Or if it is difficult to sell a product, there are risks associated with it.

Ms David: I think the perpetrator angle is a really interesting one. That is one that I am doing some research on at the moment. One of the things with the perpetrators that has been known about in the Australian context is that they are really diverse. We are talking about mums and dads in Far North Queensland who come up with this plan to bring in a domestic worker from the Philippines, literally in a mining town way out west, versus Korean fairly organised groups of people who have the capacity to launder proceeds of crime. So we are really talking about chalk and cheese in terms of different types of perpetrators.

In terms of that issue of market, if you cannot sell a product, sometimes in the trafficking crimes that I have read the evidence about, often it is about power, as much as it is about just cold, hard cash. For example, if you take the situation of the Kovacs case in Far North Queensland in Weipa, where the domestic worker was brought in, she was, in a sense, brought in as much as a sort of a sex slave of the man who was the man of the household as she was a domestic worker. I do not think that can be equated just to simple economics—how much money they saved by bringing her in. He also got to rape her every day. It is more than just an economics consideration. It is also about power, inequality, imbalances of power. So I think in offending, anything that affects that balance of power is where we should be looking.

THE CHAIR: So you see it more as a power relationship than a commercial venture?

Ms David: Yes. The other thing you see in some documented cases is, for example, someone from a high caste and a low caste ethnic background, where the employer is a relatively powerful person in the community—not necessarily objectively but just relative to this other person who is fairly low down in the pecking order, whether that is for family reasons, financial reasons, caste reasons. Again it is about that power imbalance.

MS HUNTER: I want to go back to the issue of definition. In your submission you note that there can often be confusion about the definition of trafficking and it becomes combined or conflated with prostitution. Can you elaborate on why it is important to avoid this confusion and what impact that confusion might have on the debate around prostitution laws?

Ms David: Sure. The first question was: why is it important to make that distinction? I think it is important to make that distinction because there is so much research and writing on this subject that we need to be sure we are actually talking about the same thing. Are we talking about apples or are we talking about oranges?

If you read the trafficking research, you very often find it is very difficult to work out how they are actually defining trafficking in persons. You get an idea that maybe they are not quite understanding this the same way as me, but they are not always explicit about how they are interpreting that idea.

For example, some people interpret trafficking in persons as if all forms of prostitution are exploitation. If people want to take that interpretation and they are willing to, I think they should be up front about that and be very explicit about that, because that is different to how I interpret it, and I want to know that when I am reading the research.

The reason why that is so significant is because people make findings. For example, if your definition of trafficking is that any movement of people for the purposes of prostitution equals trafficking then your research results about increases or decreases in trafficking are going to be about increases or decreases in the number of people in prostitution. Whereas for me, I would be looking at increases or decreases in the number of people in a slavery-like situation in prostitution, which is a very different category of people. Does that answer your question?

MS HUNTER: Yes, that is great. You also outlined the complexities involved with trafficking. I guess you have touched on this. Let me know if you feel you have already answered it. It was around adopting a measure such as the increase and decrease. You were saying that it is an unreliable measure. Could you elaborate on that a bit more? You probably did touch on it just then, but is there any more that you can give us around how you would measure things? You do say it is very difficult; there is a lot of information we do not have. Do you have any more thoughts on measurements in increases and decreases and so forth?

Ms David: In one of the other projects that I work on, the Asia Regional Trafficking in Persons Project, which is an AusAID funded project, I am the research manager for that project and we have quite a complex monitoring and evaluation framework for

how we look at change over time in anti-trafficking in South-East Asia, because that project covers 10 countries in South-East Asia. We do not use increases or decreases in the size of the trafficking problem as an indicator of change. First of all, there is not enough information to make any assessment of the baseline and there is not enough information to assess whether or not it is going up or down. So we have a much more complex set of indicators, which are things like looking at the quality of investigations, looking at the quality of prosecutions, looking at the individual treatment of victims of trafficking, how are they being actually treated as they move through the criminal justice or other system. That gives us indications of how effective our criminal justice response is. It does not tell us whether the trafficking problem is going up or down.

THE CHAIR: Because you do not know—

Ms David: We do not know.

THE CHAIR: how much is out there in the unknown bit?

Ms David: Yes. So how can you measure change?

THE CHAIR: Detection is not necessarily a sufficient indicator?

Ms David: I do not think so at this stage. Maybe in 10 years time, after we have been keeping records for 15 years, we might be able to start looking at trends over time. We are not there yet.

THE CHAIR: How do you see the criminal justice system in Australia working for trafficked persons? There were changes to visa requirements, because at one stage if you were found trafficked you were just deported. In about 2005 or 2007—I cannot remember exactly when—there were changes to visas so that people could stay if they were giving evidence against a trafficker. Does that make things better and is there scope for improvement in that model as well?

Ms David: Gosh, that is a big question.

THE CHAIR: Sorry, it is probably a leading question.

Ms David: It is a very big question. Obviously there have been a lot of changes over time in the anti-trafficking response. One of the really significant features has been the visas for people who are participating in criminal justice processes. There are many people who are far better equipped and qualified than me to comment on how that actually operates on a daily level with people who are on those visa categories. But I will just note that I have heard from people that those visas are very significant and important to people.

One of the big areas of positive shift that I think has happened in the last few years is increasing recognition of the fact that trafficking happens outside of the sex industry. Trafficking does happen in embassy households, and in domestic households, and until we start actually looking for it and knowing what we are looking for, we are not going to find it. And until we start doing that we are going to have these skewed statistics that focus on one particular sector when we have not looked at all of these

other sectors before.

MS HUNTER: In your submission you talk about the importance of being mindful of the political debate on prostitution as a form of violence or sex work as a form of employment, and that this has an impact on the research. I know in your submission you did say that sometimes what is put out there as research is more akin to political commentary that relies on arguments rather than evidence. Are you able to elaborate on that and give some examples?

Ms David: Sure. Another project that I am working on at the moment is a systemic literature review of everything that has ever been written from a research-informed perspective about migrant smuggling and people trafficking in 14 countries in Asia. One of the first things we are doing with every study that we look at is looking at whether it is based on primary research or not. If it is not based on primary research, it is out. That tends to be increasingly just my litmus test.

If people have actually had a clear research methodology, a clear research question, if they have gone out and developed some way of getting primary evidence from the source that helps to answer those questions, then to my mind that is research. Obviously political commentary is important. Great; let us have it. But it is different from people going out and interviewing people to find out about their perspectives and gathering information in a systematic way, as opposed to presenting a point of view.

THE CHAIR: How far are you into this meta research and how many research studies are you looking at?

Ms David: That identified something like 850 sources originally; that is our database. From that we have narrowed it down. We have very specific categories that we are looking at. We have now got a set of about 150 sources. Bear in mind that that covers 14 countries, everywhere from China to India to Indonesia.

THE CHAIR: So you are interested in South-East Asia?

Ms David: And East and South Asia.

THE CHAIR: Asia, yes. How far are you advanced in that work?

Ms David: That project is wrapping up at the moment.

THE CHAIR: When is your publication date, roughly?

Ms David: That report will be submitted probably next month. In terms of publication, I would say it would be another five or six months after that.

THE CHAIR: So beyond our remit.

Ms David: You might be interested to have a look at the work by Elzbieta Gozdziaik and Micah Bump, who are at Georgetown University. They did a systematic literature review funded by the National Institute of Justice in the United States, doing exactly

what I have just described. They looked at, “Okay, so we’ve got a thousand publications on trafficking, how many of them are peer reviewed, how many of them are based on primary information, how many of them are based on ethnographic research versus quantitative research versus expert interviews?” I would recommend that as a great publication.

THE CHAIR: So if Brian talks to you, we can get a reference—

Ms David: I will send you a copy.

THE CHAIR: That would be great. One of the things that I also have come across, and I am not quite sure whether this is in your area of expertise, is that there seems to be increasing awareness, in the United States at least, of intra jurisdictional trafficking, usually of underage people, in the sex area. I was wondering whether this is something that you have come across and whether there is much evidence of this happening in Australia.

Ms David: I am actually doing a literature review on this at the moment. In terms of what we know in Australia, I will have a publication forthcoming on this in coming months. There is not a lot of information at the moment. One of the issues with this idea of domestic trafficking is that it really overlaps with other better known crime types such as child sex offences, abuse of children. For example, the horrible case in Tasmania with the 12-year-old girl: would you describe that as trafficking or would you describe that as prostitution of a minor?

THE CHAIR: So it is somewhat hard to—

Ms David: It is hard to actually know.

THE CHAIR: It is interesting because the definition that you quote does not necessarily require the physical movement of someone from place to place. It is not just that; it can be that they are held in a slave-like situation or they are constrained in their movements in some way.

Ms David: That is right.

THE CHAIR: It actually requires some sort of thinking about, because most people would assume that trafficking has an active movement from place to place about it, but that may not necessarily be the case.

Ms David: No. And it is also not necessarily the case under the Australian laws either. The Australian laws on domestic trafficking are quite complex. They talk about movement from one place in Australia to another. If you look at the jurisdictional requirements, if you are in a territory such as the ACT, that can mean within a territory, because the commonwealth have the territories power so they can legislate for that, whereas if you are in New South Wales it has to either be across state borders, reflecting the constitutional head of power, or involve some other constitutional power like a corporation. So the Australian laws on domestic trafficking are also quite complicated.

THE CHAIR: We might need some clarification of that. That may not be within our remit. Is there anything that you think that we have not covered?

Ms David: Sure. I did actually bring a document for you. It is a chapter which Brian may have already found. It is chapter 1 from Anne Gallagher's recent book on the international law of human trafficking. I brought along a photocopy for you, if you would like it, because it is an expensive book. I also have some copies of some recent reports that we have done on trafficking, and including for sexual purposes, if you would like a copy.

THE CHAIR: Yes, that would be very handy. It adds to our literature search and makes sure that we are covering the field as much as possible.

Ms David: All right, so I will just give those to Brian?

THE CHAIR: That would be great. Thank you very much for your attendance today. There will be a proof version of *Hansard* that will be sent to you, and if there is anything that you feel needs to be clarified, we can deal with that.

Ms David: Great, thank you.

THE CHAIR: Thank you very much for your attendance.

PATTEN, MS FIONA, Executive Officer, Eros Association

THE CHAIR: Good morning, Ms Patten, and welcome to the public hearing of the Standing Committee on Justice and Community Safety inquiry into the operation of the Prostitution Act. Are you familiar with—

Ms Patten: Yes, I have just had a quick read of it.

THE CHAIR: Do you understand the implications of the privilege statement?

Ms Patten: Yes, I do.

THE CHAIR: Thank you. Could you give us some brief background on what brings you here today?

Ms Patten: Sure. We put in a submission to this inquiry as the association. I personally have been involved with the adult industry in the ACT specifically since about 1990, so I have seen the transition from prior to the legislation being enacted, to it being enacted, to now seeing the effects of it, I suppose, nearly 20 years later. I think that was the basis of our submission. Fundamentally, the legislation has been pretty effective and pretty successful but now, 20 years on, there are probably some changes that would reflect where we are in 2011.

THE CHAIR: How would you summarise the Eros Association's submission?

Ms Patten: I would actually summarise it, having looked quickly through it this morning, by saying that it is about professionalism and privacy. Privacy was one of the major issues that we found within the legislation, and that was the privacy of information provided to the government by sex workers and by operators, but also the privacy of information that the legislation requires sex workers to provide to brothel operators themselves—and probably the need, or lack thereof, of those records being maintained and kept, either for long periods of time or even being kept at all. For example, in a brothel where proof of age information is maintained on record, we would suggest that that type of information does not need to be maintained. The industry largely has operated well within the legislation and maybe there are areas where the legislation could be relaxed—for example, in prescribed areas of operation and the ability for individual sex workers to work in pairs.

THE CHAIR: One of the fundamental differences that we see in the sort of evidence that has come before the committee is that there are essentially two classes of submission, in a way. One, which you have summarised there, is that the system is working, we need to tweak particular areas and that overall the system works. The other class of submission we have received is that prostitution is essentially an exploitative industry, exploitative mainly of women, and that we should have a fresh approach to how we deal with this in our society. There seems to be to some extent not much interaction between those two positions.

Ms Patten: No.

THE CHAIR: Do you, through your long experience in working in and around the

adult industry, the sex industry in the ACT, give any credence to the notion that to some extent the sex industry is exploitative of mainly women?

Ms Patten: No, I do not. Probably prior to legislation, when brothels were illegal, the opportunity for exploitation was probably far greater. Now that we have a legal system and there is legal recourse through discrimination legislation in the ACT, I have actually seen, if anything, that improve, and I do not believe that fundamentally providing a commercial sexual service is exploitative at all.

THE CHAIR: We heard evidence earlier today from an outreach worker from Project Respect that in her experience about 10 per cent of the people that she came across were not troubled by being in the industry or did not have a collection of problems—domestic violence, alcohol, drug abuse and issues of self-esteem. By inference I suppose she was saying that 90 per cent of women that she was dealing with in the legal sex industry in Victoria had a range of problems of that order. Do you see that the ACT is different in some way from Victoria—that everyone is well adjusted and happy?

Ms Patten: I do not think anyone could say that in any industry, be it politicians or sex workers, they are all well adjusted and happy. I have certainly not seen those statistics. Certainly when I look at things like Scarlet Alliance figures or other outreach worker figures, and from my own personal experience as an outreach worker, albeit some years ago, I would not have said that the figure was around 10 per cent. I would have said it was around whatever the national average is on the happiness scale. Certainly there are people in this industry who have come from dysfunctional backgrounds, who have experienced drug abuse or family violence. But I would say that, certainly from the reports and information that I have received, it is no greater in our industry.

One of the things I used to find when I did outreach was that when you have a group of women sitting in the women's room, you will find that a lot more conversation occurs. So maybe for Project Respect—I am not sure whether they are sex workers or whether it is a peer education project—that conversation occurs. Certainly I do not think there is any evidence to say that sex workers have greater levels of sexual violence or history of those experiences.

MS HUNTER: I want to go to the submission. You suggest at point 10, and you touched on this before around the ID information not being stored, that it could be sighted and then destroyed or got rid of.

Ms Patten: Yes.

MS HUNTER: The AIDS Action Council have proposed something similar but it is on slightly different lines. They prefer that there be no defence to the crime of having a child working as a sex worker. So there would be no defence that the owner had sighted an ID that turned out to be false. Do you have any thoughts on that?

Ms Patten: I would tend to be supportive of that position, although, if one is taking the greatest lengths, certainly you see in the alcohol industry that great lengths can be taken to ensure that you have no underage drinkers in your establishment but that can

occur. I think there should be very little defence for it and that the onus should be on brothel operators to ensure that they only employ over 18s.

That kind of leads to a second area, which is about professional development information for brothel operators, which really does not happen in the ACT. There is no professional industry association for them.

THE CHAIR: I think there used to be, wasn't there?

Ms Patten: There have been attempts. Certainly in other states there is, where there is a larger industry. But in the ACT, where it is a very small industry, the ability for them to have a professional association is difficult and limited—also limited by the fact that, due to still a lot of the stigma around this industry, they are not terribly open about their careers and their career paths. But I think the industry would benefit greatly from some professional development in that area, whether it is on ensuring that you are only employing people over the age of 18 or on people that can legally work in the ACT.

THE CHAIR: On an associated issue, and something that has come up a lot, when the Chief Police Officer was here—and it was reflected today in the evidence from Project Respect in Victoria—while Project Respect said that Victoria Police had quantified at one stage the illegal industry in Victoria as being four times the legal industry, the Chief Police Officer said, “We know that there's an illegal industry but we can't quantify it.” Given your experience in the area, do you have a feel for the extent of the illegal industry?

Ms Patten: It is a matter of defining what the illegal industry is. In Victoria a sex worker who works privately but does not register for an exemption number is an illegal worker and is part of the illegal side of the industry. I think for a lot of people when they think of illegal brothels and the illegal industry, they are thinking of straw mats, bare bulbs and women shackled. It could very often be a sex worker who works independently or who works with a colleague, and in the ACT that would deem them to be working illegally. And the same would be the case in Victoria.

Certainly in my experience there are illegal brothels, and in Victoria specifically, and that is also due to their incredibly stringent licensing and the regulatory model that makes it very difficult to establish a legal brothel. In the ACT we avoided that in 1992. We decided that it would be a much more inclusive type of regulation, that we would make it as easy as possible for people to work within the legislation. I think that has largely been successful.

I would say the illegal operators here are generally individuals working quite often transiently in the ACT. They will come in, pop an ad in the *Canberra Times* or on Gumtree or whatever advertising network they are using, and operate without registering. That would deem them to be operating illegally in the ACT.

THE CHAIR: Do you have a feel for how big that illegal sector is compared to the legal sector?

Ms Patten: Ten years ago I would have said that on any one night in the ACT there

were about 150 sex workers working. I would imagine 40 to 50 of those would be working independently. Out of that range I have no idea how many have registered to operate and how many have not. You then question why an individual sex worker needs to register with the ACT government anyway.

THE CHAIR: The evidence that the Chief Police Officer gave to us was that registration would make it easier for the police to identify those people who were not working within the legal structure—

Ms Patten: But the only structure is that they have registered.

THE CHAIR: And what are the problems that you see with registering?

Ms Patten: I question its need. We now define an illegal sex worker as someone who did not register. I question: do sex workers really need to register? One of the initial reasons for the registration was to enable health and safety information to be passed on to sex workers, whether they were working independently or working within brothels. That was seen as the reason for the registration. So if a new pamphlet on STIs was brought out, we would have an address to send to the sex worker. I wonder in 2011 whether there are just as effective ways of getting out to that part of the industry that does not require registration.

THE CHAIR: So you are saying that you do not see the need; why don't you see the need?

Ms Patten: I cannot see any benefit in it. All I can see is that it creates a system—most sex workers who come in to this industry do not plan to make a career out of it. There will be some who have chosen it as a career path. Most will choose it as something that they do to get themselves through university or something that you do to pay a few bills. Most sex workers, when they enter the industry, will say, "I'm here for six months." I think these days the average is two years that a sex worker will stay in the industry.

They are fearful that if that information is on their permanent record, when they apply for a job with Foreign Affairs or when they apply for a visa to go and work in Thailand for the United Nations, that information may become public. So it means that they do not want to register, which then, all of a sudden, puts them working in an illegal situation, which probably makes them more vulnerable to having something on their permanent record. I question the need for registering individual sex workers at that level. We do not register individual gardeners.

THE CHAIR: But we do register a whole lot of other occupations.

Ms Patten: Yes, but if you are a gardener, or if you are a hairdresser, or if you are a beautician, and you are an independent operator, you are not required by law to register with the ACT government, or with fair trading. You have requirements for tax purposes and the like, and I see sex work as being no different. Certainly they would be required to have ABNs, pay GST and operate within those structures.

THE CHAIR: One of the issues that has come up, and it was discussed this morning

with the worker from Project Respect, was the issue of exit programs. Given the Eros Association's long association with the sex industry in the ACT in particular, are you aware of a demand, for people who want to get out of the industry, for assistance for people? It has been said by one of the submitters—I can't now remember which one—that they did not see a need for exit programs. I was just wondering what the Eros Association's view was about the need and, if you did see a need for it, what might be involved in an exit program.

Ms Patten: I must say it has been years since I have thought about exit programs. In Victoria and Queensland, there is actually within the legislation a requirement for government to fund exit programs. I am not aware of any of them being effective. I am not actually aware of anyone even undertaking them.

I certainly think providing support for sex workers works towards having an exit program. I have not given it a lot of thought but I can't see much of a need for that, as long as, if they want to keep the fact that they have been a sex worker private, they do not feel vulnerable that somehow their experience as a sex worker and working as a sex worker will come back to bite them when they leave the industry.

Certainly, with respect to sex worker outreach projects like SWOP, or in my day WISE, one of the very holistic approaches that we took to those projects was looking at income management, looking at five-year plans. So if that happens while they are in the industry, that prepares them for exiting it. But I do not think we need anything specific.

MS HUNTER: We have had, as you would understand, some quite different views on the matter around prostitution and looking at this legislation. There have been a number of submissions that have put forward that the Swedish model is the way that we should be going here in the ACT. Could you give us some thoughts on that model because we have also had some evidence given that in fact it sent sex work over the border into, say, Norway, it has meant unsafe conditions for workers; so it has basically driven things underground.

Ms Patten: It has entirely driven things underground and there is no doubt that there is greater violence against sex workers when one-half of the equation is criminalised. This notion of decriminalising the sex worker but criminalising the client is senseless. It makes no sense to have a criminal side and a non-criminal side of a commercial transaction. Certainly Petra Ostergren, who I know we have quoted, and other people may have quoted her research, has researched the Swedish sex industry over many years and has seen an increase in violence, and has seen an increase in STIs as well, because sex workers now are fearful of being able to present.

Also, for sex workers now, the violence against them has increased because it is far harder for them to check out a client because they are having to work in a very darkened street sort of way. Working in a safe place, bringing clients back to a safe place, is nearly impossible because the client fears police activity. So I would say it has been a resounding disaster.

I can think of a small anecdote. I was in New York just after Mayor Giuliani had done the big clean-up of New York. I was talking to one of the sex worker rights projects

and saying, “Well, where are all the sex workers?” There used to be quite big street work in New York. They said, “They’re still there but they’re just in back alleys, they’re in much more shadowed areas; you will still see sex workers.” Once I kind of got my eye in, you could see sex workers but they were working far less openly.

I got back to Sydney and I was walking down Darlinghurst Road. A woman came up to me. I had seen her a number of times. She worked on the street there and I was living up there. She came up to me and she said, “I see you walking around here quite a lot,” and I said, “Yes, I see you.” She said, “We’ve just been handed this information.” It was about a rapist in the area and it had been handed to all the sex workers—an “ugly mug” thing. She said, “You’re a single woman, I thought it was important that you should have this information as well.” I thought it was amazing that in a legal system this woman was not frightened to come and talk to me and to provide me with information about a risk. But in New York, because of the criminalisation, all of the sex workers are hidden and that kind of safety could never be expressed—and Sweden similarly.

MS HUNTER: My understanding is that the Swedish model came into operation because it was around trying to tackle street prostitution; that was the issue that it was focused on. In the ACT where is our street prostitution? Do we have it?

Ms Patten: It is a bit cold, really. In all honesty, we have not—

THE CHAIR: It probably is in Stockholm too.

Ms Patten: Yes, that is absolutely true. We have never had a real street prostitution culture in the ACT, ever. Any street prostitution that has been reported has been largely opportunistic work and would be largely, I would say, related back to the drug industry and would relate back to underage sex work as well—girls under the age of 18 who are drug addicted. That is the only evidence that I have seen of street prostitution in the ACT. So that is much more about a drug addiction, and the fact that they cannot work in a brothel because they are not over 18.

MS HUNTER: You also in your submission talk about inspection rights. I am just wondering if you have some thoughts on the current powers of police to enter premises and how they exercise them.

Ms Patten: I am not sure if the Scarlet Alliance has given evidence, but certainly in one of the studies that they are doing, they are finding that a lot of sex workers are more stressed out by the number of people walking into their workplace. It is the police inspecting, it is health and safety inspecting, it is the latest research body from ANU coming in to talk—it is a whole range. There is almost an inspection fatigue in brothels.

I think police should have the right to inspect in brothels, in the same way that they have the right to inspect any business. I do not think that we need special regulations and legislation for this industry. And when you look at the incidents in brothels over the last 20 years, you would have to say that they are pretty low. The levels of violence are extremely low. We had that very tragic episode of that woman overdosing in a brothel, at Exotic Studios, a number of years ago, but largely this

industry has operated without real incident.

MS HUNTER: The police are saying that they need expanded powers of entry because they cannot get from the sex workers or the brothel owners enough information to be able to then get a warrant to come in and investigate whatever the issue is. But you are still feeling that that is—

Ms Patten: I was working as an outreach worker in the ACT for nearly five years, going in and speaking. I had right of entry—well, I did not, but I entered every brothel every week in the ACT and I spoke to every sex worker on that shift and every receptionist on those shifts. I would spend a lot of time in there. I was not aware of there being any great incidents that would require the police to investigate. So I am not quite sure what they want to investigate and what they are uncertain of.

I would have thought that their powers were quite adequate. If they want to start doing police checks on brothel operators before opening, before establishing a brothel, maybe there is some merit in having greater scrutiny of operators applying for registration. I would bow to the Victoria Police to see if that has actually been more effective—having a greater scrutiny of operators.

MS HUNTER: I am not sure if you do have up-to-date knowledge of brothel owners across the ACT, but if you do, how would you generally describe the owners of the establishments?

Ms Patten: I used to describe them as lemmings, but that was mainly because running a brothel is an extremely difficult job. You are completely reliant on sex workers who are not being paid to come to work; they are being paid if they get work when they are at work. So your whole business model is reliant on somebody else. And then you are reliant on the fact that clients will turn up that night.

It is a really difficult business model, and a lot of people are not successful. I used to see public servant after public servant think, “I know what I’m going to do with my superannuation; I’m going to buy a brothel.” And they would buy in to a brothel and they would think it was just a licence to print money and then, six months later, they would realise that it was not and they would jump out and the next one would come back in.

I only know a few operators in the ACT these days and those are the ones who actually have been in the business for a number of years and have worked out how to make it work. I think long-term business operators in this industry are generally very good because they have to be; they cannot try and operate in a sneaky or underhand way because it just does not work in this industry.

THE CHAIR: So you are saying that there has been a large turnover of brothel owners?

Ms Patten: There was, and that was in the lead-up to the legislation, and that was in the lead-up probably to 1990, probably until about 1995. The industry certainly has not grown since the decriminalisation of it. If anything, I think the number of brothels has probably decreased in the ACT over the last 20 years. I think it has actually

reached a relatively stable level. I suspect probably half the operators have been in it for a long time and the other half are relatively new.

Again, I would probably go back to having some sort of professional development for the brothel industry. It is something that we talk about—information and education for sex workers. That has been very important, and I think looking at the levels of STIs and certainly HIV as factors shows the success of that, and peer education and the very holistic view that governments have taken towards health information for sex workers.

On the other hand this legislation, while we would like to see it called the “sex work act” rather than the Prostitution Act, actually largely pertains to brothel operators rather than sex workers themselves. So whether the government should be looking at professional development and even just a central person for brothels to speak to, might be worth thinking about.

MS HUNTER: Another issue you raised in your submission was around locations for sexual services.

Ms Patten: Yes.

MS HUNTER: Traditionally we have had them in Fyshwick, Mitchell and those sort of areas.

Ms Patten: Yes.

MS HUNTER: And you are putting forward a case that they should be allowed in Woden, Canberra City, other commercial areas?

Ms Patten: Yes.

MS HUNTER: Can you talk a little bit about that?

Ms Patten: I put this forward in 1992 as well, that we could see no reason why you would prescribe and restrict commercial sexual services to industrial areas. The only reason that the government could give us at the time was “That’s where we put the sale of X-rated films so that’s where we’ll put the sale of actual sex.” So I think it was a fairly random decision at the time. And police had started containing brothels in certain areas as well prior to legalisation.

Industrial areas are not set up for after-hours business. There is very little public transport, there is inadequate lighting, they are not an area that is set up for the hours of business that commercial sexual businesses operate within. So I would see it making more sense for them to be in commercial areas where, for the employees, the clients and the employers, there is a larger range of services, be it public transport, lighting, food et cetera.

THE CHAIR: Thank you very much, Ms Patten.

Ms Patten: Thanks.

THE CHAIR: Before we conclude is there anything that we have not covered that you feel should be covered?

Ms Patten: Just to reiterate, the word “prostitution” for our industry is becoming a little bit archaic. We actually use the term “sex work” for this industry. And I think that this legislation could and should reflect that change in terminology. Also I reiterate the fact that, with the records that are kept by the ACT government, and by brothel operators as well, we need to really seriously consider why we are keeping that information. And if we do not need to keep it, we should not be keeping it. That was all.

THE CHAIR: Thank you very much for your time. There will be a proof version of *Hansard* that will go to you for you to review. Thank you very much.

Ms Patten: Thanks.

THE CHAIR: That concludes the public hearing today. The committee is going to go into a private meeting, so we ask members of the public to clear the gallery.

Evidence was then taken in camera.

Public hearing concluded at 12.13 pm.