
APPENDIX D: SEXUALLY ORIENTED BUSINESS DEFINITIONS

CABARET OR THEATER, SEXUALLY ORIENTED – a building or portion of a building which provides or allows the provision of sexually oriented entertainment to its customers or which holds itself out to the public as an establishment where sexually oriented entertainment is available. Signs, advertisements or an establishment name including verbal or pictorial allusions to sexual stimulation or gratification or by references to “adult entertainment,” “strippers,” “showgirls,” “exotic dancers,” “gentleman’s club,” “XXX” or similar terms, shall be considered evidence that an establishment holds itself out to the public as an establishment where sexually oriented entertainment is available.

ENCOUNTER CENTER, SEXUALLY ORIENTED – a business or enterprise that, as one of its principal purposes, offers: physical contact between two or more persons when one or more of the persons is in a state of nudity or semi-nudity.

ENTERTAINER, SEXUALLY ORIENTED – any person paid as an employee, contractor, subcontractor, or agent of the operator of a cabaret who frequently appears in a state of nudity or semi-nudity.

ENTERTAINMENT, SEXUALLY ORIENTED – any of the following activities, when performed by a sexually oriented entertainer at a sexually oriented business that is required to be licensed: dancing, singing, talking, modeling (including lingerie or photographic), gymnastics, acting, other forms of performing, or individual conversations with customers for which some type of remuneration is received.

EXPLICIT SEXUAL MATERIAL – any pictorial or three dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of post-pubertal human genitals; provided, however, that works of art or material of anthropological significance shall not be deemed to fall within the foregoing definition.

MASSAGE – touching, stroking, kneading, stretching, friction, percussion, and vibration, and includes holding, positioning, causing movement of the soft tissues and applying manual touch and pressure to the body (excluding an osseous tissue manipulation or adjustment).

MASSAGE PARLOR – any business offering massages that is operated by a person who is not a state licensed “massage therapist” or that provides massages by persons who are not state licensed massage therapists.

MASSAGE THERAPY – the profession in which a certified massage therapist applies massage techniques with the intent of positively affecting the health and well being of the client.

MASSAGE THERAPIST – a person licensed as a massage therapist in accordance with the provisions of Texas State Statutes.

MEDIA – anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, CD-ROMS, DVDs, other magnetic media, and undeveloped pictures.

MEDIA, SEXUALLY ORIENTED – magazines, books, videotapes, movies, slides, CDs, DVDs or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas.”

MEDIA STORE WITH SOME SEXUALLY ORIENTED MEDIA – a retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area. [A different percentage may be used when adopting this definition for a specific jurisdiction.]

MEDIA STORE, SEXUALLY ORIENTED – an establishment that rents and/or sells sexually oriented media, and that meets any of the following three tests: [A different percentage may be used when adopting this definition for a specific jurisdiction.]

- More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or
- More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
- It advertises or holds itself out in any forum as a “XXX,” “adult” or “sex” business, or otherwise as a sexually oriented business, other than sexually oriented media outlet, sexually oriented motion picture theater, or sexually oriented cabaret.

MODELING STUDIO, SEXUALLY ORIENTED – an establishment or business that provides the services of live models modeling lingerie, bathing suits, or similar wear to individuals, couples, or small groups in a space smaller than ___ feet.

MOTEL, SEXUALLY ORIENTED – a hotel, motel, or similar commercial establishment that meets any of the following criteria:

- Offers accommodations to the public for any form of consideration and provides patrons with sexually oriented entertainment or transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas;”
- Marketed as or offered as “adult,” “XXX,” “couples,” or “sexually oriented.”

MOTION PICTURE ARCADE, SEXUALLY ORIENTED – a building or portion of a building wherein coin-operated, slug-operated, or for any other form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images of “specified sexual activities” or “specified anatomical areas.”

MOTION PICTURE ARCADE BOOTH, SEXUALLY ORIENTED – any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat customers and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or medium (including, but not limited to, film, video or magnetic tape, laser disc, CD-ROMs, books, DVDs, magazines or periodicals) to show images of “specified sexual activities” or “specified anatomical areas” for observation by customers therein. The term “booth,” “arcade booth,” “preview booth,” and “video arcade booth” shall be synonymous with the term “motion picture arcade booth.”

MOTION PICTURE THEATER, SEXUALLY ORIENTED – a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are frequently shown that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” or that are marketed as or offered as “adult,” “XXX,” or sexually oriented. Frequently shown films, motion pictures, videocassettes, slides or other similar photographic reproductions as characterized herein do not include sexually oriented speech and expressions that take place inside the context of some larger form of expression.

NUDE MODELING STUDIO – any place where a person who appears in a state of nudity or semi-nudity and is to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. “Nude model studio” shall not include a proprietary school licensed by the State of Texas or a college, junior college, or university supported entirely or in part by public taxation; a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

NUDITY OR STATE OF NUDITY – the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the areola or nipple, or the showing of the covered male genitals in a discernibly turgid state. See, also, Semi-nude.

SADOMASOCHISTIC PRACTICES – flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

SEMI-NUDE OR IN A SEMI-NUDE CONDITION – the showing of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other apparel, provided the areola is not exposed in whole or in part.

SEX SHOP – an establishment offering goods for sale or rent and that meets any of the following tests:

- It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; sexually oriented novelties; and the combination of such items constitute more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its floor area;
- More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or
- More than five percent (5%) of its gross public floor area is devoted to the display of sexually oriented toys or novelties.

SEXUALLY ORIENTED BUSINESS – an inclusive term used to describe collectively the following businesses: sexually oriented cabaret or theater; sexually oriented entertainment; sexually oriented motion picture theater; sexually oriented motion picture arcade; sexually oriented encounter center; sexually oriented media store; sexually oriented escort bureau; bathhouse; massage parlor; sex shop; sexually oriented modeling studio; or any other such

business establishment whose primary purpose is to offer sexually oriented entertainment or materials. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the County or any applicable municipal zoning code or other applicable ordinances.

SEXUALLY ORIENTED TOYS OR NOVELTIES – instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts or designed or marketed primarily for use to stimulate human genital organs.

SPECIFIED ANATOMICAL AREAS – include:

- Less than completely and opaquely covered human genitals, pubic region, or the areola or nipple of the female breast; and
- Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and
- Areas of the human anatomy included in the definitions of “nude” or “nudity.”

SPECIFIED SEXUAL ACTIVITIES – Acts of human masturbation, sexual intercourse, or sodomy. These activities include, but are not limited to the following: bestiality, erotic or sexual stimulation with objects or mechanical devices, acts of human anilingus, cunnilingus, fellatio, flagellation, masturbation, sadism, sadomasochism, sexual intercourse, sodomy, or any excretory functions as part of or in connection with any of the activities set forth above with any person on the premises. This definition shall include apparent sexual stimulation of another person’s genitals whether clothed or unclothed.

APPENDIX E: SURVEY INSTRUMENT – IMPACT OF LAND USE ON MARKET VALUE

PURPOSE OF THE SURVEY:

This survey asks MAI and SRA designated appraisers their views of the potential impact certain land uses may have on the market value of single-family homes and community shopping centers.

Your response to this survey in no way implies that you are undertaking an appraisal of a property. This survey is to ascertain views on the potential impact on market values created by the presence of certain types of land uses. We recognize that it may be difficult to respond to the questions related to specific distances; however, your best effort is appreciated.

IMPORTANT: This survey instrument is structured to maintain confidentiality and anonymity of ALL responses. IF you would like a copy of the Survey Results, please provide your email address at the end of this questionnaire – email addresses will be kept separate from the survey tabulations.

Thank You!

Shawn Wilson, MAI Connie Cooper, FAICP Eric Damian Kelly, FAICP

January 2008

	Single-Family Home					Community Shopping Center							
	-2 = Very Negative Influence -1 = Negative Influence 0 = No Influence +1 = Positive Influence +2 = Very Positive Influence					-2 = Very Negative Influence -1 = Negative Influence 0 = No Influence +1 = Positive Influence +2 = Very Positive Influence							
	-2	-1	0	+1	+2	No Opinion	-2	-1	0	+1	+2	No Opinion	
1. Rate the following items as to their potential to have a <u>Negative</u> or <u>Positive</u> influence on market value.													
Tree-Lined Street	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sidewalks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Street Lights	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Well-Landscaped Premises	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Underground Power Lines	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Nearby Neighborhood Playground	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Nearby Elementary School	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Nearby Hospital	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

2. Single-Family Home: If located within 500 feet, how would the listed land use potentially affect the market value of a Single-Family Home? <i>All responses should be based on your best professional opinion as an appraiser working in normalized or balanced market atmosphere</i>	At what distance would there be No Measurable Impact on the Single-Family Home's market value?				4. Would a concentration (2 or more uses within a couple of blocks) have additional impact on the Single-Family Home's market value?		
	Greater than 500 feet but less than 1/4 mile	Greater than 5-Min. Walk (greater than 1/4 mile)	Greater than 10-Min. Walk (greater than 1/2 mile)	Yes Additional Impact	No Additional Impact	No Opinion	
Adult Media & Video Store (retail sales only)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Bar (no live entertainment)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Coffee Shop	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Convenience Store (beer/wine)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Elementary School	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Gentleman's Club/Strip Club	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Grocery Store	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
High Voltage Power Lines	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Homeless Shelter	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Landfill	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Lingerie & Adult Novelty Store	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Lounge (with live entertainment)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Neighborhood Playground	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Pawn Shop	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Package Liquor Store	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Religious Institution	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Video Peep Booth Business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

You are halfway – Please keep going ... Your responses are important to us!

5. Community Shopping Center: If located within 500 feet, how would the listed land use potentially affect the Community Shopping Center's market value? <i>All responses should be based on your best professional opinion as an appraiser working in normalized or balanced market atmosphere</i>		6. At what distance would there be No Measurable Impact on the Community Shopping Center's market value?			7. Would a concentration (2 or more uses within a couple of blocks) have additional impact on the Community Shopping Center's market value?				
	Positive Impact	No Impact	Negative Impact	Greater than 500 feet but less than 1/4 mile	Greater than 5-Min. Walk (greater than 1/4 mile)	Greater than 10-Min. Walk (greater than 1/2 mile)	Yes Additional Impact	No Additional Impact	No Opinion
Adult Media & Video Store (retail sales only)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Bar (no live entertainment)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Elementary School	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gentleman's Club/Strip Club	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
High Voltage Power Lines	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Homeless Shelter	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Landfill	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lingerie & Adult Novelty Store	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lounge (with live entertainment)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Neighborhood Playground	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pawn Shop	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Package Liquor Store	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religious Institution	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Video Peep Booth Business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Always	Sometimes	Never	No Opinion
8. Would a retail business open AFTER 11 PM have a negative impact on the market value of Single-Family Homes located within a 5-minute walk (1500 feet)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
9. If you indicated certain land uses had negative impacts on the market value of a Single-Family Home , would bright, animated, or garish lighting or graphics increase the negative impact?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Yes	No
10. Do you believe that your personal, moral or ethical beliefs have affected your responses to any of the questions in this survey?	<input type="radio"/>	<input type="radio"/>

	1 - 9 years	10 - 19 years	20 - 29 years	30 + years
11. How many years of real estate appraisal experience do you have?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

12. In Which Counties Are Your General Locations of Practice? – You May Select up to Two Locations				
<input type="radio"/> Bell	<input type="radio"/> Ellis	<input type="radio"/> Hidalgo	<input type="radio"/> Randall	
<input type="radio"/> Bexar	<input type="radio"/> Denton	<input type="radio"/> Jefferson	<input type="radio"/> Smith	
<input type="radio"/> Brazoria	<input type="radio"/> El Paso	<input type="radio"/> Johnson	<input type="radio"/> Tarrant	
<input type="radio"/> Bowie	<input type="radio"/> Fort Bend	<input type="radio"/> Lubbock	<input type="radio"/> Taylor	
<input type="radio"/> Brazos	<input type="radio"/> Galveston	<input type="radio"/> McLennan	<input type="radio"/> Tom Green	
<input type="radio"/> Cameron	<input type="radio"/> Grayson	<input type="radio"/> Midland	<input type="radio"/> Travis	
<input type="radio"/> Collin	<input type="radio"/> Gregg	<input type="radio"/> Montgomery	<input type="radio"/> Victoria	
<input type="radio"/> Comal	<input type="radio"/> Guadalupe	<input type="radio"/> Nueces	<input type="radio"/> Webb	
<input type="radio"/> Dallas	<input type="radio"/> Harris	<input type="radio"/> Parker	<input type="radio"/> Wichita	
<input type="radio"/> Ector	<input type="radio"/> Hays	<input type="radio"/> Potter	<input type="radio"/> Williamson	
			<input type="radio"/> Other County	

13. In what Zip Code is your PRIMARY office?

14. Comments? Provide other comments regarding the potential impact land uses may have on the market value of a single-family home or community shopping center. (Maximum 200 words)

Type answer here.

Survey Results:

Survey tabulation should be completed by the end of the year. IF you would like a copy of the results, please provide your email address below. Again, your responses to this survey are kept confidential. If you have provided an email address, the email addresses will be entered into a separate data base then deleted from the completed survey.

Survey Results? Please provide email address.

We Thank YOU for taking the time to respond to this very important survey of land uses that have the potential to impact market values!

Submit

Reset

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Questions or Comments? Email Us ...

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**CRIME-RELATED SECONDARY EFFECTS OF
SEXUALLY-ORIENTED BUSINESSES:**

REPORT TO THE CITY ATTORNEY

Richard McCleary, Ph.D.

May 6, 2007

I am a Professor at the University of California, Irvine with appointments in the Departments of Criminology, Environmental Health Science, and Planning. My *curriculum vitae* is attached to this report. My degrees include a B.S. from the University of Wisconsin and an M.A. and Ph.D. from Northwestern University. I have taught graduate courses in statistics and criminology at the University of California, Irvine; the University of Minnesota; the University of Michigan; the University of New Mexico; Arizona State University; the State University of New York, Albany; and the University of Illinois, Chicago. I have supervised more than two-dozen doctoral students in statistics and/or criminology at these universities. My students hold appointments at major research universities in the U.S. and U.K.

My training and experience qualify me as an expert in criminology and statistics. I joined the American Society for Criminology and the American Statistical Association in 1977 and am currently a member of both scholarly societies. My scholarly contributions in these fields have been recognized by awards from Federal and state government agencies and scholarly societies. As an expert in these fields, I have served on Federal and state government task forces and panels and have served on the editorial boards of national peer-reviewed journals. I am the author or co-author of five books more than 70 articles in these fields.

Throughout my career, I have applied my expertise in statistics and criminology to the problem of measuring site-specific public safety hazards, especially the hazards associated with sexually-oriented businesses (SOBs). These hazards are also called "ambient crime risks" or "crime-related secondary effects." I have advised local, county, and state governments on these problems for nearly 30 years. I have been deposed or testified in fifteen cases in the last four years.

The City of Los Angeles has asked me to review the facts and materials in this suit¹ and to express opinions on certain issues. Based on my background and research, I have three general opinions:

Opinion 1: The criminological theory of ambient crime risk, known as the "routine activity theory," predicts that SOBs have large, significant crime-related secondary effects. The effect is the product of three factors. (1) SOBs draw patrons from wide catchment areas. (2) Because they are disproportionately male, open to vice overtures, reluctant to report victimizations to the police, *etc.*, SOB patrons are "soft" targets. (3) The high density of "soft" targets at the site attracts predatory criminals, including vice purveyors who dabble in crime and criminals who pose as vice purveyor in order to lure or lull potential victims.

Opinion 2: In the last thirty years, empirical studies employing a wide range of quasi-experimental designs have found that SOBs have large, significant crime-related secondary effects.

¹ *Alameda Books v. City of Los Angeles*. U.S. District Court, Central District of California, Case No. CV 95-7771

Opinion 3: Given that strong criminological theory predicts the effect, and given that the prediction is corroborated consistently by the empirical literature, it is a *scientific fact* that SOBs pose ambient crime risks.

In addition to these three general opinions, I have three opinions that are specific to *Alameda Books*.

Opinion 4: Since the theoretical risk factors specified in my first opinion are common to all SOB subclasses, all are expected to pose ambient public safety hazards. The qualitative nature of the hazard may vary by subclass nevertheless. This will occur when the defining characteristic of a subclass creates opportunities for a particular type of crime; or when the characteristic interferes with routine policing strategies.

Opinion 5: In this suit, the two relevant subclasses are SOBs that sell video tapes and DVDs for off-site viewing (hereafter, “stand-alone bookstores” or “bookstores”) and SOBs that sell video tapes and DVDs for off-site viewing while, also, providing private or semi-private booths for on-site viewing of video tapes and DVDs (hereafter, “combined bookstore-arcade” or “bookstore-arcade”). Although both subclasses have large, significant crime-related secondary effects, there are salient qualitative differences. Compared to stand-alone bookstores, e.g., combined bookstore-arcades pose higher risks for crime. Geo-coded crime incident data for the neighborhoods around 19 Los Angeles SOBs corroborate this theoretical expectation.

Opinion 6: Poisson regression analyses of crime incidents in the vicinity of 19 Los Angeles SOBs demonstrate a significant relationship between ambient crime victimization risk and distance from the site. Victimization risk at the site of a combined bookstore-arcade is more than double the risk at the site of a stand-alone bookstore. For both subclasses, victimization risk diminishes rapidly with distance until, at approximately 900 feet, the risks are roughly equal for the two subclasses. In general, victimization risk for bookstore-arcades is more densely concentrated in the immediate vicinity of the site.

My report begins with a necessary introduction to the concept of ambient crime risk. The fundamental question in this suit is whether combined SOBs pose lower ambient risks than stand-alone SOBs. Based on my analyses, the answer is, Yes. Readers who are familiar with implicit concepts can skip directly to the results of my analyses in Section 3 below. But most readers will benefit from the following introduction.

1. AMBIENT CRIME RISK

Crime “risk” is a novel concept to most readers. To the individual, crime *risk* is

synonymous with the annual crime *rates* reported in the news media. To illustrate, in 2000, the per capita robbery rates for Los Angeles and San Diego were 0.0041 and 0.0014. For purely aesthetic reasons, newspapers report these rates as whole numbers per 1,000 residents. So the Los Angeles and San Diego rates could be expressed identically as 4.1 and 1.4 robberies per 1,000 residents per year. Since *per capita* rates have practical advantages, however, that metric is preferred.

In either the *per capita* or per 1,000 metric, Los Angeles is nearly three times *riskier* than San Diego. The risk ratio statistic makes this point:

$$\text{Risk Ratio} = 0.0041 / 0.0014 \approx 2.93$$

A tourist who spends a week in Los Angeles and a week in San Diego is three times more likely to be robbed in Los Angeles. In either city, of course, the risk is exceedingly low. This point is made clear by the waiting time statistic. In San Diego, a hypothetical average tourist will spend more than 714 years waiting to be robbed:

$$\text{Waiting Time} = 1 / 0.0014 \approx 714.3 \text{ years}$$

In Los Angeles, on the other hand, the wait is only 244 years:

$$\text{Waiting Time} = 1 / 0.0041 \approx 243.9 \text{ years}$$

The waiting time statistic illustrates one practical advantage of *per capita* rates; the average waiting time is the inverse of the *per capita* rate. This relationship depends on simple Poisson assumptions that will be developed at a later point in this report. For now, I will say only that these assumptions may not hold exactly for inter-city comparisons, so these waiting times are rough approximations.

Intra-city heterogeneity complicates the *per capita* crime rate analogy. Put simply, “bad” neighborhoods in low-risk cities are more dangerous to the hypothetical tourist than “good” neighborhoods in high-risk cities. Temporal heterogeneity presents another complication. Since the hypothetical tourist cannot be in two places at the same time, inter-city risk comparisons require imagination. At the smaller geographical scales that are relevant to this suit, however, the effects of both complications vanish. Given a reasonably small area – say, a few city blocks – a simple ambient crime rate captures all the essential features of crime risk.

To define the *ambient* crime rate, divide the area of a city into a large sample of parcels. The division algorithm can be wholly arbitrary or haphazard. The parcels can be trapezoids, squares, circles, or any irregular shape. No two parcels must have the same shape. The only requirement is that each have a calculable surface area. Following the division, wait a fixed

period – say, one year – and count the number of crimes that occurred in each of the parcels. If $CRIME_d$ denotes the number of crimes that occurred in the d^{th} parcel, then the ambient crime rate for the d^{th} parcel is

$$RATE_d = CRIME_d / AREA_d$$

where $AREA_d$ is the surface area of the d^{th} parcel. $RATE_d$ is a property of the d^{th} parcel. Unlike the *per capita* crime rates that we read about in newspapers, this ambient rate has no inevitable consequences for individuals. If $RATE_d$ is particularly high, individuals can avoid the risk by avoiding the d^{th} parcel (and other “bad” neighborhoods).

Figure 1a Here

When ambient risk emanates from a point-source, a sensible division algorithm results in a set of concentric circular parcels as shown in Figure 1a. Noise is a good model of ambient crime risk in many respects. Noise emanates from its point-source in all directions, for instance, and decays rapidly with distance. So does ambient crime risk when it emanates from a source such as, in this instance, an SOB. Like noise, ambient crime risk emanates in all directions and diminishes with distance from the point-source. In the real-world, of course, the orderly emanation process will be distorted by buildings, walls, and other obstacles. If we have a reasonably large sample of point-sources, however, the effects of these obstacles will “average out,” revealing the expected ambient risk pattern.

Figure 1b Here

Figure 1b illustrates this point for a sample of 19 Los Angeles SOBs. The horizontal axis in Figure 1b is calibrated in 50-foot increments from 50 to 1,100 feet from the SOB address, yielding concentric circular parcels with radii of 50, 100, 150, ..., 1,100 feet. The area of the d^{th} concentric circle is

$$AREA_d = \pi (50d)^2 - \pi [50(d-1)]^2 \quad \text{for } d = 1, 2, 3, \dots$$

The vertical axis in Figure 1b plots the ambient victimization rate for personal crimes such as homicide, robbery, assault, and so forth.

The ambient risk function in Figure 1b is the mean (or *average*) ambient risk for 19 Los Angeles SOBs. *On average*, these SOBs are the point-sources of ambient crime risk. The ambient risk decays rapidly with distance from the SOB address. Walking toward the address, the hypothetical pedestrian is confronted with exponentially increasing risk; walking away from the address, on the other hand, risk decays.

Figure 1c Here

Figure 1c plots the same function as a *risk ratio*. To facilitate interpretation, these risk ratios are standardized by the mean ambient rate of the entire 1,100-foot circle. Standing within 50-feet of an SOB, the hypothetical pedestrian's victimization risk is approximately eleven times higher than the neighborhood average. At 300 feet, ambient victimization risk is "only" twice the neighborhood average. After 750 to 850 feet, the difference between the point-source and neighborhood background risks is practically imperceptible. This is not to say that the point-source risk is zero (or that it does not exist); but it is difficult to measure at that distance. It is like noise in that respect.

2. THE LOS ANGELES DATA

To address the central questions of this suit, data were collected from the City's Department of Building and Safety and from the LAPD. Site visits and interviews were conducted to assess the properties and quality of these data.

2.1 THE STUDY SITE SAMPLE

Selecting a sample of SOB sites involves balancing three considerations. First, for purely statistical reasons, the sample should be as *large* as possible; more sites means greater statistical power. Second, for the same reason, the sample sites should be as *homogeneous* as possible; extraneous dissimilarities among the sampled sites reduces statistical power. Third, the history of each sampled site must be well characterized. We must know how long each SOB has been operating, *i.e.*, what subclass it belongs to, and so forth.

Table 2.1 Here

The sample of 20 SOBs listed in Table 2.1 reflects a careful balance of the three considerations. Because the list was compiled by the City's Department of Building and Safety, the history of each site is known. Since the list is limited to stand-alone bookstores and combined bookstore-arcades, it consists of two homogeneous sub-samples. Finally, compared to my experience in other studies, this is a relatively large sample. Although "more data" is always preferred to "less data," the sample proved sufficiently large.

Between April, 2006 and the present, the suitability of each of the 20 sites was assessed. The assessment included internet searches and telephone inquiries in many instances and "eyeball" site visits in every instance. This process led to the exclusion of the site (in green) located at 6315½ Hollywood Boulevard because it was located within a few feet of a live-entertainment SOB. Keeping this site in the sample would have introduced an unnecessary element of heterogeneity. Excluding this site left seven stand-alone bookstores (in blue) and twelve combined bookstore-arcades (in red).

2.2 THE CRIME INCIDENT SAMPLE

Selecting a sample of crime incidents involves an analogous balancing process. The sample should be as large as possible, *e.g.*, but yet optimally homogeneous, reliable, and interpretable. Each crime incident has several bits of information, including the type of crime, the location, the time of occurrence, and so forth. Since the location of the incident was the most important bit of information, given our study goals, we began (and ended) our search for data at the LAPD's COMPSTAT unit.²

The architecture of the COMPSTAT database supports retrieval of crime incidents by LAPD Reporting Districts. To ensure the completeness of our data, we requested geo-coded crime incident reports for every Reporting District that was located within 1,500 feet of any of the 20 SOBs, beginning January 1, 2001. To comply with an existing policy, COMPSTAT excluded all information on rape cases and stripped unique internal identifiers from each incident record. The unique case identifiers were saved in a separate linkable file held by COMPSTAT.

The COMPSTAT file was initially processed with ARCMAP 9.0. COMPSTAT latitudes and longitudes were converted to State Plane 9 foot-unit Cartesian co-ordinates. Euclidean distances from crime incidents to SOB sites were computed by the Pythagorean formula. Exploratory analyses suggested that errors in the Euclidean distances were smaller than ten percent. Accordingly, for each site, incidents with distances greater than 1,100 feet were discarded, leaving all incidents in an 1,100-radius of the sites.

The COMPSTAT files described each crime incident with one or more non-exclusive labels drawn from a set of 155. To facilitate analysis, the 155 categories were collapsed into five categories:

- UCR Part I Personal (Homicide, Aggravated Assault, Robbery, and Rape)
- UCR Part I Property (Burglary, Larceny, Auto Theft, and Arson)
- UCR Part II Personal
- UCR Part II Property
- All Other Incidents

An FBI NIBRS-UCR translation protocol was used to construct the five categories. The translation map and frequency distributions are listed in an appendix. Table 2.2 reports incident totals and subclass means for the five crime categories for each of the 19 sites. Across all sites, the residual "other" category constitutes less than 13 percent of the incidents.

² Headed by Detective Jeff Gowdown, the COMPSTAT statistical analysis unit collects and disseminates geo-coded crime incidents for planning and budgeting.

Table 2.2 Here

2.3 CONCLUDING NOTE ON THE SAMPLES

Sites and incidents were excluded from the analytic sample strictly on methodological grounds, usually relating to “missing” data. Incidents involving forcible rape are the exception. These incidents were withheld from us in order to comply with an existing LAPD policy. These exclusions appear to have no substantive impact on the results. To confirm this point, models were replicated with and without excluded sites and crime categories. None of these replications produced results that would be inconsistent with or that would lead me to doubt the reported results.

3. STATISTICAL RESULTS

To address the central questions in this suit, I conducted a statistical analysis based on the Poisson family of models. The analysis compared the ambient crime risk functions of bookstore-arcades to the ambient risk functions of stand-alone bookstores. The results of this analysis demonstrate that the two SOB subtypes have significantly different patterns of ambient risk. Whereas the ambient crime risk of bookstore-arcades is heavily concentrated near the address, the ambient risk of at stand-alone bookstores is more pervasive. From a theoretical perspective, these differences point to qualitatively different policing strategies. The differences legitimate the view that, compared to stand-alone SOBs, the ambient crime risk for combined SOBs is considerably higher and more serious at the source.

3.1 CRIME AS A POISSON PROCESS

In the early 19th Century, French mathematician, S.D. Poisson developed an interest in the scattered distribution of crimes across Paris neighborhoods.³ Poisson proposed the probability density function that bears his name to describe the spatial scattering of crime incidents.⁴ Briefly, if x is the number of crimes that occur in a neighborhood (or any other fixed area) during a year (or any other fixed period of time), the probability that exactly k crimes will occur in the

³ Published in 1837 as *Recherches sur la probabilité des jugements en matière criminelle et matière civile*. Although I'm certain that one exists, I couldn't find an English translation on Amazon.com. In any event, the history and technical details are given in F. Haight, *Handbook of the Poisson Distribution* (John Wiley and Sons, New York 1967).

⁴ If x is the number of crimes that occur in a fixed area – say, one city block – in a fixed period of time – say, one year – the probability that exactly k crimes occur on any block in any year is $\text{Prob}(x=k) = \lambda^k e^{-\lambda} / k!$ (for $k = 0, 1, 2, \dots$). The parameter λ (lambda) is the Poisson mean, estimated in the ordinary way. In this instance, since there are 48 crime incidents scattered over 1,210,000 square feet, $\lambda = 48/1,210,000 \approx 0.00004$ incidents per square foot.

neighborhood during the next year is given by the Poisson density function,

$$\text{Prob}(x = k) = \lambda^k e^{-\lambda} / k! \quad \text{where } \lambda \text{ is the crime rate}$$

To illustrate how this density function works, in 2000, the robbery rate in Los Angeles was

$$\lambda = .0041 \text{ per capita robberies}$$

Plugging this mean into the Poisson density function, the probability a randomly selected resident of Los Angeles will be robbed in the next year is

$$\text{Prob}(x = 0) = (0.0041)^0 e^{-0.0041} / 0! \approx 0.99591$$

In the next year, 99.59 percent of the resident population will not experience a robbery in the next year. The proportion who will experience $k=1$ robbery is,

$$\text{Prob}(x = 1) = (0.0041)^1 e^{-0.0041} / 1! \approx 0.00408$$

which, not surprisingly, is the *per capita* robbery rate. A very small (and unfortunate) proportion of these cases will experience a second robbery. For $k=2$ robberies,

$$\text{Prob}(x = 2) = (0.0041)^2 e^{-0.0041} / 2! \approx 0.00000584$$

and so forth. Using the same Poisson density function formula, one can calculate the proportion of individuals who experience $k = 3, 4, \dots$ robberies. The proportions approach zero rapidly.

These probabilities apply to a randomly selected individual who spends one year wandering the streets of Los Angeles. The way think about crime rates, these probabilities are inherently temporal or longitudinal. The same Poisson density function can be used to calculate the probabilities of inherently spatial phenomena, however. To illustrate, the simulated Poisson processes in Figure 3.1 have distributed or scattered 48 crime incidents across virtually identical 1,210,000 square-foot neighborhoods. Although both Poisson distributions were generated with the same crime rate ($\lambda=48$ crimes/area/year), in terms of their visual appearance, the two distributions are as different as night and day.

Figure 3.1 Here

The left-hand distribution in Figure 3.1 is *completely random*.⁵ Crime risk is distributed

⁵ P.J. Diggle (*Statistical Analysis of Spatial Point Patterns*, 2nd Ed., Arnold, 2002) uses “complete spatial randomness” as a synonym for “Poisson.” The Cartesian (X_i, Y_i) co-ordinates

evenly across the blocks of this neighborhood. The right-hand distribution has the same crime rate but risk emanates from a point-source, hence the name *point-source random*.⁶ As one moves away from the point-source, risk diminishes exponentially. Spatial distributions of this type rarely arise by chance alone but, in most instances, are generated by point-sources such as SOBs.

3.2 AMBIENT CRIME RISK AS A FUNCTION OF DISTANCE FROM THE SITE

Risk-distance relationships (or loosely speaking, functions) long been used to document the ambient crime risks of SOBs.⁷ The model used here is an application of a statistical model that Dr. Mark Stiger and I developed some years ago for a similar problem on an isolated site.⁸ The present model is adapted to multi-site analyses by incorporating appropriate error terms for the sites. The resulting family of models are known, variously, as Poisson hierarchical,⁹ multi-level,¹⁰ or random co-efficient models.¹¹

At its simplest stage, the model equates the Poisson *mean* of a parcel with the *area* of the parcel and, hypothetically, with the *distance* of the parcel from the SOB. To implement this simplest model, select any of the 19 SOBs and construct 22 concentric circles (see Figure 1a) with radii of 50, 100, 150, ..., 1,100 feet from the address. The number of crime incidents in the i^{th} concentric parcel – and hence, the Poisson *mean* – is a function of the *area* of the parcel and, hypothetically, the *distance* of the parcel from the SOB site. That is,

of the i^{th} *completely random* crime were drawn from a uniform distribution of the segment $(-6,6)$.

⁶ The polar (θ_i, δ_i) co-ordinates of the i^{th} *point-source random* crime were drawn from a uniform distribution of the segment $(0,2\pi)$ for θ_i and an exponential distribution of the segment $(0,6)$ for δ_i . Polar co-ordinates (θ_i, δ_i) translate into the Cartesian plane as $X_i = \delta_i \cos(\theta_i)$ and $Y_i = \delta_i \sin(\theta_i)$.

⁷ McPherson, M. and G. Silloway. *An Analysis of the Relationship between Adult Entertainment Establishments, Crime, and Housing Values*. Minnesota Crime Prevention Center, Inc. October, 1980.

⁸ E.g., in "Confirmatory spatial analysis by regressions of a Poisson variable," (*Journal of Quantitative Anthropology*, 1989, 2:13-38) Mark Stiger and I model the spatial distribution of bones at an archaeological site.

⁹ Bryk, A.S. and S.W. Raudenbush. *Hierarchical Linear Models: Applications and Data Analysis Methods*. Sage, 2002.

¹⁰ Goldstein, H. *Multilevel Statistical Models, 2nd Ed.* Halsted Press, 1995.

¹¹ Longford, N.T. *Random Coefficient Models*. Oxford University Press, 1993.

$$\lambda_i = \text{function}(\text{Area}_i, \text{Distance}_i) \quad i = 1, \dots, 22 \text{ concentric parcels}$$

A log-linear ("link") function is conventionally specified in order to take advantage of maximum likelihood theory.¹² Thus,

$$\text{Log}(\lambda_i | \text{Area}_i) = \beta_0 + \beta_1 \text{Distance}_i + \tau_i \quad \text{where } \tau_i \sim N(\mu, \phi)$$

The stochastic term τ_i accounts for the effects of the many small measurement errors that accrue from various sources. Finally, since there are 19 distinct SOB sites, it will be useful to add a second subscript to the simple model. Thus,

$$\text{Log}(\lambda_{ij} | \text{Area}_i) = \beta_0 + \beta_1 \text{Distance}_i + \tau_{ij} \quad j = 1, \dots, 19 \text{ SOB sites}$$

Adding a second subscript allows for ($i \times j = 22 \times 19 =$) 418 distinct means.

The next step in the model-building process involves incorporating explanatory variables that correspond to systematic sources of variance in the λ_{ij} . Hypothetically, the Poisson mean varies by SOB subclass; bookstore-arcades and bookstores pose qualitatively different ambient risks and, thus, have distinct means. Likewise, as a matter of fact, each of the five crime categories has a distinct mean. Incorporating these two variables into the model,

$$\text{Log}(\lambda_{ij} | \text{Area}_{ij}) = \beta_0 + \beta_1 \text{Distance}_{ij} + \beta_2 \text{Subclass}_{ij} + \beta_3 \text{Crime}_{ij} + \tau_{ij}$$

Coding both variables as dichotomous (0,1) indicators allows parameters β_2 and β_3 to be interpreted as intercepts. More important for our purposes, defining both variables as dichotomous indicators allows for straightforward estimation of subclass interactions with distance and crime categories.

$$\begin{aligned} \text{Log}(\lambda_{ij} | \text{Area}_{ij}) = & \beta_0 + \beta_1 \text{Distance}_{ij} + \beta_2 \text{Subclass}_{ij} + \beta_3 \text{Crime}_{ij} \\ & + \gamma_1 \text{Subclass}_{ij} \cdot \text{Distance}_{ij} + \gamma_2 \text{Crime}_{ij} \cdot \text{Distance}_{ij} + \tau_{ij} \end{aligned}$$

Finally, to account for residual site-specific variance, independent of all other considerations, each of the 19 SOBs is allowed to have its own stochastic term. Conceptually, this can be written as

$$\begin{aligned} \text{Log}(\lambda_{ij} | \text{Area}_{ij}) = & \zeta_j + \beta_1 \text{Distance}_{ij} + \beta_2 \text{Subclass}_{ij} + \beta_3 \text{Crime}_{ij} \\ & + \gamma_1 \text{Subclass}_{ij} \cdot \text{Distance}_{ij} + \gamma_2 \text{Crime}_{ij} \cdot \text{Distance}_{ij} + \tau_{ij} \end{aligned}$$

¹² McCullagh, P. and J.A. Nelder. *Generalized Linear Models, 2nd Edition*. Chapman and Hall, 1989.

where $\zeta_j \sim \Gamma(\beta_0, \psi)$.

Table 3.2 Here

Parameter estimates from GLLAMM in Stata Version 9.2 are reported in Table 3.2. The columns of this table defined as follows:

- The numbers in the column labeled “ β ” are the actual regression parameter estimates. Since these numbers are reported in the natural logarithm metric, their substantive interpretation is difficult.
- The numbers in the column labeled “ $s(\beta)$ ” are the associated standard errors derived from maximum likelihood. The ratio of a β to the corresponding $s(\beta)$ is used to test the statistical significance of an effect.
- The numbers in the column labeled “ $t(\beta)$ ” are the ratios of corresponding β and $s(\beta)$. Under the null hypothesis, absolute values of $t(\beta)$ larger than 2.0 are statistically significant at the conventional 95 percent confidence level.
- The column of numbers labeled “ $\exp(\beta)$ ” are exponentiated parameter estimates. Whereas a β is difficult to interpret, $\exp(\beta)$ is interpreted as the multiplicative effect of the variable. After taking care of a somewhat more important matter, I will explain how to interpret these numbers.

Since all (but one) of the t-statistics reported in Table 3.2 are statistically significant, all (but one) of the null hypotheses are rejected at the conventional 95 percent confidence level. This supports two conclusions:

- Both subclasses pose large, significant ambient crime risks; both are point-sources of ambient risk.
- Nevertheless, the ambient risks of the two subclasses are qualitatively different.

To explore the qualitative differences between the two subclasses, the parameter estimates reported in Table 3.2 were used to plot the risk functions in Figures 3.2a-c.

Figures 3.2a-c Here

Figures 3.2a-c plot the ambient risks by distance for the UCR Personal, Property, and Serious crime categories. In all three figures, the horizontal axis is calibrated in distance from an SOB site in 50-foot increments. The vertical axes range from zero to 0.0003 and are interpreted as distance-specific Poisson means.

To illustrate the interpretation of these functions, Figure 3.2a reports the means for UCR Personal crimes within 50 feet of an SOB address as

$$\lambda_{\text{combined}} = 0.000138 \quad \text{and} \quad \lambda_{\text{stand-alone}} = .000038$$

for the two subclasses. If these rates seem “small,” it is because they have been averaged over a circular area with a 50-foot radius, an area of approximately $(50 \times 50 \times 3.142 =) 7,855$ square feet. Multiplying the two rates by 7,855 yields

$$\lambda_{\text{combined}} = 1.084 \quad \text{and} \quad \lambda_{\text{stand-alone}} = 0.298$$

These rates apply to the 50-foot circular parcel. If these rates now seem too “large,” it is because they are integrated over the period between January 1st, 2001 and March 7th, 2007, approximately 6.18 years. Dividing $\lambda_{\text{combined}}$ and $\lambda_{\text{stand-alone}}$ by 6.18,

$$\lambda_{\text{combined}} = 0.175 \quad \text{and} \quad \lambda_{\text{stand-alone}} = 0.048$$

Plugging these annual rates into the Poisson density function, the probability that exactly zero UCR Personal crimes will occur within 50 feet the SOB's address of a combined bookstore-arcade is,

$$\text{Prob}(k=0) \approx (0.175)^0 e^{-(0.175)} / 0! \approx 0.8394$$

For the subclass of stand-alone bookstores, in contrast

$$\text{Prob}(k=0) \approx (0.048)^0 e^{-(0.048)} / 0! \approx 0.9531$$

The complements of these probabilities are interpreted as the probabilities that at least one UCR Personal crime will occur within 50 feet the SOB's address. For combined bookstore-arcades,

$$\text{Prob}(k \geq 1) \approx 1 - 0.8394 \approx 0.1606$$

And for stand-alone SOBs,

$$\text{Prob}(k \geq 1) \approx 1 - 0.9531 \approx 0.0469$$

In fact, these numbers are very close to what we see in the data.

Figures 3.2d Here

Figure 3.2d plots the risk ratios for the three UCR categories. For UCR Personal, Property, and Serious crime, ambient risk is highest for the subclass of combined bookstore-arcades at any distance from the address. The risk ratio of most pronounced for UCR Personal crimes, however. The rapid decay of the risk ratios with distance from the site can be deceptive. To a large degree, the distance decay reflects the simple fact that, after several hundred feet, ambient risk diminishes rapidly for all SOB subclasses.

4. SUMMARY

The findings of my analyses can be summarized succinctly. Regardless of subclass, Los Angeles SOBs are ambient crime risk point-sources. As a hypothetical pedestrian walks toward the site, victimization risk rises; walking away from the site, victimization risk falls. The nature of the ambient risk varies by subclass nevertheless. Compared to stand-alone SOBs, the ambient risk functions of combined SOBs are more acute, quantitatively and qualitatively, nearer the point-source. With respect to separating the subclasses, the difference in ambient risk functions supports the City's ordinance.

The perspective of criminological theory supports separating the subclasses of SOBs. Few criminologists would find Figure 3.2d surprising or controversial. To demonstrate this point, I will review the relevant criminological theory of secondary effects.

4.1 THE CRIMINOLOGICAL THEORY OF SECONDARY EFFECTS

Adapted to secondary effects phenomena, the routine activity theory of crime¹³ holds that ambient crime risk is the product of four factors:

$$\text{Ambient Crime Risk} = \frac{\text{Targets} \times \text{Value}}{\text{Police Presence}} \times \text{Offenders}$$

SOB sites have relatively high ambient crime risks because they attract relatively many *targets* to their sites; and because, in the eyes of the rational offender, the targets have high *values*. The

¹³ This theory is due to L.E. Cohen and M. Felson, Social change and crime rate trends: A routine activity approach. *American Sociological Review*, 1979, 44:588-608. See also, M. Felson's *Crime and Everyday Life, Second Edition* (Thousand Oaks, CA: Pine Forge Press, 1998). The routine activity theory that predicts the SOB-crime relationship is one of the most widely tested and accepted theories in modern social science. In 2005 alone, according to the *Social Science Citation Index*, the 1979 Cohen-Felson article was cited 621 times. In the last 30 years, the routine activity theory of crime risk has been tested thousands of times. Each test has confirmed the theory.

product of these two risk factors attracts predatory *offenders* with predictable consequences. Finally, since these offenders are rational, they avoid sites with visible *police presence*.

The rational offenders in this theory move freely from site to site, stopping at sites with high expected values¹⁴ and low police presence. They are “professional” criminals in the sense that they lack legitimate means of livelihood and devote substantial time to illegitimate activities. Some are vice purveyors who dabble in crime; others are criminals who use the promise of vice to lure and lull victims. In either case, they view SOB patrons as exceptionally valuable targets.

The characteristics that give adult business patrons their high values are inherent to the commercial activities that attracted them to the site. They are disproportionately male and open to vice overtures; they carry cash; but most important of all, when victimized, they are reluctant to involve the police. From the offender’s perspective, they make “perfect” victims.

The connection between crime and vice has been depicted in popular literature for at least 250 years. John Gay’s *Beggar’s Opera* (ca. 1765), e.g., concerns a predatory criminal MacHeath and the vice ring composed of Lucy, Jenny, and Peachum. This popular view is reinforced by the empirical literature on criminal lifestyles and thought processes. In the earliest and best-known empirical study, Clifford R. Shaw describes the daily life of “Stanley,” a delinquent who lives with a prostitute and preys on her clients.¹⁵

Criminological thinking on this point has changed very little in the 75 years since Shaw’s *The Jack-Roller*. To document the rational choices of predatory criminals, Richard Wright and Scott Decker interviewed 86 active armed robbers.¹⁶ Asked to describe a perfect victim, all mention a victim who is involved in vice, either as a seller or buyer. Indeed, three of the armed robbers interviewed by Wright and Decker worked as prostitutes:

From their perspective, the ideal robbery target was a married man in search of an illicit sexual adventure; he would be disinclined to make a police report for fear of exposing his own deviance (p. 69).

¹⁴ If a site has N targets with values v_1, \dots, v_N , the site’s *expected value* is $E(v) = 1/N (v_1 + \dots + v_N)$. This is the “average” that an offender would expect to take from a randomly selected victim at the site.

¹⁵ Shaw, C.R. *The Jack-Roller: A Delinquent Boy's Own Story*. University of Chicago Press, 1966 [1930]. See also, Snodgrass, J. *The Jack-Roller at Seventy*. Lexington, MA: Lexington Books, 1982.

¹⁶ Wright, R.T. and S.H. Decker. *Armed Robbers in Action: Stickups and Street Culture*. Northeastern University Press, 1997.

The rational calculus described by these three prostitute-robbers echoes the descriptions of other professional predators. A synthesis of the extensive literature leads to the conclusion that, from the perspective of the predatory criminal, SOB patrons are high-value targets.

Given a choice of SOB sites with roughly equal expected values, rational offenders prefer the site with the lowest level of police presence. One ordinarily thinks of police presence in strictly physical terms. An increase or decrease in the number of police physically at a site reduces ambient risk. But police presence can also be virtual through remote camera surveillance or even the presence of potential witnesses.

But whether physical or virtual, the *effectiveness* of police presence can be affected for better or worse by broadly defined environmental factors. Due to the reduced effectiveness of conventional patrolling after dark, *e.g.*, crime risk rises at night, peaking around the time that taverns close. Darkness has a lesser effect on other policing strategies, of course, and this raises the general principle of *optimizing* the effectiveness of police presence. One theoretical reason why SOB subclasses might have qualitatively different ambient risks is that they have different optimal policing strategies.

4.2 THE THEORETICAL ROLE OF SUBCLASSES

Since all SOB subclasses draw valuable targets to their sites, criminological theory holds that all will have crime-related secondary effects. Nevertheless, if the defining characteristic of a subclass affects any of the risk factors – the number and/or value of the targets at the site, the number of offenders who have pursued targets to the site, or the effectiveness of police presence at the site – criminological theory allows for qualitative differences in ambient crime risk among the subclasses.

In some instances, subclass specific risks arise because the defining characteristic of the subclass implies (or creates) idiosyncratic opportunities (or risks) for particular types of crime. Compared to the complementary subclass, *e.g.*, SOBs that serve alcohol present idiosyncratic opportunities for non-instrumental crimes, especially simple assault, disorderly conduct, *etc.* Likewise, SOBs that provide on-premise entertainment present idiosyncratic opportunities for vice crime, customer-employee assault, *etc.* Criminologists call this etiological crime category “opportunistic.” There are many obvious examples and SOB regulations often treat subclasses differently because their ambient opportunity structures are different.

But in addition to subclass-specific opportunity structures, the defining characteristic of an SOB subclass may compromise the effectiveness of common policing strategies. Although the opportunity structures of combined bookstore-arcades and stand-alone bookstores present different opportunity structures, differences in the policing strategies required by the two SOB subclasses represented in this suit are a more important consideration.

In the first case, the optimal policing strategy for arcades requires that a police officer

inspect the interior premises. Since this places the officer at risk of injury, policing arcades requires specially trained and equipped officers, prior intelligence, specialized backup manpower, and other resources. Since potential offenders can wait inside the premises without arousing suspicion, routine drive-by patrols to “show the flag” are ineffective.

In the second case, routine drive-by patrols are central to the optimal policing strategy for stand-alone bookstores. Since the ambient risk function for this subclass can cover a several-block area (see Figures 3a-c), drive-by patrols are an efficient way to provide a visible police presence to the neighborhood. Visibility is *per se* a deterrent. Routine patrols can keep watch for known offenders and suspicious activity. When problems are spotted, the routine patrol can forward the information to a specialized unit or, if necessary, handle it on the spot, requesting backup resources only as needed.

To some extent, differences between the optimal policing strategies for the two SOB subclasses represented in this suit amount to differences in cost. The cost of policing arcades is more expensive than the cost of policing bookstores. Even if the cost-differential were ignored, however, the optimal strategy for policing bookstore-arcades would be ineffective for policing bookstores. Indeed, neighborhood patrols by plainclothes officers in unmarked cars would be inefficient. Whereas visibility is a key component of the optimal policing strategy for bookstores, for arcades, the optimal strategy requires invisible police presence.

“Problem-oriented policing,” the prevailing philosophy of policing in Los Angeles (and for that matter, in the U.S. and Europe), points to legitimate rationale for the spatial separation of SOB subclasses.”¹⁷ In simple terms, problem-oriented policing consists of analyzing a public safety problem *qua* problem; of developing an intervention that reflects the problem’s unique properties and that utilizes the local environment; and of measuring the effectiveness of the intervention.¹⁸ The analyses reported in Section 3 above demonstrate that, while both SOB subclasses have crime-related secondary effects, qualitative differences in their effects dictate very different optimal policing strategies. In light of these differences, implementing a single procrustian policing strategy for all SOB subclasses would be wasteful and inoptimal.

¹⁷ William J. Bratton, the current LAPD Chief, is an early, well-known proponent of problem-oriented policing. See, e.g., Bratton, W.J. The New York City Police Department's civil enforcement of quality-of-life crimes. *Journal of Law and Policy*. 1994, 3:447-464; or Kelling, G.L. and W.J. Bratton. Declining crime rates: Insiders' views of the New York City story. *Journal of Criminal Law and Criminology*, 1998, 88:1217-1232. A recent speech by Chief Bratton (A Practitioner's Perspective, From the Streets. National Institute of Justice Annual Conference, July 17th, 2006) is posted on the LAPD website. For a background discussion, see Goldstein, H. *Problem-Oriented Policing*. Wiley, 1990.

¹⁸ See, e.g., National Research Council. *Fairness and Effectiveness in Policing: The Evidence*. National Academies Press, 2004.

Technical Appendices

A. Converting latitude and longitude to Cartesian Co-ordinates

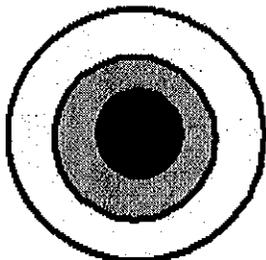
The COMPSTAT data file identified the locations of crime incidents by address and by longitude and latitude (CRIMELOCX and CRIMELOCY). The North American Datum 1927 projection was used for the co-ordinates was North American Datum 1927. To translate the latitudes and longitudes to Cartesian co-ordinates, the plotted data were read into ArcMap 9.0 and were reprojected in State Plane California 1983 (feet) area V. The results were exported to an MS Access database file.

B. Converting COMPSTAT Crime Categories to UCR Categories

UCR Part I				UCR Part II				All	
Personal		Property		Personal		Property		Other	
110	32	310	2212	250	7	442	909	234	89
210	2207	320	151	251	19	444	4	237	33
220	308	330	3248	624	4292	471	7	762	11
230	2008	331	323	626	409	474	2	805	9
231	33	341	1959	627	16	475	2	806	17
235	16	343	34	753	19	649	346	810	39
236	687	345	4	755	57	651	176	812	87
350	206	347	1	756	9	652	170	813	49
351	44	410	76	761	137	653	22	850	74
352	31	420	1147	763	23	654	20	900	251
354	432	421	8	886	83	660	15	901	85
434	2	430	3	888	302	661	4	902	3
437	7	431	1	910	44	662	27	903	10
439	4	433	4	920	14	664	14	943	5
450	5	440	2821	922	24	666	2	946	1445
451	1	441	36	928	175	668	32	954	6
622	6	480	19	930	1341	670	7	975	1
623	126	485	1	956	504	740	819	976	276
647	39	487	2	970	31	745	2294	978	518
860	182	510	3237	972	10	924	3	979	210
940	20	520	86			948	6	980	560
		521	264			949	3	986	31
		648	21					997	2889
		932	21					998	9480
		933	13					999	13009
		942	3						

950	9
951	38

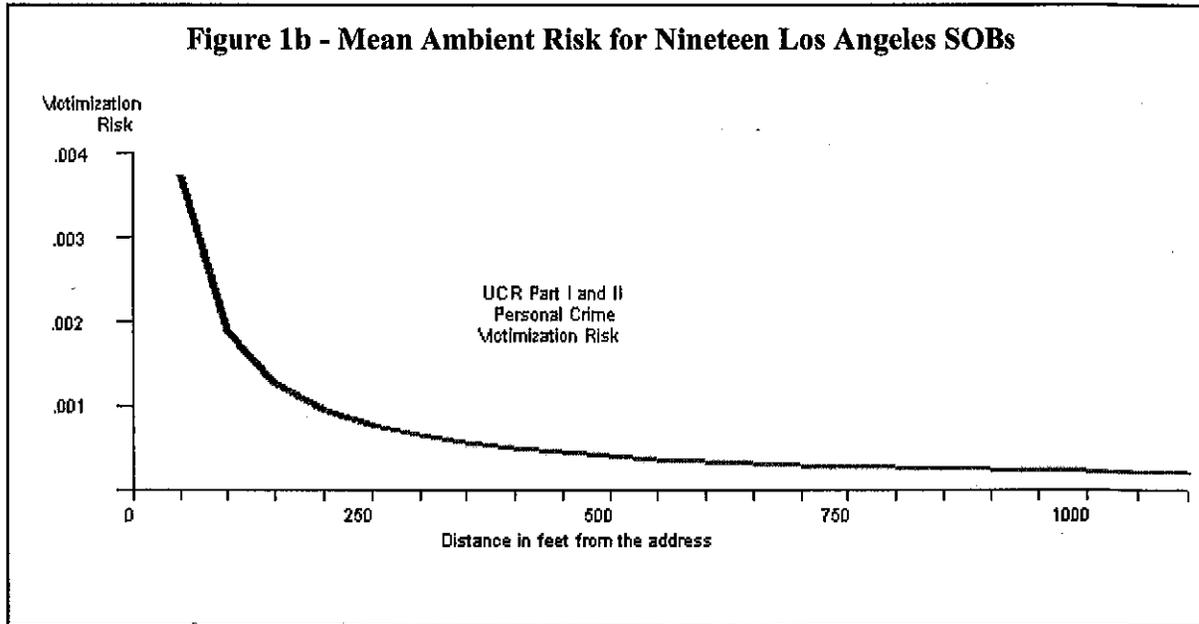
Figure 1a - Concentric Parcels Centered on a Point-Source



$d = 1, 2, 3, \dots$ parcels

Radius of the d^{th} parcel = $r d$ feet

Area of the d^{th} parcel = $\pi (r d)^2 - \pi [r (d-1)]^2$ square feet



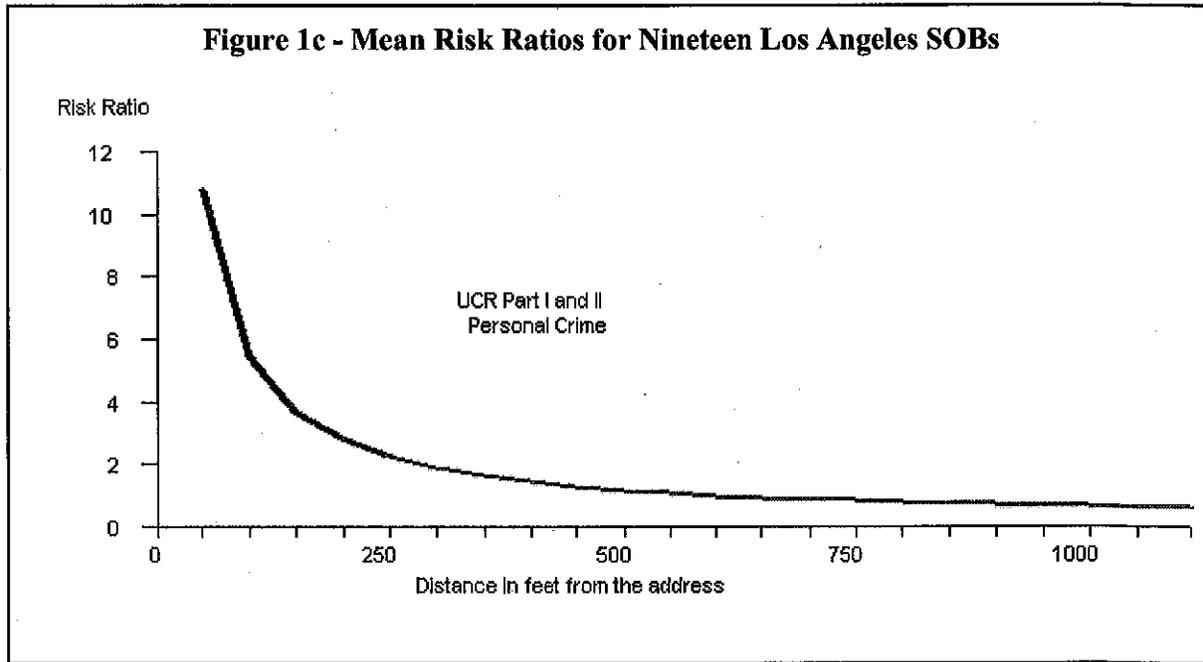


Table 2.1 - SOBs in the City of Los Angeles

<i>Business Name</i>	<i>Business Address</i>
Talk of the Valley	15452 Devonshire
Le Sex Shoppe	21625 Sherman Way
Sherman Way Adult Books	11841 Sherman Way
Drake's	7566 Melrose Ave
Circus of Books	4001 W. Sunset Blvd
Bruce & Jeffrey's Bird Cage	12300 ½ West Pico Blvd
Adult Video Warehouse	9718 Glenoaks Blvd
Le Sex Shoppe	4539 Van Nuys Blvd
Brand X Videos	6161 Van Nuys Blvd
Adult World Video	6406 Van Nuys Blvd
J&B Book and Video	10930 Vanowen Street
X-Spot 2 (aka Alameda Books)	1901 S. Alameda Street, #101
Stan's Bookstore	1117 N. Western
X-Spot 1 (aka Le Sex Shoppe)	5507 Hollywood Blvd.
X-Spot 3 (aka Highland Books)	6775 Santa Monica Blvd, #6
Le Sex Shoppe	3147 N San Fernando Road
Le Sex Shoppe	4877 Lankershim Blvd
Le Sex Shoppe	12323 Ventura Blvd
Jasons II	6408 Tujunga Ave
Le Sex Shoppe	6315 ½ Hollywood Blvd

Bookstores

Bookstore-Arcades

Excluded from sample

Table 2.2 - Total Crimes, Jan 1, 2001 - March 6, 2007

	UCR Personal		UCR Property		Other
	Part I	Part II	Part I	Part II	
15452 Devonshire	207	157	631	322	123
21625 Sherman	195	188	468	199	227
12300 W. Pico	51	47	149	38	105
7566 Melrose	177	157	588	266	127
4001 W. Sunset	138	182	438	130	108
11841 Sherman Way	68	35	274	44	84
9718 Glenoaks	10	12	109	21	29
Subclass Mean	120.9	111.1	379.6	145.7	114.7
1901 S Alameda	91	46	362	28	119
6775 Santa Monica	516	541	1192	238	229
1117 N. Western	745	603	878	525	300
5507 Hollywood	563	560	1045	460	273
3147 N. San Fernando	125	121	710	108	109
12323 Ventura	75	74	363	166	70
4539 Van Nuys	148	220	620	223	211
4877 Lankershim	207	179	808	161	180
6161 Van Nuys	225	590	498	236	495
6406 Van Nuys	317	537	730	275	271
10930 Vanowen	111	147	383	62	99
6408 Tujunga	67	62	234	45	109
Subclass Mean	265.8	306.7	651.9	210.6	205.4

Figure 3.1a - Simulated Spatial Distributions of 48 Crimes

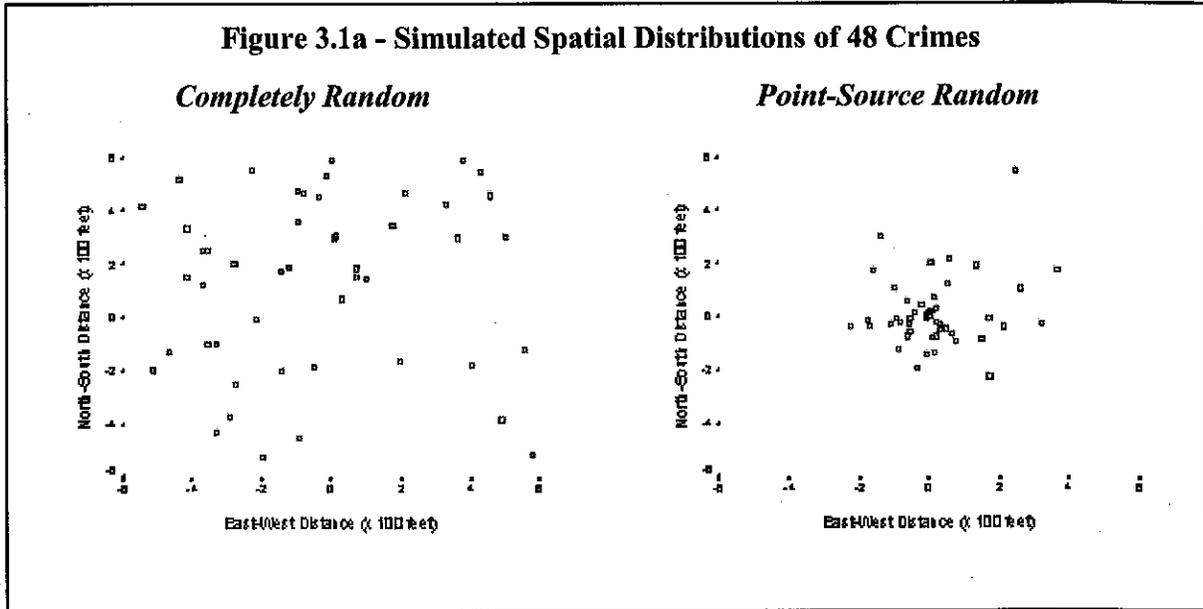


Table 3.2 - Parameter Estimates for the Poisson Regression Model

	β/γ	$s(\beta/\gamma)$	$t(\beta/\gamma)$	$\exp(\beta/\gamma)$
Constant	-9.6311	0.24454	-39.38	.00007
Distance	-0.0011	0.00005	-20.64	0.999
Combined SOB	0.8117	0.29833	2.72	2.252
UCR Personal	-0.4886	0.05264	-9.28	0.613
UCR Property	0.2824	0.04842	5.83	1.326
UCR Serious	0.7033	0.03366	20.89	2.020
Combined • Distance	-0.0003	0.00006	-5.51	0.999
Combined • Personal	0.4932	0.05853	8.43	1.638
Combined • Property	0.1320	0.05436	2.43	1.141
Combined • Serious	-0.1299	0.03722	-3.49	0.878
ζ	0.3422	0.10854		

Figure 3.2a - Victimization Risk by Distance from Site, UCR Personal Crime

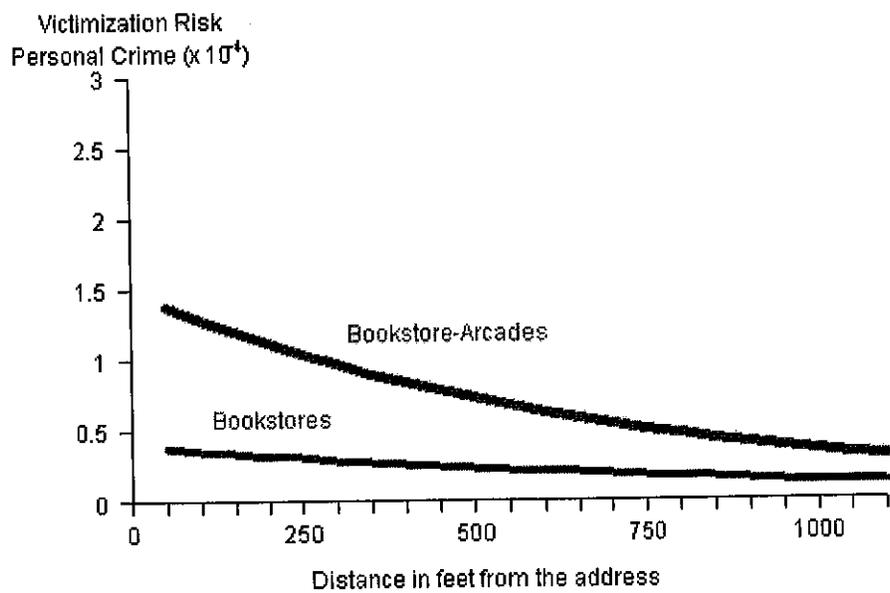


Figure 3.2b - Victimization Risk by Distance from Site, UCR Property Crime

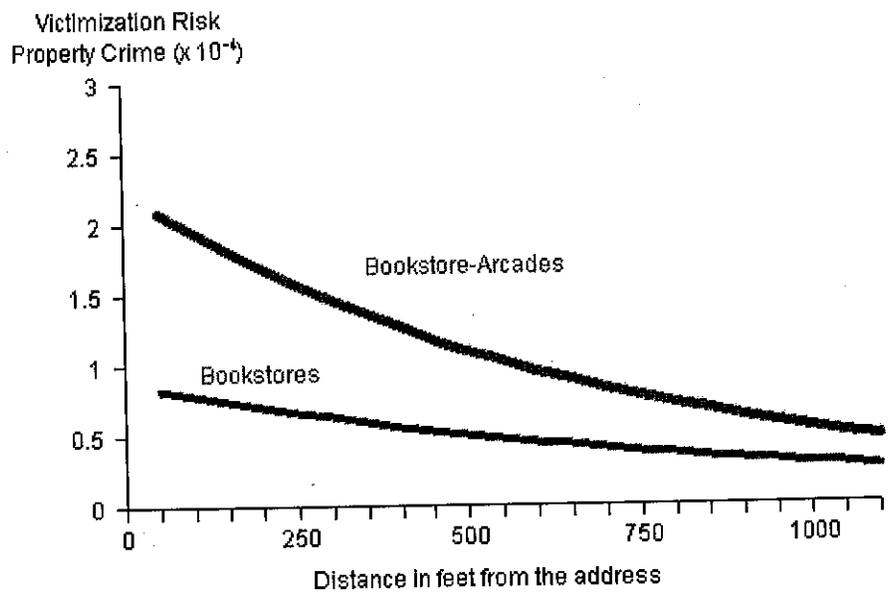


Figure 3.2c - Victimization Risk by Distance from Site, UCR Serious Crime

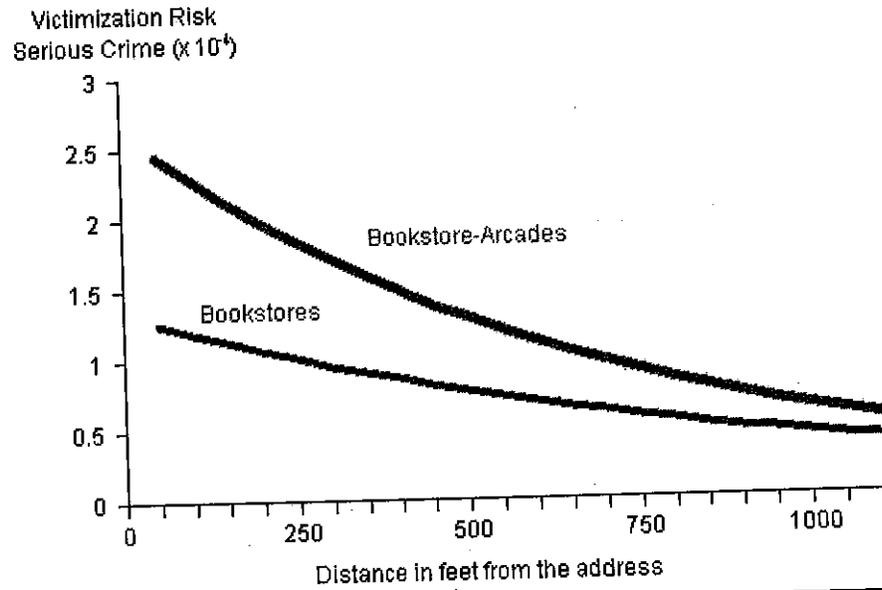
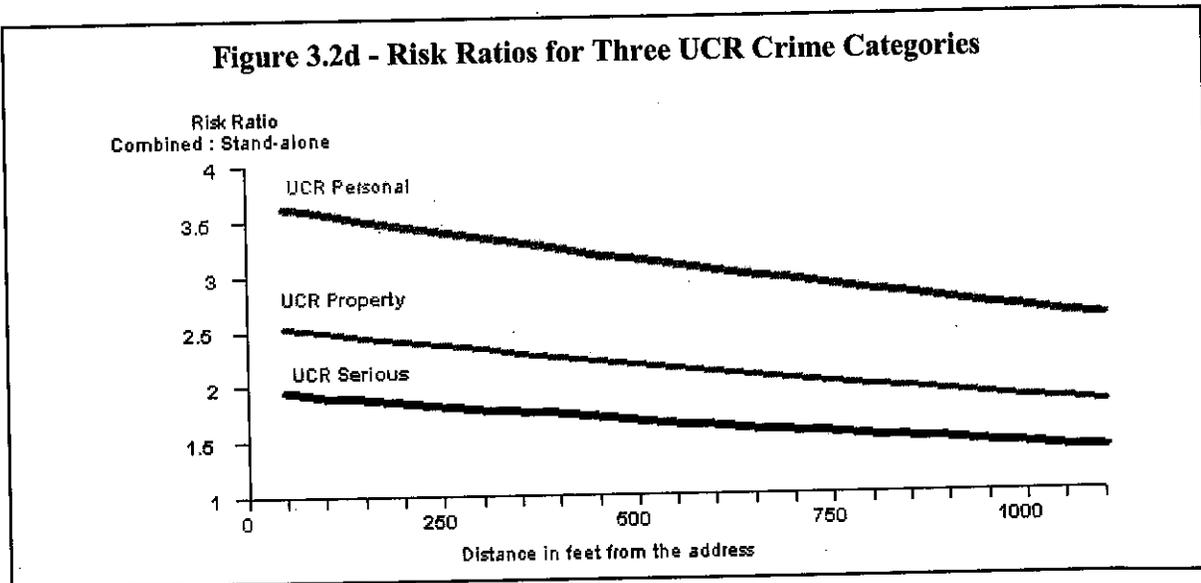
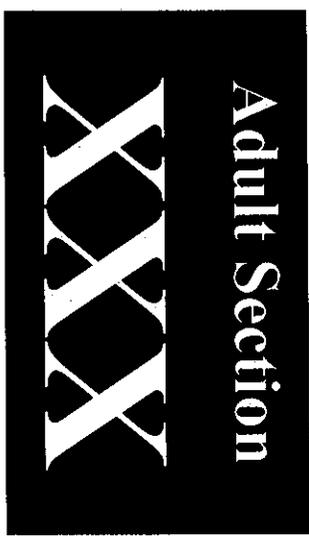


Figure 3.2d - Risk Ratios for Three UCR Crime Categories



**Survey, Findings and Recommendations
of Sexually Oriented Businesses**

Toledo, Ohio



Eric Damian Kelly, PhD, FAICP

duncan | associates

Connie B. Cooper, FAICP
Cooper Consulting Company, Inc.

August 26, 2002

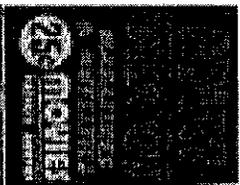
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Survey of Sexually Oriented Businesses Toledo, Ohio

Introduction

Consultant Team

The City of Toledo retained Duncan Associates, in association with Cooper Consulting Company, Inc., to undertake a study of sexually oriented businesses within the City of Toledo. Project manager for the study is Eric Damian Kelly, Ph.D., FAICP, vice president with Duncan Associates. Teamed with Eric, is Connie B. Cooper, FAICP, co-author, with Kelly, of the American Planning Association's Planning Advisory Service Report *Everything You Always Wanted to Know About Regulating Sex Businesses*.



The Toledo sexually oriented business study includes an analysis of ordinances, field studies of sexually oriented businesses, findings and recommendations for changes in zoning, licensing and other regulations. The report includes a general identification of probable site opportunities to ensure that the proposed ordinances will provide the continued availability of alternative locations, but not the availability of specific sites.

Regulating Sexually Oriented Businesses

Regulation of sexually oriented businesses has become one of the more challenging tasks facing communities today. Regulations must balance legitimate community concerns about the businesses with the First Amendment rights of the business owners and customers.

Courts increasingly demand that local governments base their zoning regulations of sexually oriented businesses on documented land-use effects of those businesses. Recent court decisions indicate that a local government representing a jurisdiction of significant size is in a

better position legally if it conducts its own study of those impacts, rather than relying on published studies or studies conducted in other communities.

Most regulations of sexually oriented businesses are directed at nude or topless bars, XXX video stores and other establishments devoted almost entirely to sexually oriented activities. However, many well-regarded merchants include in their stock a measurable proportion of arguably sexually oriented material; such businesses include the video rental stores with "adults only" backrooms, news dealers with isolated racks of adult magazines and a variety of specialty stores that may include certain sexually oriented items.



Although those who take the most negative view of sexually oriented activities and materials would lump all such businesses together, this creates an impossible situation, legally and politically. First, any broad limitation on any business with any "sexually oriented" materials or activities would ultimately apply to every bookstore, every movie rental store, every news dealer and, arguably, a variety of other merchants, such as Victoria's Secret, which trades on the fringes of this market in some of the nation's most upscale malls. Although those who would like to see such materials and activities eliminated completely from a community, the fact remains that there are technically x-rated scenes in major works of literature, brief nudity and sexual activity in Academy-award-winning motion pictures.

Toledo must seek balance in how it regulates land uses. Regulation of sex businesses is one of the most litigated areas of land-use law today. Communities that have tried to bar most or all sex businesses have generally lost court challenges to their regulatory schemes. In that context, a community must make reasonable provision for the existence of some sexually oriented businesses; on the other hand, it is also clear that a community need not necessarily allow every such establishment to offer the full range of sexually oriented products or activities that its proprietors might like to offer. Courts have also recognized that a sexually oriented business (such as a book store) is

different from other businesses offering similar products that are not sexually oriented. Toledo can adopt and implement different zoning regulations for such businesses, provided that the effect of them is not a complete ban on all such businesses.



Thus, Toledo must seek a balance. It must recognize the obvious potential for negative impacts on a neighborhood from a XXX Video Store ("viewing booths available inside"), address the possible impacts of such less-intensively adult businesses as the neighborhood video store with a backroom, and distinguish both of those from a mainstream business that may, in the ordinary course of business, carry a few items that have some sexually oriented appeal.

Recent History in Toledo

Businesses Existing at the Time of the Study

At the time of the study's fieldwork, Toledo had:

- Six adult cabarets, featuring nude or near-nude entertainment;
- One adult theatre with adult video rentals;
- Eight adult "bookstores" (as they call themselves) that actually include books, videos, sex toys and video arcades offering sexually oriented, hard-core material;
- Two retail shops focusing on lingerie and sex toys with limited media (in one case) and no media in the other, and without video viewing booths;
- A bathhouse;
- A lingerie modeling establishment; and
- Four massage parlors (one includes lingerie modeling) operated by persons who do not appear to be licensed under the Ohio Massage Therapy Licensing Act.

A complete list of these businesses is provided on page 12.

Current Regulations

The primary regulation of sexually oriented businesses in the City of Toledo is through zoning. The City now allows such establishments in the C-3 zoning district. The zoning ordinance defines "adult entertainment" establishments as follows:

As used in this Zoning Code, "adult entertainment" shall mean: massage parlors operated by anyone not a duly licensed medical doctor, osteopath, chiropractor, nurse, physical therapist treating patients recommended by a licensed physician under a duly licensed physician's direction or person practicing the art of massage on the face or hands in a beauty parlor or barber shop duly licensed within the City; and adult bookstores, adult motion picture theatres, adult mini-motion picture theatres, adult entertainment cabarets, or similar entertainment....

City Code, §1131.01(w), relating to permitted uses in the C-3 zoning district. The uses are made subject to the following conditions:

- (1) The establishment of the above adult entertainment uses shall not be located within:
 - A. 500 feet of any residential district, school, church, park, playground or other use established specifically for the activities of minors, as measured by the radius from the location of the adult entertainment use; and
 - B. 1,000 foot radius of another existing adult entertainment use, as measured by the radius from the locations of the adult entertainment uses.
- City Code, §1131.01(w)(1). Defines "adult bookstore" as:
- An establishment having a substantial and significant portion of its stock in trade in books, magazines, and other periodicals, as well as films, video cassettes, and discs which are distinguished or characterized by their emphasis on matter

depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

Note: Not all retail establishments carrying adult materials are included within the retail definition of an adult bookstore now used in the ordinance

City Code §1131(w)(2)A. Although we concluded that both The Love Boutique and Priscilla's should be regulated as sexually oriented businesses, neither of them appears to contain a "significant or substantial portion" of its stock in defined books, videos or other media; in fact, The Love Boutique has none at all.

Under Ordinance No. 122-99, the City established new regulations for video arcades showing sexually oriented material. Those standards, codified as Chapter 767 of the City Code (under business regulations), include the following:

- (b) Each and every viewing booth for all film or video devices must comply with all of the following:
 - (1) Be visible from a well-illuminated continuous main aisle;
 - (2) Not be obscured by any curtain, door or other enclosure;
 - (3) All side or rear walls must be without holes or openings;
 - (4) Shall not be occupied by more than one patron at a time;
 - (5) Be illuminated by a light bulb of a wattage of no less than 25 watts;
 - (6) All floor coverings in viewing rooms shall be nonporous, easily cleanable surfaces, with no rugs or carpeting;
 - (7) All wall surfaces and seating surfaces in viewing rooms, or any room or area providing patron privacy shall be constructed of, or

permanently covered by nonporous easily cleanable material;

- (8) The premises shall be kept clean and sanitary at all time.

City Code, §767.02(b). The industry has an action pending against that language – in particular, against the language prohibiting the use of doors on the booths, and it is not currently being enforced. Most of the video viewing booths that we observed had doors on them; many of those locked. At several establishments, there were violations of the prohibition on holes between booths – often called "glory holes" in the industry, presumably for the "glory" of facilitating sexual contact between unseen partners in adjoining booths.

Under Chapter 1735 of the City Code, the City of Toledo licenses and regulates bath and massage parlors. The chapter establishes licensing criteria, operating standards and standards for facilities used in bath-houses and massage parlors. However, the provisions of the code do not stipulate that a person providing the massage hold a massage therapy license from the State Medical Board of Ohio.

SUNS SPA

On May 7, 2002, the City Council adopted a moratorium, prohibiting the establishment of additional sexually oriented businesses, with the intent of allowing time for completion of this study and consideration of recommendations made as a result of it.

Litigation since 1990

Regulation of these businesses has been a contentious and troublesome issue in Toledo for ten years or more. Reported and selected litigation involving adult businesses in Toledo has included:

Cong Chon Kim v. Vasko, 2000 Ohio App. LEXIS 1342 (Ohio Ct. App., 6th District, Lucas County, 2000). The City denied renewal of a massage establishment license on the grounds that the premises were too close (3 feet) to another adult entertainment establishment – the Flamingo Cabaret

(now Platinum Showgirls). The City admitted that the initial issuance of the license had been in error, because the violation also existed at that time. After the building inspector noted the violation, the Director of Finance denied the license application; the denial was upheld by the Massage License Board of Review of the City and by the common pleas court. The appellate court affirmed. The court held in part that the separation requirement was a valid "time, place and manner" restriction on the conduct of protected expression.¹

Lima v. City of Toledo, 972 F. Supp. 432 (N.D. Ohio 1997). The federal court issued an injunction that allowed Scarlet's to operate at its present location and that declared it a "legal use." The City denied Scarlet's special use permit on the grounds that establishment of the business at that location would violate the provision of the City ordinance prohibiting adult entertainment centers that are "located within a 1,000 foot radius of either two such other uses." Scarlet's challenged this provision on the grounds that "the ungrammatical phrase was susceptible to multiple interpretations, and that such vagueness created a risk that First Amendment freedoms could be unconstitutionally chilled." The court found that the proposed location conformed with all other requirements of the ordinance and that the challenged provision could not be enforced.

Dia v. City of Toledo, 937 F. Supp. 673 (N.D. Ohio 1996). The federal court issued a preliminary injunction that allowed the predecessor of Platinum Showgirls (then called



Flamingo Cabaret) to open at its present location. The case focused on the denial of a special use permit required to establish the business. The court ruled for the applicant essentially on two alternative grounds. First, the court held that the City's zoning ordinance did not contain adequate standards to control the issuance of a special use permit thus giving the city council too much discretion, and therefore the ordinance amounted to an unconstitutional prior restraint on First Amendment rights; second, the court held that the city council in fact had no right to deny a special use permit under the circumstances and that the applicant had met all of the requirements for the issuance of the permit.

City of Toledo v. Gombar, 1992 Ohio App. LEXIS 2647 (Ohio Ct. App., 6th District, Lucas County, 1992). This case involved an adult cabaret that had changed from scantily clad "go-go girls" to entertainment featuring full frontal female nudity. Based on citizen complaints, the Building Commissioner determined that the establishment was operating in violation of the City's zoning ordinance.² Although the Building Commissioner's notice informed Gombar of a right of appeal to the Board of Zoning Appeals, Gombar did not appeal that decision but took the matter to court. The common pleas court ruled for the City on the merits, but the appellate court held that the trial court should not have reached the merits and that the Gombar claim should be dismissed for failure to exhaust administrative remedies by appealing to the Board of Zoning Appeals.

State of Ohio ex rel. Pizza v. Déjà vu, Inc., Case No. 90-0417 (Common Pleas, Lucas County, Ohio). This action was brought by the county prosecutor seeking to close Déjà Vu,

¹ Note that both sides apparently assumed at that time that the massage parlor was to be accorded the same First Amendment protection as the dancing establishments and book and video stores; we have found no case that supports that position and a number that support the contrary conclusion, that "there is no Constitutional right to a massage." See discussion at 39.

² It was clearly in violation of the ordinance because it did not have a special use permit; it is not clear from the record whether a business at this location could have met the separation and other requirements for a special use permit.

an adult cabaret. Although the court refused to close the establishment as a public nuisance and rejected the prosecutor's claim that the actions of the dancers constituted prostitution, the court attempted to balance the interests involved, noting:

In fact — given a constitutionally protected right of expression as it involves the narrow question of nude dancing — this Court finds that there is no corresponding constitutional right for the dancers at Déjà Vu to remain nude once their dance routines are ended; that there is no corresponding constitutional right for the dancers at Déjà Vu to touch any of the customers at any time; and that there is no corresponding constitutional right for the dancers at Déjà Vu to manipulate their genitalia as part of their dance routine.

Case No. 90-0417, at 4. After a thoughtful (and ironically humorous) discussion of the facts and that law, the court issued an injunction against Déjà Vu, Inc., an individual named defendant, “together with their agents and employees” against:

Touching any customer during the course of a dance routine; they are further enjoined from coming any closer than two feet from any customer during any dance routine at Déjà Vu; they are further enjoined from touching their genitalia during the course of the dance routine at Déjà Vu; and they are ordered to eject any customer who touches the breast, thigh, crotch, buttock of any dancer or member of the service staff.

Case No. 90-0417, at 16-17.

Dealing with live adult entertainment in Toledo changed significantly with the decision of the U.S. District Court for the Northern District of Ohio in *J.L. Spoons, Inc., v. City of Brunswick*, 181 F.R.D. 354; 1998 U.S. Dist. LEXIS 13584

(N.D. Ohio 1998). Ohio, like many other states, has an administrative liquor regulation that that prohibits knowingly permitting a female to dance in a liquor establishment with insufficient attire, such as “pasties,” which portrayed the female as dancing in a topless state. See Ohio Admin. Code § 4301:1-1-52 (Rule 52).³ In this suit, operators of an admittedly topless cabaret that served alcohol challenged the Constitutional validity of the regulation. The court ruled for the industry, issuing a permanent injunction against enforcement of the rule. After noting that “Rule 52 employs several extraordinarily vague terms, including ‘improper’, ‘lewd’, ‘immoral’, ‘indecent’ and ‘profane’, without providing any explanatory definitions or limiting constructions,” (1998 U.S. Dist. LEXIS 13584, at 12), the court held:

Given that the vague terms of Rule 52 not only apply to conduct, but also apply to the spoken and written word, Rule 52 clearly “sweeps within its prohibitions what may not be punished under the First and Fourteenth Amendments.” *Grayned v. City*

³ Pertinent portions of the rule read:

No permit holder, his agent, or employee shall knowingly or willfully allow in, upon or about his licensed premises improper conduct of any kind, type or character; any improper disturbances, lewd, immoral activities or brawls; or any indecent, profane or obscene language, songs, entertainment, literature, pictures, or advertising materials; nor shall any entertainment consisting of the spoken language or songs which can or may convey either directly or by implication an immoral meaning be permitted in, upon or about the permit premises.

Entertainment consisting of dancing, either solo or otherwise, which may or can, either directly or by implication, suggest an immoral act is prohibited. Nor shall any permit holder, his agent, or employee possesses or causes to have printed or distributed any lewd, immoral, indecent, or obscene literature, pictures or advertising materials.

of Rockford, 408 U.S. 104, 115, 33 L. Ed. 2d 222, 92 S. Ct. 2294 (1972). For example, depending upon the particular sensibilities and morals of those currently in charge of enforcing Rule 52, the reading of poetry, the showing of a film, the singing of a song or the performance of an interpretive dance that deals with sexuality, rape, abortion or suicide may subject a liquor permit holder to the revocation of his or her permit. Similarly, owners of comedy clubs that serve alcohol may be punished for allowing comedians who use coarse language, such as Richard Pryor or George Carlin, to perform on stage. Restaurant owners who serve alcohol and also display non-obscene artwork portraying the naked human form may be subject to a penalty. The type of protected First Amendment expression that Rule 52 threatens to punish is seemingly endless. Therefore, Rule 52 is unconstitutionally overbroad, in violation of the First Amendment and must be permanently enjoined.

For the foregoing reasons, this Court finds Rule 52 unconstitutionally overbroad in violation of the First Amendment, and permanently enjoins its enforcement.

1998 U.S. Dist. LEXIS 13584 at 15-16. The state then promulgated a new version of Rule 52, of which the same court, in a subsequent proceeding, provided this précis:

The challenged sections prohibit permit holders from allowing anyone on their permit premises to "engage in any lewd or disorderly activities," "appear in a state of nudity," "touch, fondle, or caress [certain body parts] of any person," or "commit improper conduct of any kind . . . that would offend the public's sense of decency, sobriety, or good order." Ohio Admin. Code 4301:1-1-52 §§ (B)(1), (B)(2), (B)(3), (B)(7) (1998).

J.L. Spoons, Inc., v. Brown, 40 F.Supp.2d 902, at 904 (N.D. Ohio 1999). After denying the state's motion to dismiss the case (40 F.Supp.2d 902), the court considered the matter on the merits, holding that the new rule was unconstitutionally over-broad and thus issuing a permanent injunction against its enforcement. *J.L. Spoons, Inc., v. O'Connor*, 190 F.R.D. 433; 1999 U.S. Dist. LEXIS 20288 (N.D. Ohio 1999). Although the court now found that portions of the new rule were enforceable, it found that other portions remained overbroad and unconstitutionally vague; because the court found that it was impossible to sever the unconstitutional portions, it held the entire regulation unconstitutional and enjoined its enforcement.

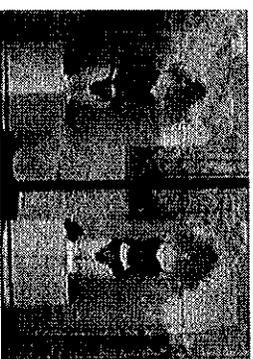
An Ohio appellate court has held somewhat more narrowly that some portions of the new Rule 52 are unconstitutionally vague, although it upheld the action of the state in revoking a liquor license based on violations of parts of the rule that it found not to be unconstitutional. *161 Dublin, Inc. v. Ohio State Liquor Control Comm'n*, 2001 Ohio App. LEXIS 5905 (Ohio App. 10th Dist., Franklin County, 2001), app. den. 95 Ohio St. 3d 1438, 766 N.E.2d 1003 (Ohio 2002). It is our understanding from third-party sources that Rule 52 in its current form is currently enforced in the southern parts of Ohio, which are not within the jurisdiction of the federal court that issued the injunction against enforcement of the rule.

Recent Developments

Shortly before we began work on this study, the City denied a license for a massage parlor at 1002 North Reynolds Road (above one of the existing book stores). The license was denied on the grounds that the proposed establishment was too close to another adult entertainment establishment (downstairs), too close to a residential use (immediately behind the building) and too close to a church (across the street). The applicant has appealed the denial of the application to the

Court of Common Pleas. *Geha v. City of Toledo*, CI0200105710 (Ohio Court of Common Pleas, Lucas County, 2001).

One of the issues that clearly led the City to determine that it needed a comprehensive study of sex businesses in Toledo was the decision



of Priscilla's to open what we categorize as a "sex shop" across from the Notre Dame Academy in west Toledo. Because the emphasis of the store is on racy lingerie, sex toys and gag gifts, with only a limited stock of adult videos and magazines, it may have not fallen within the definition of "adult entertainment establishment" in the current City code. The City initially allowed the store to open and then, after a number of citizen protests about the location, attempted to close it on the grounds that it was located too close to a school and church. In the face of litigation, the City allowed the store to open. See *Toledo Gifts, L.L.C., vs. Toledo*, (Case No. 3:02CV7123, N.D. Ohio, 2002). Clearly citizens of the community thought that the City was regulating the location of such businesses, regardless of whether that is the effect of the current ordinance.

Also pending in court is *Four-Star Books, Inc., v. City of Toledo*, Case No. 3:99CV7450 (N.D. Ohio, 1999), a case by multiple operators of sexually oriented bookstores in Toledo challenging the "doors off" provisions for video arcades, established by Ord. No. 122-99.

A more recent action is *Sombasis v. City of Toledo*, 3:02 CV7350 (N.D. Ohio 2002), challenging the moratorium adopted to prevent the establishment of additional adult entertainment facilities during the conduct of this study and consideration of its recommendations for amendments to City ordinances. Based on the facts of the case, the federal court in August held that the moratorium should not have been applied to Sombasis' business and issued a preliminary injunc-

tion against enforcement of the moratorium against Sombasis or his business.⁴

Toledo has had ongoing concerns with local taverns that have begun to feature adult entertainment. On July 4, 2002, Toledo undercover vice narcotics detectives visited three exotic dance clubs: Club Chablis zoned C-3; Ecstasy Club zoned C-3; and Hot Shotz zoned M-1. The visits revealed that all dancers were dancing topless, and in Hot Shotz, 6 dancers were dancing completely nude. All three clubs were closed by the Commissioner of Building Inspection due for violations of the zoning ordinance – Hot Shotz for operating in an M-1 zone and the other two for operating an adult use within 500 feet of residential zoning district without a Certificate of Use and Occupancy (Toledo Municipal Code 1131.01-w, 1171.01, 1309.01-a, 1309.03). Two of the cases were scheduled to be heard on appeal by the Board of Zoning Appeals, but both parties withdrew those appeals, indicating that they intended to reopen in compliance with applicable zoning.

Another recent development related to sex businesses in Toledo is the federal indictment of the Young A. Kim, operator of the Rainbow Health Spa, for a variety of alleged violations of the Racketeer Influenced and Corrupt Organization (RICO) statute and alleged money laundering.⁵

Other Current Issues

Certainly the litigation over sexually oriented businesses is both a part of the problem facing the City and an indication of the importance of the issue to the City and its residents. It is not an issue that will disappear on its own. Further, the City's piecemeal actions to deal with the issue to date appear not to have accomplished their intended purposes.

⁴ The order that we received is undated but has an August 13, 2002, date stamp for the copy.

⁵ *Toledo Blade*, 2 August 2002, pp. 1, 2.

The litigation is only one part of the issue, however. Despite this history of contention over the businesses, the City has not been entirely attentive to issues involving sexually oriented businesses. Three of the adult cabarets that we visited (Club Ecstasy, Club Chablis and Hot Shotz) had permits to operate only as bars but were, until just recently, passively allowed (with the City's knowledge but without official approval) to feature sexually oriented entertainment even though two were located too close to residential areas and one was in the wrong zoning district for adult entertainment. As noted above, only recently has the City taken action against all three businesses and closed them for violating the City's zoning ordinance.

The task of the City is a difficult one, however. It currently attempts to regulate the operations of these establishments through zoning, which is a good tool for dealing with issues of location but a poor one for dealing with actual operations. The only establishments over which the City has attempted to establish any operating control through licensing are the massage parlors, although there is little evidence that the current licensing ordinance is accomplishing the City's purposes.

The difficulty of dealing with these issues is further illustrated by the operation of Déjà Vu, which is still subject to the injunction of the Lucas County Court of Common Pleas, cited above. We found Déjà Vu to be a well-managed establishment that is, in many ways, the best of the adult cabarets now operating in Toledo from a public policy perspective. Nevertheless, we personally observed the following actions, all of which violate the clear language of Judge Skow:

Dancers touching customers in the course of a dance routine, in particular wrapping their breasts around the faces of tipping patrons and taking tips from customers' laps, using the dancers' mouths to do so;

Regularly coming within less than two feet of customers during dance routines, including the couch dances.

Although the judge did not specifically enjoin nudity between dance routines, he found that there was no constitutional protection for it; the technique for soliciting customers for couch dances at Déjà Vu is

for the dancers, nude on top, to circulate among customers, touching them and/or coming very close to them, pitching these personal services. The injunction has had some effect, however; Déjà Vu dancers, unlike their counterparts at some other establishments, did not ever ride the laps of their customers during "couch dances" – at least not in our presence.

The Study in Context

The purpose of this study is to provide the City with a fresh and objective look at the adult entertainment and related industries currently operating in Toledo. It is our intent to offer the City a comprehensive set of recommendations through which it can address the issues related to these sexually oriented businesses in ways that balance the concerns of citizens with the rights of the businesses and their customers.

There are certainly a variety of expectations of this study. There are undoubtedly residents of the community who hope that our study will give the City a basis for "banning porn." It will not do that, because the City cannot constitutionally ban lawful pornography. Some representatives of the industry may believe that this is simply another band-aid approach to the issue by the City. It will not be that, either. The City needs regulations that are clearer, more effective and more easily enforced. We hope that our recommendations can help to simplify enforcement, but any attempt to regulate operating businesses is necessarily labor intensive – much more so than simply controlling the location of particular activities through zoning. We certainly believe that a clearer set of regulations can limit the amount of litigation faced by the City by reducing the uncertainty sometimes faced by the industry.



Site Survey

Issue Orientation

As part of the initial work effort, the consultant team toured Toledo's sexually oriented businesses with staff members and met with the study's steering committee comprised of the planning department, police force, building services and the legal department. The team also met with city council members, neighborhood groups and representatives of the sexually oriented businesses to further understand the issues and concerns.

We analyzed existing zoning and licensing ordinances in the city as they relate to the study, and reviewed state statutes and past or ongoing litigation concerning sexually oriented businesses. Our review of the ordinances examined two different aspects: provisions that directly impact sexually oriented businesses; and the zoning characteristics of more intensive non-residential districts that may provide some appropriate locations for sexually oriented businesses. Existing crime reports were reviewed to understand the types of complaints and convictions related to sexually oriented businesses.

Approach to Site Visits

We conducted a minimum of two site visits to each of the 25 sexually oriented businesses within Toledo. The only exceptions were the massage parlors and the bathhouse, The Diplomat. At these establishments, we inquired at the front door about the rates and services; we did not attempt to patronize what we call "touching businesses." We relied on police and other reports regarding the activities within these businesses. One business (Snap Shots, a nude photography studio), closed before our study began; therefore our report only briefly discusses this business. In addition to existing businesses, we attempted to identify other businesses that might be included in a regulatory program aimed at sexually oriented businesses – such businesses include mainstream video stores and newsstands with significant stocks of sexually oriented material in backrooms.

During our site visits, we took photographs of the exterior portions of the businesses, however, no photographs were taken from within the businesses. As part of the site visits, we surveyed the exterior premises, available parking, lighting, signage, adjacent land uses and appropriateness of the existing locations. Inside video bookstores, we examined the types of merchandise available for purchase or rent (videos), monitoring access and activities in the video booth area, attentiveness of the employees/manager, cleanliness and interior lighting, number of booths and their configuration, number and type of customers and whether there was any loitering within the businesses or outside.

Site visits of exotic dancing establishments included the same exterior survey information. Inside, the site visit focused on the interaction of the dancers with customers, where and how this interaction took place and the actions of management. The businesses included in the survey were:

Adult Videos and Video Viewing Booths

1. Adult Pleasures – Video Booths, 4404 N. Detroit Avenue
2. Adult Videos – Video Booths, 3107 W. Alexis Road
3. Adult Videos/Woodville News – Video Booths, 1634 Woodville Road
4. Adult Videos/G&L Videos/Jolly Trolley – Video Booths, 5070 Telegraph Road
5. Adult Videos/G&L Videos – Video Booths, 1124 N. Reynolds Road
6. Adult Zone – Video Booths, 5661 Telegraph Road
7. Pleasure Palace/Adult Book Store – Video Booths, 135 South Byrne Road
8. Reyn-dor News/Toledo Adult Book Store – Video Booths, 1002 N. Reynolds Road
9. The Love Boutique – Sex Shop, 135 South Byrne Road
10. Priscilla's – Sex Shop, 4739 Monroe Street

Exotic Dancing and Adult Theater

11. Club Chablis Gentlemen's Club – Exotic Dancing, 5405 N. Detroit Avenue
12. Club Ecstasy – Exotic Dancing, 5038 Lewis Avenue
13. Déjà Vu Showgirls – Exotic Dancing, 135 South Byrne Road
14. Hot Shotz – Exotic Dancing, 3835 N. Detroit Avenue
15. Platinum Showgirls, 5801 Telegraph Road
16. Scarlett's Adult Cabaret – Exotic Dancing, 5765 Telegraph Road

17. Velvet Rope – Exotic Dancing, 4635 N. Detroit Avenue – Not Opened

18. Westwood Art Theater & Adult Videos, 1602 Sylvania Avenue

Bathhouse, Lingerie Modeling and Nude Photography

19. Diplomat – Bath House, 1313 Summit Street
20. Kim's Lingerie Modeling, 5070 Telegraph Avenue
21. Snapshots – Nude Photography, 5701 Benore Road – Closed

Massage Parlors and Shower Massages

22. Chang Mi Health Spa – Massages, 135 S. Byrne Road
23. Lorain's Private Studios – Massages, 5661 Telegraph Road
24. Rainbow Spa – Massages, 5205 Telegraph Road
25. Sums Health Spa – Massages, 1722 W. Laskey Avenue

Sex Shops

9. The Love Boutique – Sex Shop, 135 South Byrne Road
10. Priscilla's – Sex Shop, 4739 Monroe Street

Exotic Dancing and Adult Theater

11. Club Chablis Gentlemen's Club – Exotic Dancing, 5405 N. Detroit Avenue
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15. Platinum Showgirls, 5801 Telegraph Road
16. Scarlett's Adult Cabaret – Exotic Dancing, 5765 Telegraph Road

Surveyed Businesses

Adult Videos and Video Viewing Booths

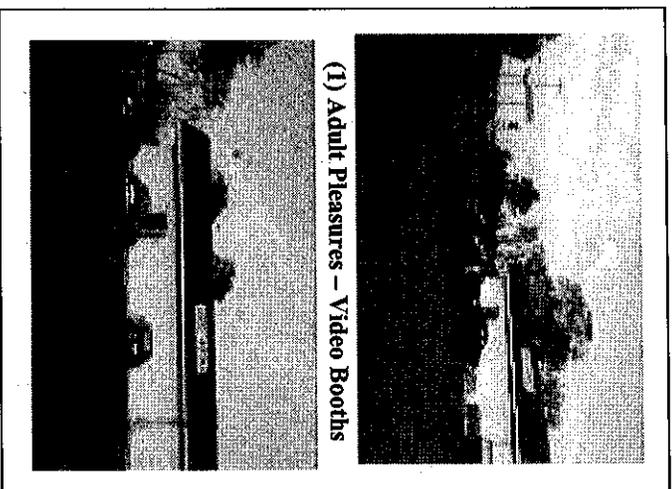
Adult Pleasures (1)

4404 N. Detroit Avenue

Adult Pleasures is an adult video sales and viewing booths establishment operated in north Toledo. It is currently zoned C-3. It is one of many adult uses in the Detroit Avenue/Telegraph Road corridor. In addition to adult video sales and video booths, Adult Pleasures handles adult magazines, cards, sex aids and novelties. The business is located in a concrete block structure with approximately 40 paved parking spaces. Typically, during the day the lot had 3 or 4 cars, however, late in the evening (11 p.m.) the number swelled to approximately 10 or 12 cars. Operating hours are 24/7 and the age limit is 18 year olds and above. Signs are limited to a 25-foot pole sign and roof-mounted signs both titled "Adult Books." The adjacent land uses are older industrial and commercial activities located some distance from the business.

Management is located at the entrance of the store to the right. During our visits they were friendly and asked if we needed assistance. Two-thirds of the business's space is devoted to adult retail merchandise, with the remainder devoted to 18 video booths and 3 preview booths. The store, although older in appearance, appeared clean. The interior of the business is well lighted both in the retail portion of the business and in the video booth area. The booths are located at the rear of the store through a single doorway. The booths have one-person seats and doors that lock with about 3" of space at the top and bottom of the doors. There is electronic monitoring of the booth area but little effort to detain anyone walking straight back to the booths without buying tokens. There was loitering in the video booth area and some booths had "glory holes." These were clearly the more popular booths.

Of the thirty-seven police calls to sexually oriented bookstores in a 39-month period, 10 were to this address. That finding, which we made after completing our field work, was not surprising in light of our observations of activities in the back halls.



Adult Videos (2)

3107 W. Alexis Road

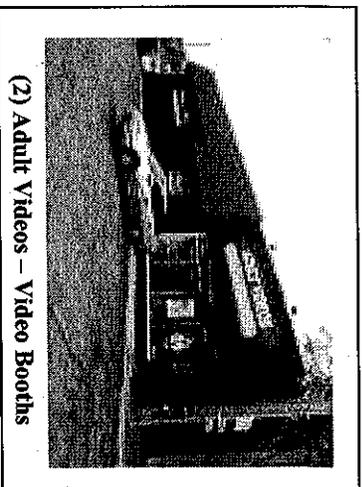
Adult Videos is an adult video sales and viewing booths establishment operated in north-western Toledo. It is currently zoned C-3. It is the only adult use on Alexis Road. In addition to adult video sales and video booths, Adult Videos handles adult magazines, sex aids and novelties. The business is located in a concrete block structure that is painted entirely black. The building sits very close to the front property line, and only provides about 8 paved parking spaces. During our visits there were only 1 or 2 people at the business. Operating hours are 24/7 and the age limit is 18 year olds and above. Signs are limited to a 20-foot pole sign and multiple wall-mounted signs advertising adult video booths, magazines, videos and novelties. Adjacent land uses include a residence attached to a portion of the building and surrounding commercial businesses. This business was one of only two businesses (The Love Boutique was the other business) that had a glass front that contained some very limited adult merchandise viewable from the outside.

Two-thirds of the business's space is devoted to adult merchandise, with the remainder devoted to 16 video and 2 preview booths. Management is located near to the front of the business to the right with the booths to the left of the store through a single doorway. The interior of the business is well lighted in the retail portion of the business but much less so in the video booth area. The video booths have one-person seats and doors that lock. There is no electronic monitoring of the booth area and no effort to detain anyone walking straight back to the booths without buying tokens. At the time of the visits, there did not appear to be any loitering within the business. The management was quite friendly and the store appeared very clean. The person on duty had worked with this company about five years, and had actually transferred to this store from another one owned by the same company.

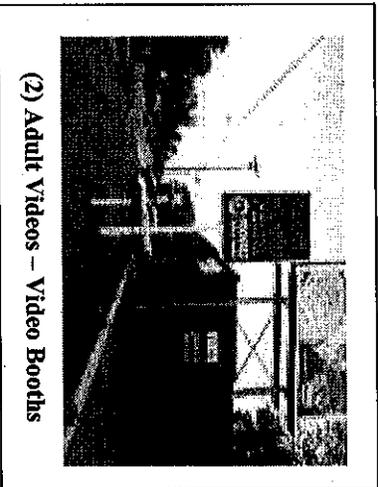
Adult Videos / Woodville News (3)

1634 Woodville Road

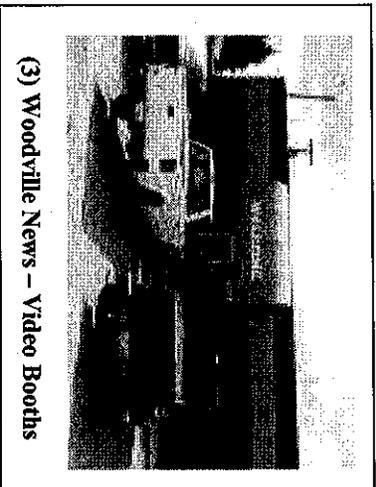
Adult Videos or Woodville News (sign indicates Adult Videos), an adult video sales and viewing booths establishment, is the only adult business located east of the Maumee River. This is one of only two adult businesses located in the M-2 Industrial District (the other is the closed "Snap Shots" business on Benore Road). Adult Videos is located in a black painted concrete block structure with approximately 30 gravel parking spaces. In addition to adult video sales and video booths, Adult Videos handles adult magazines, sex aids and



(2) Adult Videos - Video Booths



(2) Adult Videos - Video Booths



(3) Woodville News - Video Booths

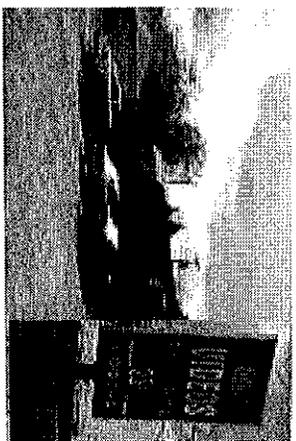
novelties. During our visits there were four people in the business. The business operates 24/7, with a minimum age limit of 21 years or above. Signs are limited to a 20-foot pole sign and multiple wall-mounted signs advertising 25-cent movies, magazines, videos and novelties. Adjacent land uses include a bar to the east, a commercial business to the west, an industrial operation across Woodville Road, and residences to the south.

Approximately two-thirds of the space is devoted to adult merchandise, with the remainder devoted to 22 adult video booths and 3 preview booths. Management is located in the middle of the store with video booths to the left side of the store. The booths have one-person seats and doors that shut but do not lock. The store had video monitoring but only of the retail area. The retail area is well lighted but the booth area is very dark. The store appeared recently remodeled and very clean. The management asked if they could assist us but did not appear to be monitoring activity in the booth area.

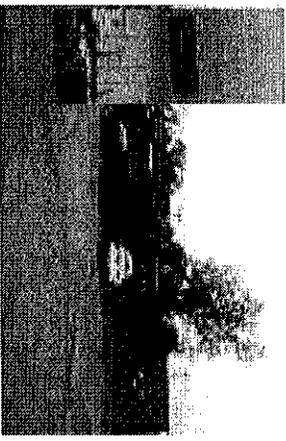
Adult Videos/G & L Videos/Jolly Trolley (4)

5070 Telegraph Road

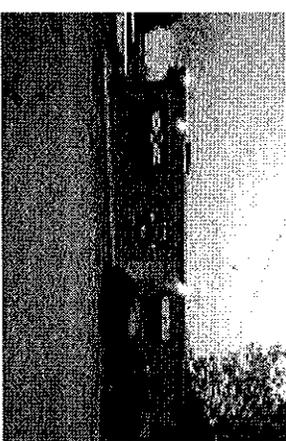
This business appears to go by multiple names: Adult Videos, G & L Video Store, and Jolly Trolley. Zoned C-3. It is one of many adult uses in the Detroit Avenue/Telegraph Road corridor in north Toledo. Adult Videos is located in a gray concrete block structure and sits at the intersection of Telegraph Road and Detroit Avenue with approximately 25 paved parking spaces. It is an adult retail establishment that also has video viewing booths. In addition to adult video sales and video booths, Adult Videos handles adult magazines, sex aids and novelties. During our visits there were 5 to 7 people in the business. The business operates 24/7, with a minimum age limit of 18 years or above. Signs are limited to a 35-foot pole sign and multiple wall-mounted signs advertising adult video booths, magazines, videos and novelties. Adjacent land uses include a lingerie modeling studio (Kim's Lingerie Modeling), Rainbow Spa (massage parlor) and an industrial scrap metal company. Two-thirds of the business's space is devoted to adult merchandise, with the remainder devoted to 12 video and 3 preview booths. Management is located at the front entrance with the video booths to the rear of the business. The interior of the business is well lighted in the retail portion of the business but much less so in the video booth area. The booths have one-person seats and doors that lock. There is electronic monitoring of the booth area. At the time of our visit, there was not strict enforcement of persons walking back to the booths before buying tokens. We did observe that there were a couple of people hanging around within the business. The management was quite friendly, but did not seem to know anything about the adjacent lingerie modeling business.



(3) Woodville News - Video Booths



4. Adult Videos - Video Booths



Adult Videos/G&L Videos (5)

1124 N. Reynolds Road

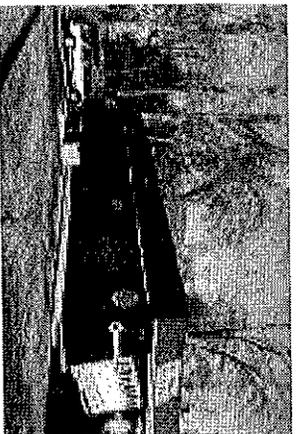
Adult Videos or G&L Video Store is one of two C-3 zoned adult businesses on Reynolds Road within a block of one another in southwest Toledo. The business is located in a black concrete block structure with approximately 20 paved parking spaces. Adult Videos is an adult video sales and viewing booths establishment. In addition to adult video sales and video booths, Adult Videos handles adult magazines, sex aids and novelties. During our visits there were two customers in the business. The business operates 24/7, with a minimum age limit of 21 years or above. Signs are limited to a 15-foot pole sign and multiple wall-mounted signs advertising adult video booths, magazines, videos and novelties. Adjacent land uses include a limousine rental business to the south and east, residences to the east, a Chinese restaurant to the north and a Family Dollar Store across the street.

Like most of the adult video stores, two-thirds of the business's space is devoted to adult merchandise, with the remainder devoted to 12 video booths. Management is located in the middle of the store with the video booths to the left and rear of the business. This was only one of two businesses that had access control by way of a buzzer system. The interior of the business is well lighted in the retail portion of the business but much less so in the video booth area. The store appeared recently remodeled and very clean. This was also one of the few stores that had video monitoring of the booth area and a buzzer when someone walked into the area where the booths were located. Even though the booth area was fairly dark, during our visit we tested the system and the speaker system very loudly said "only one person to a booth!" The booths have one-person seats and doors that lock. We found the management was quite friendly and attentive to persons entering the business.

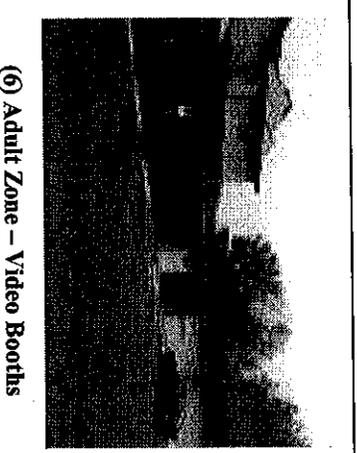
Adult Zone (6)

5661 Telegraph Road

Adult Zone is an adult video sales and viewing booths establishment operated in north Toledo. Zoned C-3, it is one of many adult uses in the Detroit Avenue/Telegraph Road corridor. Based on information provided by the person at the front counter, the business has been in operation since 1999 or 2000. It is located next door to Lorain's Private Studio (lingerie modeling and shower massages) and a few doors down from Scarlett's Adult Cabaret. In addition to adult video sales and video booths, Adult Zone handles adult magazines, sex aids and novelties. The business is located in a gray painted brick structure, adjoining the two-storied building housing Lorain's with approximately 30 paved parking spaces. During our visits only one customer came into the business. Operating hours are



(5) Adult Videos - Video Booths



(6) Adult Zone - Video Booths

24/7 with an age limit of 18 year olds and above. Signs are limited to a 15-foot monument sign and a few small wall-mounted signs.

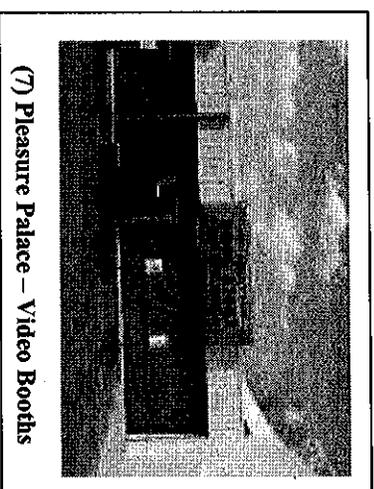
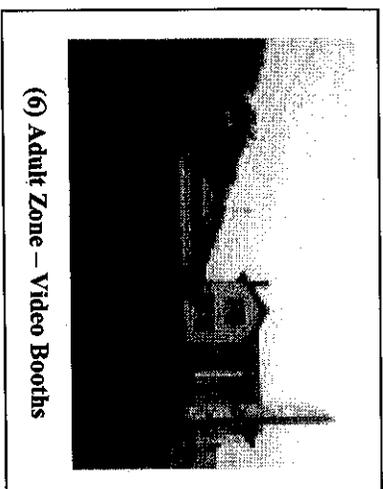
The business is in a L-shaped building with three-fourths of the space devoted to adult merchandise, with the remainder devoted to adult video booths and a couple of preview booths. Management is located at the front of the business to the left, retail merchandise in the main portion of the businesses and the video booths in the segment of the building off to the right a few steps below the main building. All portions of the interior of the business are well lighted and very clean. The booths have one-person seats and doors that lock. There is electronic monitoring of the booth area, but little effort to detain anyone walking straight back to the booths without buying tokens. This was the only business that offered a handicap accessible booth, with a separate ramp providing access to the booth areas. There were paper towel dispensers outside the booths and a sign asking patrons not to urinate in the booths. We did observe that there were no common walls shared between booths, thus eliminating the problem with "glory holes." At the time of the visits, there was no loitering around or within the business. The management was friendly an asked if we needed assistance.

Pleasure Palace / Adult Book Store (7)

135 South Byrne Road

The Pleasure Palace, or Adult Book Store as the sign indicates, is one of four C-3 zoned adult businesses in a strip shopping center on South Byrne Road in southwest Toledo. Other businesses include The Love Boutique, Déjà Vu and Chang Mi Sauna. The Pleasure Palace shares the strip center's large parking lot (100+ paved parking spaces) with these other adult businesses). This business is an adult video sales and viewing booths establishment. In addition to adult video sales and video booths, Pleasure Palace handles adult magazines, sex aids and novelties. During our visits there were 4 or 5 people in the business, two who were just hanging around the booth area. The business operates 24/7, with a minimum age limit of 18 years or above. An interesting quirk to the business's operating policies – it does not allow females into the video booth area after 9 p.m. Signs are limited to one wall-mounted sign. Adjacent land uses include the other adult uses and a bar opened mostly on weekends called The Field House. This bar, not the adult uses, appears to be the subject of a number of police calls for fights and unruly customers.

About half of the business's space is devoted to adult merchandise, with the remainder devoted to 16 adult video booths and 3 preview booths. Management is located at the front of the business to the left of the entrance. The video booths are situated at the rear. The inte-



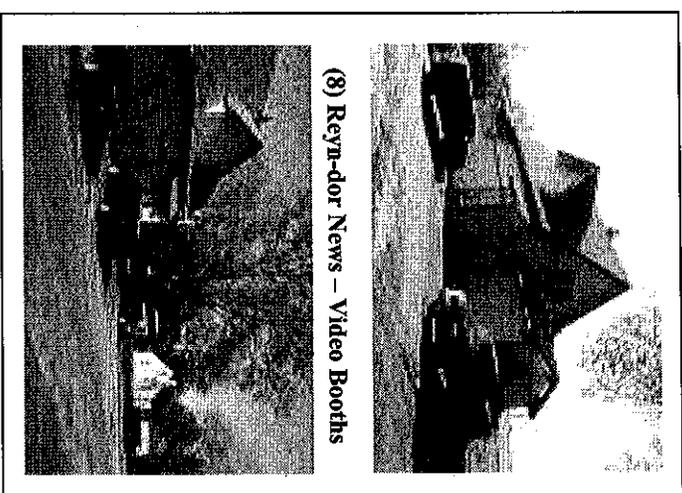
rior of the business is well lighted in the retail portion as well as in the video booth area. The store appeared somewhat tired, particularly in the video booth area. There was no electronic monitoring of the booth area and the attendant was not particularly curious about who went into the booth area. The booths had benches that would hold one or two people with doors that lock. There were three glory holes linking six booths.

Reyn-dor News / Toledo Adult Bookstore (8)

1002 N. Reynolds Road

Reyn-dor News, or Toledo Adult Bookstore as the sign indicates, is one of two C-3 zoned adult businesses on Reynolds Road within a block of one another in southwest Toledo. The business is located in a two-story yellow wood framed structure with approximately 8 paved parking spaces that are very close to the street. Reyn-dor News is an adult video sales and viewing booths. In addition to adult video sales and video booths, Reyn-dor News handles adult magazines, sex aids and novelties. During our visits there were two people in the business. The business operates 24/7, with a minimum age limit of 18 years or above. Signs are limited to a 15-foot pole sign and a wall-mounted sign advertising videos, novelties and 25-cent movies, magazines. Adjacent land uses include a donut shop, two churches across Reynolds, and residences immediately adjacent to the business. Outside the business there is a sign advertising "Foxy's" located above the video store. We were told this was an adult massage business, but at the time of our visit it did not appear in operation.

Reyn-dor News is a fairly small sized business, with approximately half of the space devoted to adult merchandise, with the remainder devoted to 10 video booths. Management is located at the entrance to the business on the right with the video booths to the rear. The booths have one-person seats and doors that lock. The store had video monitoring but only of the retail area. This area is well lighted but the booth area was more dimly lit (some of the fluorescent fixtures were covered by cardboard). The store appeared somewhat ill kept. Management was very attentive, noticing that we were taking photos and inquired as to what we were doing. They also closely monitored when someone walked back into the booth areas without buying tokens.



(8) Reyn-dor News - Video Booths

Sex Shops

The Love Boutique (9)

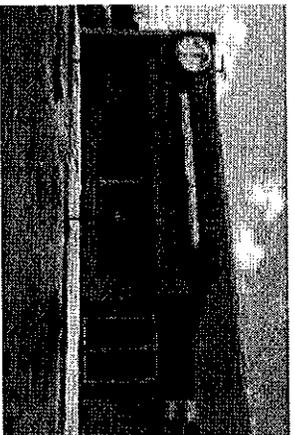
135 South Byrne Road

The Love Boutique is one of two Toledo adult businesses that we classified as a "sex shop" ... a retail establishment with multiple types of adult merchandise such as sex novelties and toys, lingerie, some videos and magazines but with no on-site entertainment within the business. The other sex shop is Priscilla's. The Love Boutique is located in a strip shopping center with three other C-3 zoned adult businesses on South Byrne Road in southwest Toledo. The other businesses are Pleasure Palace/Adult Bookstore, Déjà Vu and Chang Mi Sauna. The business utilizes the strip center's large parking lot of at least 100 paved parking spaces. The Love Boutique has merchandise displayed in the windows, but most of it is limited to lingerie-type merchandise. During our visits there was only one person in the business and she appeared to be a Déjà Vu dancer located next door. Unlike the 24/7 operating hours of the video viewing booths, The Love Boutique's operating hours was from 10 a.m. to 2 a.m. Monday through Saturday and from noon until 2 a.m. on Sundays. The minimum age limit for entering was 18 years or above. Signs are limited to one wall-mounted sign that advertises adult toys, dancewear, video rentals and arcade (there is no arcade). The Love Boutique has two interesting features ... it is connected by a hallway to Déjà Vu and the store's TV monitor appears to receive a direct feed from Déjà Vu's performance stage (or a similar business). The store was very clean and nicely merchandised. Management was friendly and somewhat attentive to store customers. Adjacent or near by uses include the other adult uses and a bar opened mostly on weekends called The Field House. This bar, not the adult uses, appears to be the subject of a number of police calls for fights and unruly customers.

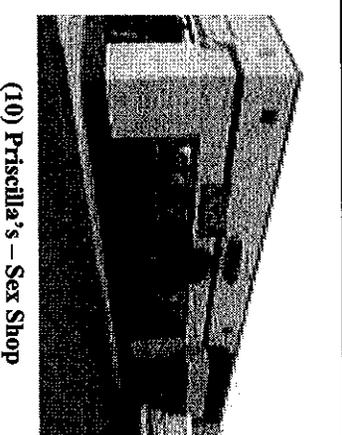
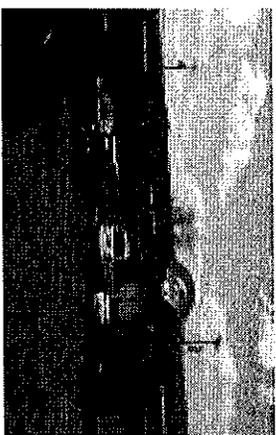
Priscilla's (10)

4739 Monroe Street

Priscilla's is the second Toledo adult businesses (The Love Boutique is the other one) that we classified as a "sex shop" ... a retail establishment with multiple types of adult merchandise such as sex novelties and toys, lingerie, some videos and magazines but with no on-site entertainment within the business. Priscilla's, on Monroe Street, is zoned C-3 in the northwest part of Toledo, and was opened this spring (2002). The business's 20 parking spaces are shared with the adjacent restaurant. Priscilla's has received quite a large amount of press coverage since its opening due to its location across the street from Notre Dame



(9) The Love Boutique – Sex Shop



(10) Priscilla's – Sex Shop

Catholic Academy and its very suggestive window displays (mannequins clad in bustiers and panties). Compared to The Love Boutique, its operating hours are much more limited, being open from 10 a.m. to midnight Monday through Saturday, and from noon to 10 p.m. on Sunday. The minimum age limit for entering is 18 years and above. Management was friendly and asked us if we needed assistance. Signs are limited to a 20-foot pole sign and wall-mounted signs advertising lingerie and novelties. Adjacent land uses include commercial uses within the strip center and the catholic school across Sylvania Avenue.

Exotic Dancing and Adult Theater

Club Chablis Gentlemen's Club (11)

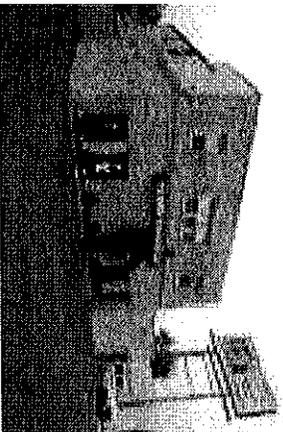
5405 N. Detroit Avenue

Club Chablis Gentlemen's Club is a nightclub featuring female exotic dancers. The property, zoned C-3, is in west Toledo and is one of many adult uses in the Detroit Avenue/Telegraph Road corridor. Club Chablis is housed on the first floor of a two-story concrete structure with approximately 30 paved parking spaces. Upon entering the bar, there is a small cover charge; the bar is on the left and stretches the full length of the room; small tables and chairs are in the center; at the rear is an elevated rectangular dance stage approximately four feet in height measuring 10' x 18'; and behind the stage is a large dark room with couches where lap dancing is performed for customers. At the time of the site visits, there were three or four dancers who danced topless with g-strings on. Customers would come up to the stage from time to time, offer the dancer a tip and she would usually rub her bare breasts in the customer's face. Dancers also solicited private lap dances. If a customer declined, the dancer would go onto another table; if the customer agreed, the dancer would take the customer into the backroom and perform the lap dance with the customer sitting on the couch. The partially nude dancer would make full-body contact with the customer remaining clothed. Overall, the club was reasonably clean with a cordial management. A key issue is Club Chablis' location adjacent to single-family residences to the west of the club; however, to the east is older industrial development.

On the date of this report, it is our understanding that adult entertainment is no longer being offered at this establishment.



(10) Priscilla's - Sex Shop



(11) Club Chablis - Exotic Dancing



Club Ecstasy (12)

5038 Lewis Avenue

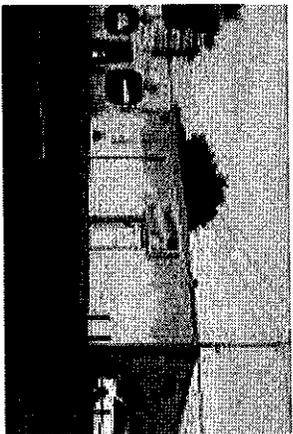
Club Ecstasy is a nightclub featuring female exotic dancers. The property, located on Lewis Avenue and zoned C-3, is in north Toledo about a mile west of the many adult uses in the Detroit Avenue/Telegraph Road corridor. The one-story concrete structure with a wood facade and approximately 20 paved parking spaces sits very close to the Lewis Avenue right-of-way line. We observed that parking is sometimes a problem, with cars being double stacked on busy nights. On some nights, there is a small cover charge, but not always. Inside, the bar stretches down the left side of the room; tables and chairs surround the U-shaped elevated dance stage that is approximately three feet in height and 10' x 35'; and there is a five-foot high walled area to the right of the front entrance with couches where dancers provide lap dances for customers. At the time of the site visits, there were four or five dancers who danced topless with g-strings on. Customers would come up to the stage from time to time, offer the dancer a tip and she would usually rub her bare breasts in the customer's face. Other times the dancer would rub the customer's face in her crotch. Unlike Club Chablis, lap dances were solicited much less formally. Often the dancer would be sitting with the customer and then only after sometime would they go back into the lap dance area. On the occasion that we observed a lap dance, full-body contact was made by the partially nude dancer with the customer remaining clothed. This is the club that we observed a dancer being hired on what appeared to be "on the spot" after a brief audition. Overall, the club was in a somewhat run down condition, but seemed to have friendly staff. Like Club Chablis' location, Club Ecstasy is problematic with its location adjacent to single-family residences to the north and east of the club. In fact, residences sit within 10 feet of the Club's parking lot without any buffer provided; however, to the west and south are older commercial areas.

On the date of this report, it is our understanding that adult entertainment is no longer being offered at this establishment.

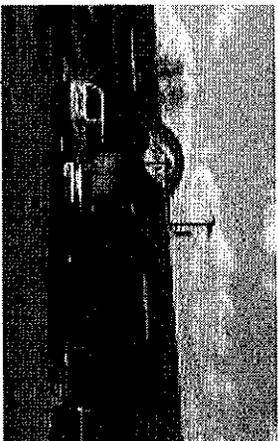
Déjà Vu Showgirls (13)

135 South Byrne Road

Déjà Vu Showgirls is a nightclub featuring female exotic dancers. The club is one of four C-3 zoned adult businesses in a strip shopping center on South Byrne Road in southwest Toledo. The other businesses are The Love Boutique, Chang Mi Sauna, and the Pleasure Palace Adult Bookstore. The business utilizes the strip center's large parking lot (100 +



(12) Club Ecstasy – Exotic Dancing



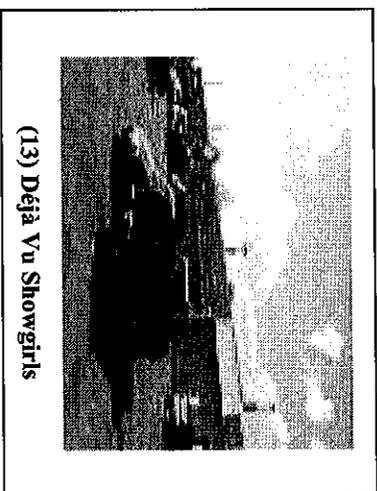
(13) Déjà Vu Showgirls

paved parking spaces). There is a cover charge, with women often given free admission. This is a large club with a much more upscale look than the more neighborhood bars like Club Chablis and Club Ecstasy. The bar has a much less prominent position since the club does not have an alcoholic beverage license (we understand that the club is in the process of getting a license approved). Only soft drinks were served to customers. The club has approximately 10 U-shaped upholstered lap dancing booths lining each side of the room with a four-foot high half circle dance stage that was perhaps 30 feet in diameter. The general routine was for a dancer to perform, usually totally nude at some point in the routine, for about 10 minutes. As in other clubs, customers would come up to the stage, offer the dancer a tip and she would rub her bare breasts in the customer's face or the customer's face in her crotch. At the end of the performance, all the dancers (approximately 15) would circulate through the crowd and ask customers if they would like to buy a lap dance. If the customer declined, they would move on to another table. Both men and women were asked if they would like to buy a lap dance. Since the lap dance booths opened up toward the club's general seating area, all the dances could be viewed by customers sitting at tables in the club. The lap dances were performed in the nude with the dancers on occasion rubbing up against the customers. During our visit, it was clear that management was present, but there was clearly no enforcement of what we had heard of as the two-foot rule – that the dancer could not be any closer to the customer than two feet while performing a lap dance – a rule that had come out of litigation against Déjà Vu. It was at this club that we learned from talking with management that the dancers operated as independent contractors. Déjà Vu did not have dancers as paid employees but as contract employees on a per night basis.

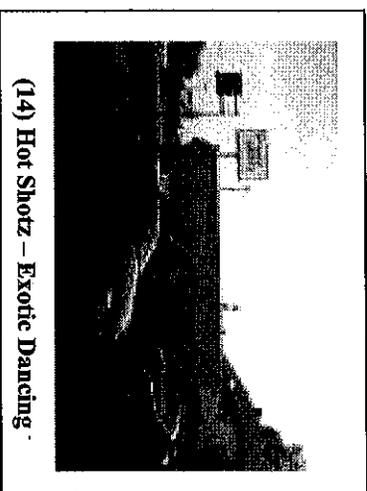
Hot Shotz (14)

3835 N. Detroit Avenue

Hot Shotz is a nightclub featuring female exotic dancers on property zoned M-1. The club is in north Toledo and is one of many adult uses in the Detroit Avenue/Telegraph Road corridor. It is housed in a one-story pink painted concrete structure with approximately 35 paved parking spaces. There is a cover charge to enter. The club's bar is on the right side of the room with the square (20' x 20') 3-foot high dance stage occupying the center of the club. At the time of the site visits, there were approximately eight dancers who for the most part danced topless with g-strings on (we did observe one dancer totally nude and have learned that since our visits total nude dance at this club is more frequent). As in other exotic dance clubs, customers would come up to the stage from time to time, offer the dancer a tip and she would usually rub her bare breasts in the customer's face. The area for lap dances is a small area on the opposite side of the bar with vertical blinds offering privacy



(13) Déjà Vu Showgirls



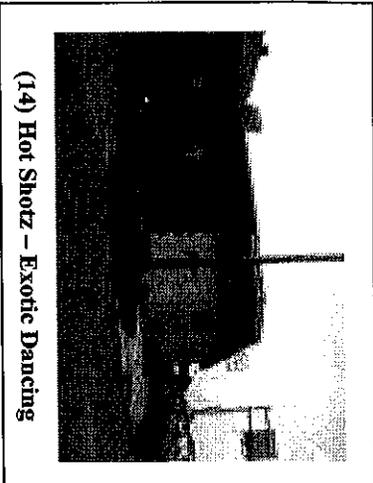
(14) Hot Shotz – Exotic Dancing

for the lap dancing. From the vantage point of our table, the dancer performing the lap dance kept her g-string on but rubbed her body up against the customer. Like Club Ecstasy, lap dances were solicited fairly informally. Dancers seemed to spend more time sitting at tables with the customer buying them drinks. The management seemed attentive and the establishment appeared reasonably well kept inside. Interestingly, the women's bathroom had a toilet with a douche system that was designated for dancers only. Overall, the club was in better condition than Club Ecstasy and Club Chablis, but not as upscale as some other clubs. However, like Club Ecstasy and Club Chablis, Hot Shotz is problematic with its location adjacent to single-family residences to the west of the club. We also encountered a problem during one of our visits. We were followed outside by a man in his early 30's who attempted to start an altercation, then waited in his truck in an attempt to follow us, but then finally went his way.

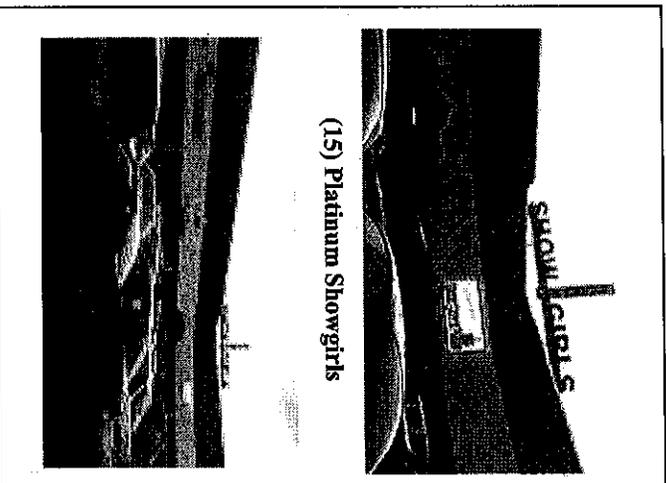
Platinum Showgirls (15)

5801 Telegraph Road

Platinum Showgirls is a nightclub featuring female exotic dancers on property zoned C-3. The club is in north Toledo and is one of many adult uses in the Detroit Avenue/Telegraph Road corridor. Somewhat like Déjà Vu's location, this club is within a commercial strip center, thus there is more than adequate parking available for customers. The business has operated since June 13, 1997. There is a cover charge to enter, and those customers above the legal drinking age are issued wristbands (those under the age are not issued wristbands). The dance stage is a large U-shaped stage (20x 30), elevated about four feet, with tables surrounding it. Like all stages, there are chairs adjacent to the stage. The club's bar is located in the front of the room to the right of the stage. To the rear of the room are booths and behind them is the entrance to the private lap dancing area. The night we visited, the club was sponsoring amateur night. The dancers at the Platinum Showgirls danced totally nude. On a typical night, there are from 15 to 20 dancers. They dance on stage and solicit private lap dances throughout the evening – a business that they appeared to do a substantial amount of. Since the lap dancing area was a separate room, we do not know if they performed totally nude like they did on stage. But we do know that on stage, as in other exotic dance clubs, customers would come up to the stage from time to time, offer the dancer a tip and she would usually rub her bare breasts in the customer's face and sometimes wrap her legs around the customer's neck. Also, dancers would spend time sitting at tables with the customers buying them drinks. This was the club where we observed a nude dancer circulating among the crowd soliciting lap dances. Management seemed to be very visible and the establishment, although very smoky, appeared well kept inside. One



(14) Hot Shotz – Exotic Dancing



(15) Platinum Showgirls

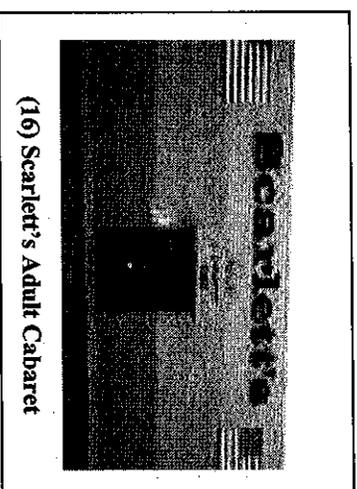
thing we noticed was that there appeared to be a large number of customers too young to drink but not too young to come in and if they chose, purchase lap dances.

As part of our study, we examined police reports of incidents at addresses related to all businesses included in this report. During the 39-month reporting period for which we had data, 92 of the 305 incidents that we reviewed related to Platinum Showgirls – in other words, this one establishment, which is only one of 26 businesses included in the study and one of six with live entertainment, accounted for 30 percent of the total police calls to all of these businesses over that period of time.

Scarlett's Adult Cabaret (16)

5765 Telegraph Road

Scarlett's Adult Cabaret is a nightclub featuring female exotic dancers on property zoned C-3. The club is in north Toledo and is one of many adult uses in the Detroit Avenue/Telegraph Road corridor. This is a fairly upscale club that has operated since March 9, 2000. There is a cover charge to enter (sometimes women are free), and like other clubs, permits those 18 and above to enter, but not drink if they are below the drinking age. The club's bar is located to the right of the entrance and immediately in front of the stage. The dance stage is a large U-shaped stage (12 x 30), elevated about four feet, with tables and chair surrounding it and adjacent to the stage. Like Platinum Showgirls, the private lap dancing area is through a couple of entrances behind the stage. On either side of the room are elevated seating areas. Scarlett's also sponsored an amateur night during one of our visits. Like Platinum Showgirls, Scarlett's is also a totally nude exotic dancing club that serves alcohol. On a typical night, there are from 15 to 20 dancers. They dance on stage and solicit private lap dances throughout the evening. They appeared to do a substantial amount of lap dances. Since the lap dancing area was a separate room, we do not know if they performed totally nude as they did on stage. We do know that on stage, as in other exotic dance clubs, customers would come up to the stage from time to time, offer the dancer a tip and she would usually rub her bare breasts in the customer's face. The club's dancers seemed to be much more aggressive in how they would solicit lap dances, sometimes standing in between the customer's legs and rubbing against them when they asked if they were interested in a lap dance. Management seemed to be very visible and the establishment, although very smoky, appeared well kept inside. There were signs on the wall and cards on some tables promoting after-hours parties. We were told that the club often stayed opened past the legal time to serve alcohol but did so without serving customers alcoholic beverages.



As part of our study, we examined police reports of incidents at addresses related to all businesses included in this report. During the 39-month reporting period for which we had data, 24 of the 305 total incidents occurring at all businesses occurred at Scarlett's. What is interesting about the Scarlett's data is that only 6 of the 24 incidents occurred inside the establishment, and at least two of those were attempts to rob the business. Those findings reflect the tight management controls that we observed inside the business but may indicate a need for better control over what occurs in the parking lot.

At the community meeting held to discuss issues related to the impacts of these businesses, several persons reported that Scarlett's had held a car wash at which its entertainers provided the car wash in the parking lot at the business. There was some concern over this activity but even greater concern over a report that there were flyers for the car wash circulated in a high school. Although we asked several people to provide us with copies of the flyers, no one did so. We acknowledge this report but cannot attribute anything other than the car wash to Scarlett's management and staff. Although we believe that there probably were some flyers at the high school, those could have been distributed by a student who found one elsewhere and copied it, or even by a competitor of the club or an opponent of the clubs in general seeking to create negative publicity for the club. Although distribution of such a flyer to students under the age of 18 reflects poor judgment, it is unclear what the City could do to prevent that, assuming that the car wash was a lawful activity⁶, materials truthfully advertising it are also lawful and in fact protected by the First Amendment.⁷ While we would strongly encourage Scarlett's management to ensure that such incidents not recur, nothing in our recommendations would encourage the City to attempt to regulate the distribution of non-obscene flyers.

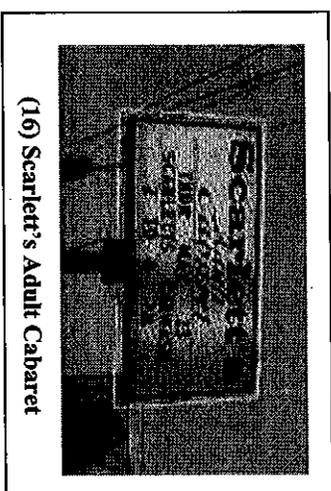
Velvet Rope (17) – new

4635 N. Detroit Avenue

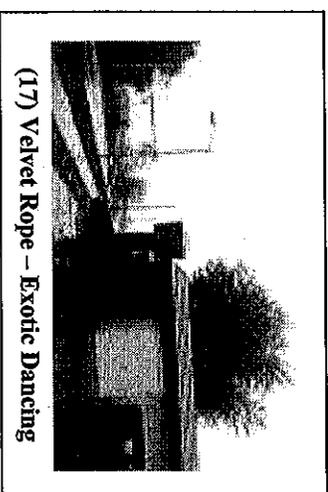
Velvet Rope is a new nightclub in the process of opening what we have been told will feature male exotic dancers. The property is zoned C-3 and is one of many adult uses in the Detroit Avenue/Telegraph Road corridor in north Toledo. Velvet Rope is a one-story pur-

⁶ The reports to us indicated that the women were clothed, although scantily so, thus making it legal if perhaps not tasteful.

⁷ See *44 Liquormart, Inc., v. Rhode Island*, 517 U.S. 484, 116 S. Ct. 1495, 134 L. Ed. 2d 711 (1996), in which the U.S. Supreme Court struck down a state ban on advertising liquor prices.



(16) Scarlett's Adult Cabaret



(17) Velvet Rope – Exotic Dancing

ple and beige painted wooden structure with about 30 paved parking spaces. Although the business was not open at the time of our fieldwork, it is our understanding that it has subsequently opened but was not, at least initially, offering adult entertainment. Adjacent land uses include commercial and residential.

Westwood Art Theater & Adult Videos (18)

1602 Sylvania Avenue

Westwood Art Theater & Adult Videos, zoned C-3, is the only adult theater within the city limits of Toledo. In addition to the theater, Westwood also offers adult videos. The business is located on Sylvania Avenue in a highly commercial area of north central Toledo. Although there is an entrance to the theater on Sylvania Avenue, this door is locked, and access is gained through a side entrance on the west side of the building where there are approximately 30 parking spaces available. The business's adult videos are at the building's entrance with the theater at the rear of the building in the traditional theater area. Business hours are from 10 a.m. to midnight, Sunday through Thursday, and until 2 a.m. on Friday and Saturday. You must be 18 to enter. During our visit, we observed that the theater was very dark and a customer was wandering around the theater in his underwear selectively sitting with different customers in the theater. After mentioning this to the manager, he went into the theater to see about our complaint.

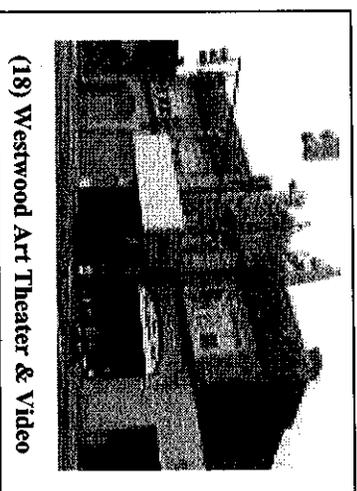
Note that there were three police calls for public indecency and two for solicitation during the 39-month period for which we examined police records. These five calls accounted for 21 percent of all police calls to adult businesses for sex-related crimes or indecency during the period, although the theater is only one of 25 businesses included in the comparison.

Bathroom, Lingerie Modeling and Nude Photography

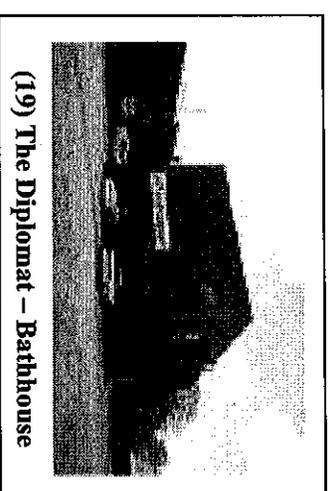
The Diplomat – Bathroom (19)

1313 Summit Street

According to information provided by the city, The Diplomat is gay bathroom. We were told that a few years ago, there was a police raid on the business. Things did not go well and in a lawsuit that followed, damages were awarded to the club. Today, the business operates as it did in the past. We made no attempt to personally survey the business and will depend on information provided by the city and the owner's representative. Land uses to the north of the business are residential, to the east is a bar and commercial property is to the west. The property is zoned M-1.



(18) Westwood Art Theater & Video



(19) The Diplomat – Bathroom

Kim's Lingerie Modeling (20)

5070 Telegraph Avenue

Kim's Lingerie Modeling is located next door to Adult Videos (G&L Videos/Jolly Trolley). This is one of many adult uses in the Detroit Avenue/Telegraph Road corridor. It has been in business since Dec. 15, 1998. We inquired of the business operators what they provided. They indicated a customer could enjoy modeling of lingerie for \$40 with a required \$30 tip. This business was similar to at least two of the other massage parlors, with its operations being closed and quite secretive. It is zoned C-3.

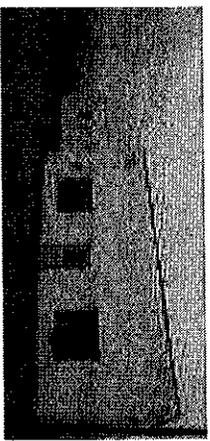


(20) Kim's Lingerie Modeling

Snapshots – Nude Photography (21)

5701 Benore Road – Closed

Snapshots was a nude photography studio that closed before our study began. It was located in north Toledo about a mile east of the many adult uses in the Detroit Avenue/Telegraph Road corridor. The business closed spring 2002. The property is zoned M-2.



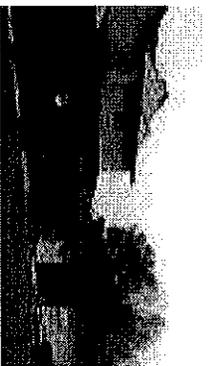
(21) Snapshots – Nude Photography

Massage Parlors and Shower Massages

Four massage parlors operate within the City of Toledo. Two are located on Telegraph Road in north Toledo – Lorain's Private Studios is next door to the Adult Zone (adult videos and video booths) and a couple of doors down from Scarlet's (adult cabaret); Rainbow Spa is located just a block away from Kim's Lingerie Modeling and Adult Videos. All are zoned C-3 except for Rainbow Spa which is M-1. All but Lorain's operate with a simple business license for providing massages, although the range of services offered at Lorain's includes "shower massages" and we observed a massage table there in a large shower stall.



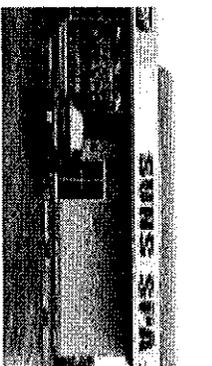
**(22) Chang Mi Health Spa
135 S. Byrne Road**



**(23) Lorain's Private Studios
5661 Telegraph Road**



**(24) Rainbow Spa
5205 Telegraph Road**



**(25) Suns Health Spa
1722 W. Laskey Avenue**

Findings

Purpose

In our Toledo study, we looked for two types of data. First, we looked for evidence of external impacts of the sexually oriented businesses on adjacent neighborhoods. This is called "secondary effects." A basic principle of First Amendment law in the United States is that protected speech may not be restricted because of its content, but such speech can be restricted to reduce the "secondary effects" of the businesses on the neighborhood.⁸

Second, we looked for activities at sexually oriented business that are of the type that concern local residents but that are not protected by the First Amendment's protection of freedom of speech or expression. For example, what a newspaper chooses to print is protected by the First Amendment, but this does not protect its printing plant from reasonable land use restrictions controlled by zoning regulations. Similarly, although the First Amendment protects the performances of dancers on stage as a form of expression, we are aware of no First Amendment protection of lap dancing or other interaction between dancers and the public.

Our findings regarding objectionable activities within the businesses that are not protected by the First Amendment are far more extensive than our findings regarding general impacts on neighborhoods. Yet there is little doubt that the two sets of findings are inter-related. Any veteran police officer will testify that a bar that has been cited for underage drinking or frequent altercations inside the bar is the kind of bar at which trouble spills onto the street – and does so far more

often than at other establishments. Similarly, a sexually oriented business that has questionable activities inside is far more likely than others to have negative impacts on the neighborhood – not necessarily because of the business itself, but because it attracts patrons who are looking for or at least willing to be around such activities.

Finally, in considering the secondary impacts of these businesses, it is important to note that many of our recommendations relate to operating regulations, to be implemented through a licensing ordinance. The purpose of those recommendations is to ensure that each of the businesses is well managed in accordance with clear community standards. By ensuring the quality of the operations within the establishments, the City can often reduce the occurrence unnecessary secondary impacts on surrounding neighborhoods.

Secondary Effects

Proximity and Pedestrian Contact

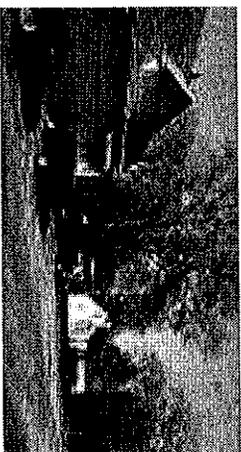
The most important secondary effect of these businesses is the most obvious – when such a business is located in close proximity to a residence or a use frequented by families this creates a land-use conflict of the sort that zoning is intended to avoid. As the Supreme Court noted in its landmark decision upholding the constitutionality of zoning:

Thus the question whether the power exists to forbid the erection of a building of a particular kind or of a particular use, like the question whether a particular thing is a nuisance, is to be determined, not by an abstract consideration of the building or of the thing considered apart, but by considering it in connection with the circumstances and the locality ... A nuisance may merely be a right thing in the wrong place – like a pig in the parlor instead of the barnyard. If the validity of the legislative classification for zon-

⁸ *Playtime Theatres, Inc. v. City of Remton*, 475 U.S. 41, 106 S. Ct. 925, 89 L. Ed 2d 29 (1986). See, also, *D.G. Restaurant Corp. v. Myrtle Beach*, 953 F.2d 140 (4th Cir. 1991); *Thames Enters. v. City of St. Louis*, 851 F.2d 199 (8th Cir. 1988); *Gemusa v. City of Peoria*, 619 F.2d 1203 (7th Cir. 1980); *S&G News, Inc. v. City of Southgate*, 638 F. Supp. 1060 (E.D. Mich. 1986), *aff'd*, 819 F.2d 1142 (6th Cir. 1987).

ing purposes be fairly debatable, the legislative judgment must be allowed to control.⁹

Where a sexually oriented business is located in a shopping center or freestanding building with the primary access by automobile, anyone coming in close contact with it is likely to do so by choice. In contrast, when such a business is located at a corner where a residential street intersects a collector or arterial street, residents of the



neighborhood may have to walk past the business to reach a bus stop or nearby shops. Similarly, where such a business is located along the access way to or across the street from a school or religious institution, people going to school or to worship service will encounter the business regularly. The yellow building shown in the picture is the Reyn-dor News at 1002 North Reynolds; note the houses just down the street from it – it is also across the street from a house of worship.

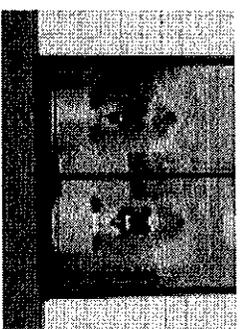
Much of the sensitivity expressed about the businesses at the community meeting held in Toledo – and in other communities – relates to the location of these businesses in close proximity to residential or family-oriented uses. Although City officials had engaged in general discussions with us about conducting this study at an earlier date, it was when Priscilla's opened a sexually oriented retail shop across from Notre Dame Academy that City officials decided that the issue was serious enough to merit a major study, even at a time of budget difficulties in the City. There is nothing fundamentally wrong with Priscilla's; of the businesses that we visited in Toledo, it was one of the cleanest and best managed. Its product line is risqué but certainly not as likely to offend as the hard-core media collections at some of the other establishments. We saw no indication that Priscilla's en-

couaged or allowed sexual activity on or near the premises. In short, as a sexually oriented business goes, it is near the low end of the community impact scale. It is, however, as the Supreme Court noted 75 years ago, "like a pig in the parlor" – a perfectly reasonable creature in a location that is completely inappropriate for it. The picture included here shows a view of the Priscilla's building facing the Notre Dame Academy. The problem with Priscilla's is compounded by the fact that it (and similar sex shops, including Toledo's Love Boutique) use window displays for some of their racy lingerie and, at least in some cases, for sex toys. Priscilla's displays some of the lingerie on translucent body-forms that are lighted from within.

The point of this discussion is not to focus unduly on two establishments but to note the importance of location. The Love Boutique is an operation very similar to Priscilla's; we found no concerns with the Love Boutique's location – located in a strip shopping center, well separated from residential uses (although its inclusion in a large complex of adult uses raises other issues addressed in this report). The primary concern that we had about Priscilla's was its location – but that was a big concern indeed.



In short, one of the most significant "secondary effects" for a community is the impact of causing or allowing unwitting citizens to come in close contact with these businesses while going about their daily lives; it is a particular concern where the people who may come in unintentional or unplanned contact with the businesses are children. Thus, our recommendations reemphasize the importance of a policy already adopted (but incompletely implemented) by the City – the separation of sexually oriented uses from sensitive uses, including areas zoned primarily for residences, houses of worship and schools.



⁹ Village of Euclid v. Ambler Realty Co., 272 U.S. 365, at 388, (1926).

Police Calls

The Toledo Police Department provides copies and summaries of reports of police contacts with addresses associated with these businesses from January 1, 1999, through March 31, 2002.¹⁰ The following tables summarize the data by type of establishment:¹¹

	Total	Violent	Vehicle	Sex	Indecency	Other Theft	Drug	Other
Adult Cabarets (5)	137	45	26	0	5	26	2	33
Adult Theater (1)	10	0	0	2	3	3	0	2
Adult Book Stores (7)	34	14	6	0	0	6	0	8
Contact/Encounter Businesses (6)	26	6	2	6	0	3	0	9
Sex Shop (1)	0	0	0	0	0	0	0	0
South Byrne Cluster (5)	131	39	31	6	2	19	4	30
TOTAL	338	104	65	14	10	57	6	82

Key – Businesses:

“Adult Cabaret” includes Club Chablis, Club Ecstasy, Hot Shotz, Platinum Showgirls, and Scarlett’s.

¹⁰ We received printed summaries, by address, with NCIC codes, for 1999 and 2000, with some copies of associated reports attached. We received copies of actual reports for 2001 and the first part of 2002.

¹¹ We have not reported data for individual establishments for two reasons: first, the sample size is too small to be meaningful at that level; second, we want to focus on the larger issues, rather than on issues with the individual businesses – although we have made reference to the police call figures in the context of our reports on a handful of the individual establishments.

“Book Stores” includes adult bookstores all of which have video viewing booths.

“Encounter and Touching Businesses” include Diplomat Bath House, Kim’s Lingerie/Oriental Spa, Lorain’s, Rainbow Health Spa, Snapshots Nude Photograph (now closed), and Sun2 Health Spa.

“Sex Shop” includes Priscilla’s.

“South Byrne Cluster” includes five businesses that share a common address (135 South Byrne): Love Boutique (sex shop), Déjà vu (adult cabaret), Chang Mi Health Spa (massage), Pleasure Palace (adult book store with viewing booths), and Field House (bar/nightclub, now open only on weekends). These were lumped together for two reasons: first, for many of the reports, it was impossible to attach them to a particular establishment at that address; second, the cumulative number of police calls for this location accounts for 40% of all reported calls even after reducing the number of calls that appeared to be attributable to the Field House.

Key – Incidents:

“Violent” includes robbery, all forms of assault, menacing, but not domestic violence¹²; “Vehicle” includes some vehicle thefts, although the vast majority involved vehicle-break-ins and thefts of property from the vehicles or other damage to a vehicle; “Sex” includes solicitation, prostitution, pimping, and “sexual imposition” – there were no rapes or similar sex crimes included in the reports that we received; “Indecency” includes incidents reported as public indecency; “Other Theft” includes shoplifting, petty theft (mostly cell phones and cash taken off tables or from employee lockers), as well as burglaries of the businesses; “Drug” includes all drug-related incidents, including at least one that involved drug paraphernalia but no reported drugs; “Other” includes a few liquor violations, one death by natural causes, a couple of incidents of sickness and a variety of other police calls.

¹² We excluded domestic violence from this category because the few instances reported at these businesses were clearly ones that followed the victim to the business and thus apparently had nothing to do with the business itself.

It is difficult to draw absolute conclusions about crime and sexually oriented businesses in Toledo without a control comparison to other types of businesses – something for which we had neither the data nor the budget. However, we have been able to identify some striking facts from this data set. The related findings are set out below.

Location of the Incidents

Of the 338 incidents reported from 1999 through 2002, 294 occurred in businesses or clusters with live entertainment (87%). We found it very interesting that one establishment accounted for 30 percent of the reported incidents, while one location (South Byrne Cluster) accounted for another 39 percent of the reported incidents.

For 226 of the 338 incidents, we were able to determine the location at the addressed premises where the incident occurred.¹³ Of the 226 incidents for which we could determine a location, one-half (113) occurred in the parking lot of the establishment. That is a very significant finding in terms of neighborhood impact. Some 55 of those occurred in the sprawling parking lot of the “South Byrne Cluster”.

Most of the parking lot problems occurred at the establishments or the cluster with live entertainment (101 of 113 incidents that clearly occurred in the parking lots). However, even within the live entertainment group there was significant variation. At one establishment (the one with by far the most police calls for an individual establishment), most of the problems occurred inside, with only 30 percent occurring in the parking lot; at another establishment which may maintain better controls inside the operation (and has far fewer calls), the problems tended to move outside, with 75 percent of the calls involving incidents in the parking lot. Three of the eight bookstores with viewing booths had parking lot incidents – two of them are under the same ownership. With one exception, the problems at the encounter and touching businesses stayed inside.

¹³ For a number of incidents it was not clear whether the reported incident occurred inside the building or in the parking lot.

The Effects of Clustering

As shown on the table above, five businesses located at the South Byrne Cluster (135 South Byrne) accounted for 39 percent of the 338 incidents reported. We feel this number is under-counted, because we did not receive all reports for this address for 2001 and early 2002.¹⁴ These five businesses account for 20 percent of the total businesses included in the crime analysis, but have 40 percent of the reported incidents. This reinforces findings from the City of St. Paul, Minnesota in a study it undertook in 1978. It found that “more than one adult entertainment businesses in an area is associated with a statistically significant increase in crime rate.”¹⁵ These same findings have been reported in a number of other jurisdictions.

Types of Businesses

There were some significant differences in police calls by types of business:

- Although the sexually oriented cabarets accounted for only 5 percent of the 25 businesses included in the crime study (or 20 percent), they were involved in 44 percent of the total police calls.
- The 8 bookstores accounted for 37 of the 338 police calls, but 4 stores had were attributed to 34 of the calls.
- In contrast, we were able to identify only one police call to one of the sex shops, and that was a telephone harassment complaint by an employee at the business that may or may not have related to the business and therefore not included in the tabulations.

¹⁴ We were told that the reports we received omitted those for the Field House.

¹⁵ For detailed results of the survey, see Kelly and Cooper, *Everything You Always Wanted to Know about Regulating Sex Businesses*, Planning Advisory Service Report No. 495-96. Chicago: American Planning Association, 2000, pages 62-63.

As noted above, it is not entirely surprising that the large cabarets, which attract more people who stay longer, will have more police-related incidents. We make no value judgment about what an acceptable number of police calls to such an establishment might be – in considering the secondary impacts of these businesses, however, it is significant to note that the establishments with live entertainment are likely to have the greatest adverse impacts in terms of incidents requiring police response.

In contrast, there is nothing in the crime data that suggests that the sex shops have an effect on crime around them. With such establishments, the real issue is the first issue addressed in this section – the need to ensure that such businesses are located in places where children and individuals going about their daily business will not encounter them accidentally.

The Effects of Management

There are wide differences among individual establishments within each category. Note that:

- Among the adult cabarets, excluding the South Byrne cluster, one establishment had 102 incidents, one had 25, two others had fewer than 8 and one had no incidents reported;
- Among the sexually oriented bookstores with video viewing booths, there were 37 reported incidents, of which 10 took place at one establishment and two others had 9 and 8, respectively;
- Of the 37 calls to the sexually oriented bookstores, 17 went to two stores under common ownership;
- Of the 37 calls to the sexually oriented bookstores, 15 went to two stores that are only 1 block apart;
- Three of the eight bookstores had no reported incidents;
- Of the 26 calls to the encounter and touching establishments, one establishment had 18 (or 69 percent) of the calls.

These findings reinforce the need for an effective licensing ordinance. If all establishments were as well managed as even the average establishment now located in Toledo, one would expect a substantial reduction in the number of police calls to these businesses.

Types of Incidents

The types of incidents for which the police were called ranged from a number of relatively minor thefts (cell phones and car stereos) to one death by natural causes (in one of the touching establishments). The largest number of calls related to damage to, thefts from or thefts of vehicles. A few significant facts emerge:

- Most disturbing is the fact that 104 of the incidents, or 30 percent, involved violence;
- A relatively small number involved sex-related crimes – 14 (4 percent) pimping, prostitution and solicitation; and 10 (3 percent) public indecency;
- Of the 10 public indecency complaints, five arose at one of the adult cabarets and three at the adult theater, with the other two at non-specific locations in the South Byrne cluster. That means that there were no such incidents at any of the other live entertainment establishments or at any of the bookstores;
- Six of the sex-related complaints were attributable to one of the massage studios, and six others were attributable to the cluster of businesses on South Byrne;
- There were two solicitation complaints at the adult theater.

These facts significantly reinforce the separate findings regarding the importance of management controls and the value of licensing as a regulatory tool to ensure that establishments are well managed.

Effect on Property Values

One of the concerns often expressed about sexually oriented businesses by neighborhood residents relates to the effect on property

values. For findings regarding that issue, we turn to two studies from other communities – one of which we designed.

The City of Rochester, New York, conducted a survey of 39 property appraisers to determine their perceptions of impacts of sexually oriented businesses on residential and commercial property values. This was important since most ordinances deal with sexually oriented businesses by requiring them to be separated by some specified distance (typically between 500 and 1500 feet) from certain categories of land-use. The Rochester survey attempted to find a relationship between distance and impacts on property values¹⁶.

Based on the results of the survey, appraisers in the Rochester, Monroe County area have the following views on the impact of sexually oriented businesses:

- Bars with nude servers or live entertainers clearly have the greatest negative impact on surrounding property values.
- Sexually oriented businesses have a measurable negative impact on the value of some neighboring property.
- There is significantly more negative impact on the value of neighboring residential property than on commercial property;
- The greatest impact on property values is on properties located on the same block;
- The impact on property value is less significant if located along the same street than if located on the same block; however, it is of greater significance than any particular distance separation;

¹⁶ For detailed results of the survey, see Kelly and Cooper, *Everything You Always Wanted to Know about Regulating Sex Businesses*, Planning Advisory Service Report No. 495-96. Chicago: American Planning Association, 2000. Table 3-6, page 53; Table 3-7, page 54; Table 3-8, page 55; Table 3-9, page 55.

- Based on a combination of responses, if two properties are equi-distant from the same *studied business*, with one located on the same street as the *studied business* and the other on another street, the property located on the same street as the *studied business* will suffer greater impacts;
- The negative impact decreases with distance and stops somewhere between 1,000 and 1,500 feet¹⁷.

A study conducted in Indianapolis compared crime rates and “real estate value appreciation.” The study found that:

- The major crime rate in the study areas was 23 percent higher than in the control areas and 46 percent higher than in the police jurisdiction at large;
- The “sex-related crime rate” in the study areas was 46.4, or some 80 percent higher than the rate for the same crimes in the control areas over the same period;
- “Although the housing base within the Study Areas was of a distinctly higher value than that of the Control Areas, its value appreciated at only one-half the rate of the Control Areas’ and one-third the rate of Center Township as a whole during the period 1979-1982.”

- “Twice as many houses were placed on the market at substantially lower prices than would be expected had the Study Area’s market performance been typical for the period of time in question.”

This study also included responses from a national survey of appraisers where in some 75 percent responding “felt that an adult bookstore located within one block would have a negative effect on the value of both residential and commercial properties,” but that “at

¹⁷ For detailed results of the survey, see Kelly and Cooper, *Everything You Always Wanted to Know about Regulating Sex Businesses*, Planning Advisory Service Report No. 495-96. Chicago: American Planning Association, 2000; pages 51-57.

a distance of three blocks” the impact of an adult bookstore fell off sharply so that the impact was negligible on both residential and commercial.¹⁸

Other Concerns about Secondary Effects

As part of our study, a City Council member organized a meeting for interested citizens to talk with us and with city officials about secondary effects and other issues related to sexually oriented businesses in Toledo. The meeting took place in North Toledo on the evening of Wednesday, June 5, 2002.

The dominant theme of the evening was that the concentration of the sexually oriented businesses – particularly those with live entertainment – in North Toledo has an adverse effect on the quality of life. Other concerns included:

- Market elimination of neighborhood businesses from centers with adult entertainment, both because some customers were reluctant to go into the centers once the adult businesses located there and in part because businesses moved because of their own image concerns (although these comments were somewhat generic, the clear focus was on Platinum Show-girls, which is located in the corner of a strip mall);
- One resident expanded upon that theme and offered the hypothesis that some of the economic problems of the Northtown Mall may be attributable to the growth of sexually oriented businesses in the area;
- Some neighbors complain that they can hear the entertainment from the live entertainment establishments until 3 a.m. on weekends;

- More than one resident indicated that they have seen prostitutes walking the streets in the area. The testimony suggested that the prostitutes may have been attracted to the area and not associated with any particular business. Two different residents reported that prostitutes had asked them for help – in one case to use a phone after her car stalled;
- One resident has observed scantily clad dancers from one business taking a break on a service road behind the business and adjoining a residential area; and
- Several neighbors complained about finding used condoms and tokens for the viewing booths in streets and parking lots, leading to difficult questions from their children about the uses of the devices.

Zoning Issues

Status under Current Zoning

The City has generally taken the position that many of the businesses are lawful nonconforming uses, because they pre-date the 1979 zoning ordinance that established the current rules. In the following table, we make a more detailed examination of the status of these businesses under the current zoning and separation rules.

¹⁸ “Adult Entertainment Businesses in Indianapolis: An Analysis,” 1984; cited in see Kelly and Cooper, *Everything You Always Wanted to Know about Regulating Sex Businesses*. Planning Advisory Service Report No. 495-96. Chicago: American Planning Association, 2000; pages 58-59.

Status of Sexually Oriented Businesses Under Current Zoning

	Address	Date Established as Adult Entertainment	Current Zoning	Within 500 feet of Sensitive Uses	Within 1000 feet of other Adult Entertainment	Notes
Adult Cabarets						
Club Chablis	5405 N. Detroit	N/A	C-3	YES	NO	Adult entertainment stopped
Club Ecstasy	5038 Lewis	N/A	C-3	YES	NO	Adult entertainment stopped
Déjà Vu	135 S. Byrne	Pre-1979 & 1990	C-3	NO	YES	Previously an adult motion picture theater
Hot Shotz	3835 N. Detroit	N/A	M-1	YES	NO	Adult entertainment stopped
Platinum Showgirls	5801 Telegraph	1996	C-3	NO	NO	Within 1000 feet of Scarlett's, but Scarlett's moved in on it
Scarlett's	5765 Telegraph	1997	C-3	NO	YES	Permitted to locate within 1000 feet by court ruling
Velvet Rope	4635 N. Detroit	2002	C-3	YES	NO	Opened in 2002 but not currently adult
Adult Theater						
Westwood Art Theater	1602 Sylvania	Pre-1979	C-3	YES	NO	Residential uses nearby
Adult Bookstores						
Adult Pleasures	4404 North Detroit	Pre-1979	C-3	NO	NO	
Adult Videos	3107 West Alexis	Pre-1979	C-3	YES	NO	Residential uses nearby
Adult Videos/Jolly Trolley	5070 Telegraph	Pre-1979	C-3	NO	YES	Next door to Kim's Modeling
Adult Videos/G&L	1124 N. Reynolds	Pre-1979	C-3	YES	YES	Near to Reyn-dor News
Adult Videos/Woodville News	1634 Woodville	Pre-1979	M-2	YES	NO	Residential uses nearby

Status of Sexually Oriented Businesses Under Current Zoning

Adult Zone	Address	Date Established as Adult Entertainment	Current Zoning	Within 500 feet of Sensitive Uses	Within 1000 feet of other Adult Entertainment	Notes
Adult Zone	5661 Telegraph	Post-1979	C-3	NO	YES	Next door to Lorain's
Pleasure Palace/Adult Books	135 South Byrne	Pre-1979	C-3	NO	YES	In same shopping center as 3 other adult uses
Reyn-dor News	1002 N. Reynolds	Pre-1979	C-3	YES	YES	Near to Adult Videos/G&L
Sex Shops (not treated as SOB's under current ordinance)						
Love Boutique	135 South Byrne	Post-1979	C-3	NO	YES	In same shopping center as 3 other adult uses
Priscilla's	4739 Monroe	2001	C-3	YES	NO	Opened 2001, not adult use under current ordinance
Encounter/Touching Businesses						
Chang Mi Health Spa	135 South Byrne	Pre-1979	C-3	NO	YES	In same shopping center as 3 other adult uses
Diplomat Bath House	1313 Summit	Post-1979	M-1	YES	NO	Not permitted in M-1
Kim's Lingerie Modeling	5070-1/2 Telegraph	Pre-1979	C-3	NO	YES	Next door to Adult Videos/Jolly Trolley
Lorain's Private Studios	5661 Telegraph	Post-1979	C-3	NO	YES	Next door to Adult Zone
Rainbow Health Spa	5205 Telegraph	Pre-1979	M-1	NO	YES	Not permitted in M-1
Snapshots Nude Photography	5701 Benore	Closed	M-2	NO	NO	Not permitted in M-2
Suns Health Spa	1722 West Laskey	Post-1979	C-3	NO	NO	

As to location, of those currently operating as adult entertainment or similar businesses, the following businesses appear to conform to the current zoning and separation rules (although we have not made field measurements of the separation standards – see “recommendations”):

- Platinum Showgirls (Telegraph)
- Adult Pleasures (N. Detroit)
- Suns Health Spa (W. Laskey)

A number of video stores with viewing booths appear to be within 500 feet of residences, but unfortunately they were established prior to Toledo’s adult use ordinance. These are:

- Adult Videos (W. Alexis)
- Adult Videos/G&L (N. Reynolds)
- Adult News (Woodville)
- Reyn-dor News (N. Reynolds)

Of the other establishments, the following four adult entertainment establishments are in cluster at 135 South Byrne. Although the location is an appropriate for anyone one of them, or perhaps even two such businesses, the clustering of these businesses has clearly resulted in a compounding of the secondary effects and they should be treated as non-conforming uses for that reason:

- Déjà Vu
- Love Boutique
- Chang Mi Health Spa
- Pleasure Palace/Adult Books

In addition, the following current businesses are located within 1000 feet of one another:

- Lorain’s (shower massages/nude modeling) and Adult Zone (bookstore) adjoin one another and share parking, and Scarlett’s (exotic dancing) is one block away. Platinum Showgirls also appears to be within 1000 feet of Scarlett’s, but opened before Scarlett’s was permitted to located by a court decision

(the 1000 foot rule was not enforced because it was unclear in its drafting and has since been amended)

- Kim’s Lingerie Modeling and Adult Videos/Jolly Trolley adjoin one another and share parking
- The cluster of adult uses at 135 South Byrne (The Love Boutique, Déjà Vu, Chang Mi Health Spa and Pleasure Palace Adult Books);
- Adult Videos/G&L and Reyn-dor News, video rentals and viewing booths on N. Reynolds

Three local taverns – Hot Shotz, Club Chablis and Club Ecstasy – violated the current zoning ordinance’s ban against nude dancing in proximity to residential uses; the City has stopped the live entertainment at each since the time of our visits.

Adult Cabarets

There is a great deal of physical contact between customers and patrons at the adult cabarets. Although there is some variation among establishments, typical practices include:

- Lap dances, which typically take place in a backroom (at Déjà Vu they are conducted on couches that are visible from the room). The lap dances that we could observe at establishments where parts of the backroom were visible involved the dancer gyrating on a patron’s lap. We observed only male patrons engaging lap dances, although there were female patrons in most of the establishments. In some cases the dancer kept bikini bottoms on while writhing on the lap of a clothed customer but in other cases they were totally nude.

- Tip collections. The code for “I am ready to give you a tip” at most of the establishments is for the patron to come up along the edge of the stage. The dancer comes and sits in front of the patron and takes the tip. The most typical contact that we observed involved a dancer wrapping her breasts around the patron’s face and encouraging him (or occasionally her) to kiss the nipples. In some cases, the dancer would collect a tip

from the (clothed) lap of a male patron, using her mouth to pick it up. In a few cases, the dancer presented her unclothed vagina to the lips of a male customer, by which means he apparently (it was difficult to see in detail) inserted the tip into that orifice. A good tip sometimes led the dancer to straddle the patron's lap and gyrate there – and the dancers at this point were typically completely nude.

■ Solicitations. The solicitations for lap dances vary by establishment. At Déjà Vu, the manager signals on the P.A. system that it is time for couch dances and all of the dancers come onto the floor, nude on top, and walk around talking to customers, soliciting couch dances. Contact is usually only with hands on shoulders. At Scarlett's, it is common for a dancer simply to join a male at a table and sit in his lap, often between his legs, without initially saying anything; the pitch for the lap dance begins with physical contact and then evolves into a conversation about it. Platinum Showgirls combines some characteristics of each but seems to have less of a system. The solicitations at Club Chablis, Club Ecstasy and Hot Shotz were less formal and less structured.

Although we accept Judge Skow's determination that these actions do not technically constitute prostitution, we see a far closer relationship between these actions and prostitution than we do between these actions and dance. As Judge Skow himself noted"

The artistry at Déjà Vu bears as much relationship to serious dance as Boy George does to Vivaldi or Judith Krantz does to Dickens. And the Déjà vu dancers have only their gender in common with the ballerinas of the Ballanchine and Bolshoi...a point which they make with numbing and gynecological regularity umpteen hours a day, seven days a week. [*State of Ohio ex rel. Pizza v. Déjà Vu, Inc., Case No. 90-0417 (Ohio Court of Common Pleas, Lucas County, 1990), at 3-4*].

We actually think that Judge Skow has to some extent overgeneralized about the talents of the dancers. Some of the dancers we

observed clearly had a good deal of talent, and perhaps a majority had significant gymnastic ability. These expressive talents, however, were demonstrated on stage – as one would expect. Once they came off the stage, or leaned over the edge of the stage, any resemblance to dance as we know it ceased and the encounters with patrons became overtly sexual, rather than suggestive or expressive.

Acknowledging Judge Skow's interpretation of Ohio law, however, does not to us close the discussion. It has always been our understanding that the principal social objection to prostitution is that it involves the exchange of sexual contact for money. Although the law may require penetration or even climax to convict someone of prostitution, that does not, to us, remove the concerns that revolve around the sale of sex. If the women selling lap dances are not selling sexual contact, they are running the greatest scam in the world – because they are selling nothing, for quite a lot of money per minute. Although we cannot document the sexual results of the particular couplings that we saw, sociologists' who have interviewed lap dancers find that a significant number of male patrons achieve orgasm, leading to at least some potential exchange of bodily fluids, even through clothing. The point is not that we think that there should be further prosecutions of the dancers for prostitution – that would be futile. We do want Toledo policy-makers, however, to understand the nature of this contact and to evaluate whether it is acceptable behavior in a public establishment in Toledo.

It is important to understand, however, that a substantial part of the revenue in these establishments comes from the lap dances and other personal interactions. The dancers work as independent contractors, but the house takes a cut. Although one solution to the problems that we believe attend the extensive interaction between patrons and customers is to put the dancers on stage and make them stay there, it is important to understand that such an action would dramatically change the business. Drink prices and cover charges would have to rise. There would clearly be fewer dancers.

Video Arcades

As we have found in other communities, we find a substantial number of operational problems at establishments with video arcades or video viewing booths. Several of these establishments have booths with "glory holes" between them. In one such establishment, there was a periodic "scramble" as male patrons came into the hallway, apparently sizing up other patrons, and then selected new booths from among those that were both occupied (or about to be so) and penetrated by glory holes.

We observed liquid stains (some old, some recent) on the walls and floors of video viewing booths, consistent with local police reports and studies from other communities indicating that sexual activity within the booths leads to the deposit of human semen and other bodily fluids in the booths.

Although at least one of the establishments used a combination of a warning buzzer and video cameras to control interaction among patrons in the video arcade area, others freely allowed interaction among them and made little attempt to control the number of persons in a booth or other activities.

At one establishment, we were informed that the female member of our team would not be allowed in the arcade area after 9 p.m. because of past problems with women soliciting patrons in the arcade (notwithstanding the fact that we saw only male patrons in the other video arcades, which had no such restrictions).

Many of the establishments purport to control access to the arcade by requiring that anyone entering the arcade pre-purchase tokens for use in the booths. Enforcement of this requirement varied widely by establishment and seemed to have little effect on patron behavior.

At one bookstore we observed a good deal of interaction among patrons in the back hall that provided access to the booths, with a periodic rotation of multiple customers among selected booths that had "glory holes." In examining the police reports — which we did only after our field work was complete — we found that 10 of the 37 police

calls to adult bookstores during the reporting period went to this one store.

Adult Movie Theater

There is only one sexually oriented movie theater that we identified in Toledo, the Westwood Theatre. It includes a video rental store in the lobby. The theater itself was so dark that it was very difficult to determine how many patrons were in the theater or what they might be doing. One patron, however, was observed going up and down the aisles wearing only boxer-style undershorts and a t-shirt. He would go into a row and sit next to another patron and then engage him (they all appeared to be male) in conversation, then moving on. When we informed the manager about this partially clothed individual, the manager asked if he was sitting down. When we indicated that he was up and wandering around, the manager decided to go into the theater to investigate; our clear impression was that any state of undress was acceptable if the patron remained in a seat. Our observation was consistent with our subsequent review of police reports, which showed that there were three complaints of public indecency and two of solicitation at this establishment, accounting for 21 percent of all the sex-related and indecency police reports at the studied establishments.

We recognize that the theater is clearly protected by the First Amendment, but we found the apparent behavior in the establishment and the lack of management control over such activity to be disturbing. If the person we observed was not soliciting sex from other patrons — as we believe that he was — the current operation of the theater certainly provides an environment in which such solicitation could easily occur, with no observation and no management control.

Massage Parlors

As a policy in our work, we refuse to place ourselves out of public view with one or more workers in a sex business. All but one of the massage establishments in Toledo admits only one customer at a

time and then only after payment of a stated massage fee that is matched by an equal tip. Proprietors will not allow anyone past the front door without the payment nor with anyone else along (one said that they would take couples by advance appointment). Thus, our ability to determine what occurs within those establishments was limited. We do know that there has been no evidence presented to the City by these establishments that employees or the owners holds a State of Ohio license to practice massage therapy.

There is certainly a local perception that these establishments serve as fronts for prostitution. A police investigation of Lorain's in December 2000 resulted in several prostitution and related charges and arrests, although none of the police reports that we examined documented actual penetration or even sexual relief through manipulation — on the other hand, the reports reflected lap dancing in which the “customer” wore underwear only and the dancer wore nothing and they showed that dancers encouraged customers to masturbate in their presence. During our visit at Lorain's we were briefed on the type of services offered. The staff indicated the “El Supremo” allowed the customer to go into a private room, get undressed and become “hot” at which time a dancer would come in and dance. Then she would take the customer into the shower and give him a shower massage. We cannot prove that they do or do not — but, if they are not selling sexual massage, we cannot identify any useful service that they provide that is not available from reputable sources.

Some of these establishments involve other legal problems. During the 39-month reporting period for which we examined police data, there were two separate reports alleging that employees at Rainbow Spa were attempting to rob customers, and there were two separate soliciting complaints there. The operators of Rainbow Spa were later charged with money laundering, coercion/enticement for prostitution and interstate transportation for purposes of prostitution. In addition, none of these massage parlors have challenged their treatment as “adult entertainment” establishments under the current Toledo zoning ordinance, which appears to be at least a tacit acknowledgment of the types of services that they offer.

We do not believe that massage parlors have First Amendment protection. This view is further supported in a federal court of appeals statement — ... “massage parlors, conversation parlors and call services, which have no First Amendment protection” [*Mitchell v. Commission on Adult Entertainment Establishments*, 10 F.3d 123, 139 (3d Cir. 1993)]. Another federal appellate court rejected a massage parlor's First Amendment challenge, as well as a vagueness challenge, to an ordinance setting out a dress code for the operation [*Mini Spas, Inc., v. South Salt Lake City Corp.*, 810 F.2d 939 (10th Cir. 1987)].

We note, however, that the State of Ohio licenses the practice of massage therapy as part of its larger program of licensing medical and related professions. See Ohio Rev. Code §4731.16. To earn a license, a practitioner must meet minimum educational requirements from an approved school that requires hundreds of supervised practice (see O.R.C. §§4731.09 and 4731.19) and pass an examination:

Each examination shall be given in anatomy, physiology, chemistry, bacteriology, pathology, hygiene, diagnosis, and any other subjects appropriate to the limited branch of medicine for which certification is requested as the board may require, except that applicants for certificates to practice massage therapy shall not be examined in pathology.

We have been able to identify no useful public purpose that the massage establishments licensed by the City as “adult entertainment” establishments serve. We note in these comments that Ms. Cooper is a regular patron of certified massage therapists of the sort licensed by the State of Ohio and certified by two national professional organizations. She is a great believer in the value of massage therapy when performed by trained and certified or licensed practitioners. We simply cannot find any benefit to the City or its residents from allowing other persons, with little or no training and education, to provide massage services, whether sexual or not.

Retail Sex Businesses

Although there are eight establishments in Toledo that consider themselves adult bookstores, all have video viewing booths that provide on-premises entertainment. We find in Toledo, as we have found elsewhere, that the addition of video viewing booths to a bookstore or video rental store provides a form of on-premises sexually oriented entertainment that should be zoned and regulated accordingly. A true adult book or video store would simply involve the retail sale or rental of videos, without on-premises consumption. The on-premises consumption of the entertainment leads patrons to remain on the premises longer and to have more opportunity to interact with other patrons – whether for sexual purposes or otherwise – thus making such a use a higher impact use than a simple retail establishment.

The City's current ordinances do not appear to treat The Love Boutique and Priscilla's as sexually oriented businesses. Both are clearly marketing sex and should be so regulated. We note that both are well-managed stores – by far the cleanest and best merchandised of the retail establishments we visited in Toledo. As sex businesses, they are excellent and relatively low-impact. They are, nevertheless, sex businesses and should be separated from sensitive uses such as residences, schools and religious institutions. Only one police call went to one of these retail businesses during the 39-month reporting period. This was a non-violent incident that was not clearly attributable to the business.

Alternative Media Avenues

Much of the growth of the sex business in recent years and much of the activity in Toledo appears to deal with sexually oriented movies, videos and DVDs. Such materials are available in the so-called adult bookstores in Toledo, but they are also available in other venues:

Westwood Theatre

Westwood Theatre. The Westwood Theatre is likely to continue to operate as a sexually oriented movie theater, although we recom-

mend licensing and better controls on the activities there. It thus furnishes and should continue to furnish one alternative avenue through which people can enjoy sexually oriented videos.

Mainstream Media Stores

Other Media Stores. The City of Toledo has at least 16 mainstream video stores that provide separate rooms with hardcore videos. These include Family Video with four establishments, Video Connection with seven establishments inside the city and eight in nearby communities, Video News' three stores, Video Cave's one store and Galaxy Videos' one store. Each of these that we visited has a separate room with hardcore, sexually oriented material available to rent to persons 18 and older. The sizes of the backrooms were typically somewhere between 5 and 10 percent of the floor area of the store, with the stock in the rooms appearing to account for less than 10 percent of the total stock of the store. Two of the Video Connection stores we visited had separate rooms that consumed upwards of 30 percent of the floor area. However, unlike Family Video where permanent walls create the backrooms, Video Connection creates the separate adult area with movable partitions and apparently adjusts the sizes of the rooms to meet demand in different locations. We found a significant percentage of the customers of these stores in the adult area. Leo's Books in downtown Toledo has a separate section of adult materials magazines, located on two racks near the back of the store. The material appears to be largely soft-core, although most of it was sealed and we did not attempt to open the material to determine its exact content.

- We separately recommend that the above media stores be allowed to continue to provide these materials to their Toledo customers (and others) exactly as they do now. This is not just a single "alternative avenue" but in fact a whole system of streets, boulevards and avenues that provides the same sort



of hardcore material available in the "adult bookstores with video viewing booths" but in a far more appealing setting.

- Family Video and many other video stores rent VCRs, thus making this material available to people who may not own a VCR. The cost of renting a VCR and 2 adult movies is about \$15, compared to a cost of roughly a dollar for every two minutes or so of material viewed in the viewing booths.
 - In addition, most mainstream bookstores such as Barnes and Noble carry some inventory that falls within the widely used definitions of sexually oriented material. This material ranges from art books to marriage manuals, and from self-help guides to adult-interest magazines. We recommend that the City make no effort to regulate or limit the distribution of these materials through these mainstream sources.
 - We found in our Toledo hotel rooms, as we have found in hotels in other cities, a wide range of pay-per-view channels, some of which include material that can be considered hardcore (although to date such material typically excludes the "money shot," which is the final measure of true hard-core). We separately recommend that the City make no effort to regulate or limit the display of such materials in the privacy of a hotel room, which we equate to the privacy of a home.
- We have enumerated here only those "alternative avenues" that are located within and subject to the regulation of the City of Toledo. Today, of course, the Internet has become a major source of hard-core and soft-core pornography, available to an increasing percentage of the population. Many local cable systems and all of the satellite television providers have adult channels and hard-core pay-per-view movies. There are a number of mail-order businesses that distribute sexually oriented media, ranging from traditional purveyors of pornography to an upscale operator like Adam & Eve, (<http://www.adameve.com>), which offers an array of sex toys, lotions, and wild clothing, as well as books and videos.

Recommendations

Applicable Definitions

We recommend that the City adopt the following definitions (a few of which are already included in the moratorium ordinance) and use these as the basis for applying the special location and separation requirements to these businesses:

Lingerie modeling or photography studio means an establishment or business which provides the services of live models modeling lingerie, bathing suits, or similar wear or without clothing to individuals, couples or small groups in a room smaller than 600 square feet.

Massage means touch, stroking, kneading, stretching, friction, percussion and vibration, and includes holding, positioning, causing movement of the soft tissues and applying manual touch and pressure to the body (excluding an osseous tissue manipulation or adjustment).

Massage therapy means the profession in which a State of Ohio certified massage therapist applies massage techniques with the intent of positively affecting the health and well-being of the client, and may adjunctively (i) apply allied modalities, heat, cold, water and topical preparations not classified as prescription drugs, (ii) use hand held tools or devices designed as t-bars or knobs, and (iii) instruct self care and stress management. "Manual" means by use of hand or body.

Media means anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, cd-roms, other magnetic media, and undeveloped pictures.

Motion picture arcade booth means any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat customers and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital or other means or medium (including, but not limited to, film, video or magnetic tape, laser disc, cd-rom, books, magazines or periodicals) for observation by customers therein. The term "booth," "arcade booth," "preview booth," and "video arcade booth" shall be synonymous with the term "motion picture arcade booth".

Primary live entertainment means that entertainment that characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

Sadomasochistic practices mean flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

Sex shop means a an establishment offering goods for sale or rent and that meets any of the following tests:

- (1) It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items make up more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its floor area; or,
- (2) More than five percent (5%) of its stock in trade consists of sexually oriented toys or novelties; or,
- (3) More than five percent (5%) of its gross public floor area is devoted to the display of sexually oriented toys or novelties.

Sexual conduct means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttock or fe-

male breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

Sexual gratification means sexual conduct as defined herein.

Sexually oriented acts means sexual conduct as defined herein.

Sexually oriented business is an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented motion picture theater; motion picture arcade; bathhouse; massage parlor or shop; and/or sex shop. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the zoning code or other applicable ordinances.

Sexually oriented cabaret or sex oriented cabaret means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment which constitutes the "primary live entertainment" is distinguished or characterized by an emphasis on the exhibiting of "specific sexual activities" or "specified anatomical areas" for observation by customers therein.

Sexually oriented cinema, sexually oriented motion picture theater, or sex oriented cinema means a cinema or motion picture theater which shows hard-core features on more than half the days that it is open, or which is marketed as or offers features described as "adult", "XXX", or sexually oriented.

Book or Media Store

We recommend that book, video and other media stores in which sexually oriented media constitutes less than 10 percent of the inventory or in which such media constitutes more than 10 percent but less than 40 percent of the inventory and occupies less than 40 percent of the floor area and is maintained in a separate, access-controlled room, be treated simply as retail stores and be allowed in any location where such stores are allowed.

To facilitate the adoption of this recommendation, we provide the following definitions for use in the Zoning Code:

- A book or media store which devotes less than ten percent (10%) of its floor area or ten percent (10%) of the number of items in inventory to sexually explicit material shall be treated for zoning purposes as a retail establishment.
- A book or media store which devotes more than ten percent (10%) of its floor area or ten percent (10%) of the number of items in inventory to sexually-explicit material, but which devotes less than forty percent (40%) of its floor area and less than forty percent (40%) of the number of items in inventory to sexually-explicit material shall be treated for zoning purposes as a book or media store and not as a sex-oriented media store, provided that it meets the following conditions:

All sexually explicit material shall be maintained in a room that is separated from other material by an opaque wall that extends to the ceiling or eight feet above the floor, whichever is less;

Access to the room containing the sexually explicit material shall be through an opaque door;

The room containing sexually-explicit material shall be posted with a notice indicating that only persons 18 years of age or older are allowed in the room;

Access to the room will be physically limited to adults through control of access by an employee of the store, through use of an access release located at least 66 inches off the floor, or through constant monitoring of the room by an employee on duty through electronic means or through a window or mirror providing visibility into the room from the manager's or cashier's work station.

This recommendation regarding book and media stores protects and clearly makes legal a number of existing operations in Toledo that provide alternative avenues for the distribution of adult media protected by the First Amendment.

Zoning Recommendations

Zoning - Suitable Locations

The City must provide a reasonable number of locations in which sexually oriented businesses protected by the First Amendment can lawfully operate. The locations that best balance the needs of the industry and the concerns of the community are locations that:

- Are not on the same block with predominantly residential uses or districts or with other sensitive uses, discussed below;
- Are not located along major pedestrian routes, particularly not those that are likely to be frequented by children;
- Are generally surrounded by other intense commercial or other nonresidential uses; and
- Do not result in a significant concentration of the businesses in one area.

Combining all of these concerns with the obvious desire of the industry to have locations that are reasonably accessible and reasonably visible suggests that they are best located in:

- Strip shopping centers in intensely commercial areas (not in strip centers that back up to residential uses);
- In freestanding buildings along major arterials with little pedestrian traffic (and again, not in such areas where the commercial is only a half-block deep and there are residences behind them).

Many of the existing businesses in Toledo are in exactly such locations. As the City adopts its new zoning ordinance, we recommend that the zoning districts and the table of permitted uses be combined in such a way that locations along major arterials become legal - subject to separation requirements.

Zoning - Separation of Sex Businesses from One Another

We have in other places recommended that no two sex businesses be allowed within a specified distance of each other. Yet in Toledo we

found that The Love Boutique and Déjà Vu are compatible and complementary uses. A key issue is that The Love Boutique is clearly a retail operation and thus allowing these two uses to co-locate eliminates the pressure for one of them to locate elsewhere. There are two other sex businesses in that center. One is a massage parlor, which we have recommended banning. The other is one of the least attractive of the adult bookstores and video arcades. Three businesses, however, seems excessive even if they are clean operations.

Thus, we recommend that the City consider modifying its separation requirement between businesses to allow the co-location or even neighboring location of an establishment with on-premises entertainment (including a video arcade as on-premises entertainment) and a purely retail shop. Thus, a true adult bookstore – without the arcade – could be located near an adult cabaret, and the current combination of video rentals and the adult movie theater would clearly be lawful. This recommendation does not suggest the co-location of two sexually oriented uses with on-site entertainment.

If the City is treating video viewing booths as an accessory use to an adult bookstore, we would recommend that this practice be discontinued. As noted elsewhere, we typically find extensive problems associated with establishments with video viewing booths and suggest that they be severely restricted – particularly in light of the fact that the same sort of entertainment is available through so many other alternative avenues that pose fewer public health and other policy concerns. If the City is to allow future establishments with viewing booths, they should be permitted only in locations that would allow adult theaters and should be regulated as such – because they, also, include on-premises entertainment.

The City's current separation standard of 1,000 feet has worked in such a way that it has allowed a reasonable number of locations in the City. However, there is a very real perception that there is a clustering of adult cabarets in Northeast Toledo. Although some appear to meet the current 1,000 foot separation distance from each other, we recommend that the City consider a 1,500 foot separation dis-

tance among sex businesses offering on-premises entertainment, including video arcades.

We believe that, if the massage parlors are eliminated, the 1,000-foot separation requirement for businesses without on-site entertainment will otherwise be workable. We make that recommendation with a caveat, however. We do not have a complete zoning map of the City and do not know what the new zoning boundaries will look like. We assume that in evaluating this recommendation, the City will recognize the need to allow some additional sites for businesses protected by the First Amendment.

After reviewing the police reports for 1999, 2000, 2001 and the first part of 2002, we are concerned about the concentration of troublesome activity at the complex at 135 South Byrne. Although all of the uses located there may be lawful nonconforming uses that would not be subject to the separation standards, we would recommend that the City seriously consider incentives or other techniques to break up this concentration of such uses – in particular, separating the Field House and Déjà vu would appear to be an important step in reducing undesirable activity in the area. We express no opinion on how that might be accomplished, but we suggest that it should be a reasonable priority.

Zoning – Separation of Sex Businesses from Sensitive Uses

The separation of sexually oriented businesses from such sensitive uses as residences, schools and houses of worship is an essential element of an effective regulatory program. As the City learned when public officials heard from concerned residents about the location of Priscilla's across from Notre Dame Academy, such standards must apply to a broad range of sexually oriented businesses – including "sex shops" like Priscilla's. Such separation is important to place the businesses in locations where they remain accessible to customers but where citizens who are offended by such businesses will not unwittingly encounter them in the course of walking their dogs, walking to the bus stop, or traveling to schools or worship services.

In addition, one of the secondary effects of such businesses relates to the activities that move outside the businesses. As noted in our discussion of the police reports, fully one-half of the police calls that could be placed in a specific location at these businesses involved incidents in the parking lots. Neighbors of the businesses with live entertainment reported encountering scantily clad dancers and prostitutes on the streets near and even behind the establishments. Neighbors of the bookstores with video arcades reported finding used condoms and tokens for viewing booths along the streets – leading to questions from children about the purposes of those devices.

The City of Toledo, like many other cities, has a linear pattern of zoning and land use – often, major arterials are lined with commercial uses/zoning backing up to older residential areas. Therefore, we believe that, as currently measured, a 500-foot separation requirement from residential and other sensitive land uses is the maximum that the City can realistically enforce and still allow a reasonable number of sites. The separation should be measured at least from property zoned primarily for residential use. One issue that will require additional study is the extent to which the businesses ought to be separated from residential uses in non-residential zones. Our understanding of the current practice in Toledo is that even isolated residences in industrial or heavy business zones are considered in implementing the separation from sensitive uses. Where there is a cluster of such uses, there are good public policy reasons to take such an approach. On the other hand, implementing an absolute separation requirement from any single residence in any location may unduly restrict the number of sites and actually eliminate from consideration some sites that may otherwise make perfectly good sense. One possible approach is to use a weighted measure of land-uses and to impose the separation requirement from any residence located in a predominantly residential zoning district or in a cluster of residential uses that occupies 50 percent or more of the land on a block or a minimum of two acres (or some other reasonable measure).

Because of the risk of unintended contact between pedestrians and sexually oriented businesses, we suggest that the City may want to consider using a greater separation requirement but measuring it

along pedestrian routes (which can be computed on a GIS system by following property boundaries along public rights-of-way). Using that measure, it may be possible to increase the separation distance to 750 feet, which would reduce the incidence of businesses located less than a block from a residence along the same street.

In addition, we recommend that the City prohibit any of these businesses from locating on the same block as any land zoned for primarily residential uses and, perhaps, from other clusters of property used for residential purposes but not including mixed-use zones that allow retail on the main floor and residential above.

Zoning – Conforming Status

There should be serious consideration to amending the zoning ordinance (or using the zoning ordinance update) to allow these uses in at least some of the areas now zoned M-1; this would be likely to have the effect of bringing one or two businesses into conformance.

In addition, it appears that a few of the businesses are currently located in relatively appropriate places that conform with the current zoning regulations. It would be desirable as part of the new zoning ordinance to create an administrative review through which the precise zoning status of these businesses can be determined; to the extent that they conform with proposed locational and separation requirements, they should be issued Certificates of Occupancy as conforming uses, rather than being treated as nonconforming uses – regardless of the dates on which they were established.

Because of the tendency of sexually oriented businesses to expand into auxiliary enterprises (such as the addition of viewing booths to retail bookstores), any Certificates of Occupancy issued through this process or in the future should be very specific as to the character of the use permitted – e.g., “retail sales and rentals of media;” “movie theater;” “live entertainment.”

Note that these recommendations are not intended to create conforming status for closed video viewing booths – see separate recommendations on that subject.

Licensing Recommendations

General

We recommend that the City adopt a comprehensive licensing ordinance for certain sexually oriented businesses and employees/contract workers. Specifically, we recommend below detailed licensing provisions for all of the following:

- All sexually oriented businesses with on-premises entertainment, including video arcades;
- All managers of licensed sexually oriented businesses;
- All entertainers in licensed sexually oriented businesses, whether such entertainers are employees or independent contractors.

We recommend that the comprehensive licensing system include clear criteria for granting the licenses, including an automatic grant of a temporary license to allow all existing businesses to continue to operate pending completion of the licensing process. The licensing ordinance must, under applicable court decisions, contain:

1. Objective criteria for granting or denying the license;
2. A clear (and relatively short) time limit on the review period for a license application, ending in an actual decision; and
3. An available direct appeal to the courts without significant additional local procedures.

To make the licensing ordinance effective, we recommend that it be based on a point system, similar to that used for drivers' licenses, under which even minor infractions, if repeated or continued, can lead to a process for suspension or even revocation of the license.

There are two important principles that should govern the entire licensing ordinance:

1. Each licensed establishment should be required to have a licensed manager on duty at all times, with the name and license of that manager clearly posted. This recommendation

ensures that any law enforcement officer or other inspector entering the establishment can either find a responsible person in charge or cite the establishment for violating the ordinance;

2. Management should be responsible for ensuring compliance with the operating criteria applicable to the premises by all persons using the premises. In other words, a violation on the premises will be considered management's problem, regardless of whether an owner or manager was directly involved in the violation.

Specific recommendations for licensing criteria follow.

Licensing – Criteria for Background Checks

Background checks should be required for individual license applicants and for owners of establishments; if the establishment is incorporated, the background checks should include control persons, as typically defined under the Internal Revenue Code or other, objective, business-related law. Persons disqualified from holding such licenses should include:

1. Anyone convicted of a sex-related crime or a crime against the person within the past 10 years;
2. Anyone incarcerated during the past 10 years for a sex-related crime or a crime against the person, unless the conviction on which such incarceration was based has been overturned;
3. Anyone convicted of or incarcerated for an offense involving the unlawful distribution or consumption of alcohol within the past 5 years, unless the related conviction has been overturned; and
4. Anyone who has had a similar license in Toledo or another community revoked within the past 3 years;

Licensing – Criteria for All Licensed Establishments

We strongly recommend application of at least the following operating criteria to adult cabarets:

1. There should be no prostitution or solicitation of prostitution on or about the premises;
2. There should be no dealing in or consumption of drugs or other unlawful substances on or about the premises;
3. There should be no loitering inside the premises or in the immediate vicinity outside the premises;
4. There should be no sex acts, including masturbation, on the premises, regardless of whether there is payment for such sex acts;
5. There should be no discharge of bodily fluids outside the restrooms;
6. There should be no one under the age of 18 on the premises for any reason;
7. Operators should be held accountable for incidents in the parking lot, although probably to a lower standard than inside the business. The intent would be to encourage at least the large entertainment establishments to maintain security guards in the parking lots to reduce the incidence of violence, thefts and other anti-social activity in those locations.

Licensing – Criteria for Adult Cabarets

We recommend the following operating criteria for adult cabarets:

1. At a minimum, the City Council should give serious consideration to eliminating lap dances, in which a nearly-nude dancer gyrates on the lap of a customer.¹⁹

¹⁹ A California court has upheld a no-touching rule in such establishments. *Tily B., Inc. v. City of Newport Beach*, 69 Cal. App. 4th 1, 81 Cal. Rptr. 2d 6 (1998), reh'g denied, review denied, 1999 Cal. LEXIS 1621.

2. We recommend that the City Council consider, as a broader alternative, a rule that requires that dancers perform on the stage, which should be separated from the audience by a vertical rise of at least 30 inches and by a barrier that either keeps the dancers 30 inches or more from the edge of the stage or keeps the customers 30 inches or more from the edge of the stage.²⁰
3. There should be no touching between dancers and customers (alternatively, there may be hand-to-hand touching for the purposes of tipping)²¹;
4. If lap dancing is allowed, any individual dance performances should take place in a public area (as in *Déjà Vu*) rather than in a backroom.²²

²⁰ The 6th Circuit has upheld just such a rule, imposing a three-foot separation distance between the customers and the stage. *Déjà Vu of Nashville, Inc., v. Metropolitan Gov't of Nashville-Davidson County*, 2001 U.S. App. LEXIS 26007 (6th Cir.2001), at 34-35. See, also, *DLS, Inc. v. Chattanooga*, 107 F.3d 403 (6th Cir. 1997) (upholding 6 foot spacing).

²¹ A federal court in Florida has upheld a requirement that required that dancers maintain a separation distance from customers when they were unclothed or partially unclothed. *T. Marc, Inc. v. Pinellas County*, 804 F. Supp. 1500 (M.D. Fla. 1992).

²² *Lady J. Lingerie v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999), cert. denied, 2000 U.S. LEXIS 2386 (April 3, 2000). Although the city lost on several counts in this suit, the court upheld a requirement that entertainment take place in a space of at least 1000 square feet. The court said in part:

We also conclude that the 1000 square foot rule is valid. See *Jacksonville, Fla. Adult Ent. & Serv. Code* §§ 150.301(g) & (h) (reprinted in appendix). Ample evidence, from Jacksonville and elsewhere, supports the district court's finding that illegal and unhealthy activities take place in small rooms at adult entertainment establishments. One thousand square feet is not that large, so we can't say that this rule is substantially broader than necessary.

Note that the most enforceable form of this rule is a "dancers on stage, customers in the audience, no touching" rule. Anything else opens up a number of gray areas. Nevertheless, it would be possible to work with the industry to structure a rule that eliminated lap dancing but that allowed some contact through which dancers could obtain tips.

Making management responsible for enforcement of the operating criteria is critical in making a recommendation like this work. It is simply not practicable for the City to have enforcement officers on the premises at all times to ensure that there is continued compliance with this rule.

Licensing – Criteria for Massage Parlors

We recommend that the City repeal its current licensing ordinance for massage parlors and replace it with one that requires all operators and employees performing massages to be licensed by the state – as licensed massage therapists or as medical professionals or paraprofessionals authorized to provide massage or physical therapy.

If the City rejects this recommendation and continues to provide local licensing for massage operators who do not meet state standards, the City should re-examine the status of Lorain's under the local massage licensing ordinance.

Licensing – Criteria for Sexually Oriented Theaters

In addition to the general criteria applicable to all licensed establishments, we recommend that the operating criteria for sexually oriented motion picture theaters also include:

1. A requirement that there be low-level lighting maintained on in the theater at all times that there are customers present;
2. That management use windows, mirrors or video cameras to monitor activities in the theater at all times.

Licensing – Criteria for Video Arcades

Although there are some logical provisions in the City's current business regulation ordinance for video arcades, the ordinance itself

is incomplete and inadequate. We recommend that the City repeal the current ordinance and replace it with operating criteria for video arcades that include:

1. Removal of the doors from the booths, with a reasonable period of delay for implementation. Although we realize that the industry may challenge such a requirement again, we believe that this is an issue over which it is worth litigating, in a properly framed ordinance and backed by this study. Note that such requirements have been upheld in a number of courts;²³

²³ An Ohio court has upheld such an ordinance, based on findings similar to those made in our field study:

Between January and March of 1992, undercover officers with the Fayette County Sheriff's Department and the South Central Ohio Task Force investigated the adult video arcade Interstate operated at 9017 West Lancaster Road in Oeta. The arcade contained thirty-two viewing booths, each equipped with a bench, a menu of sexually explicit videos, and a coin-operated video monitor. During the investigation, officers collected samples of semen and pubic hair from various viewing booths. Officers also observed what appeared to be dry semen stains on the walls, floors, and video monitors. Officers described the presence of employees who swept and mopped the floors and collected used paper towels and tissues from the video booths and adjoining hallway.

Interstate Indep. Corp. v. Zoning Bd. of Appeals of Fayette County & Village of Oeta, 123 Ohio App. 3d 511, 704 N.E.2d 611, 613-614 (1997), appeal dismissed, 81 Ohio St. 3d 1443, 690 N.E.2d 15, cert. denied, 525 U.S. 814, 142 L. Ed. 2d 39, 119 S. Ct. 50 (1998).

Scope Pictures, Inc. v. City of Kansas City, 140 F.3d 1201 (8th Cir. 1998); see earlier decisions of *Doe v. City of Minneapolis*, 898 F.2d 612 (8th Cir. 1990); and *Postscript Enters. v. City of Bridgeton*, 905 F.2d 223 (8th Cir. 1990).

Wall Distribs, Inc. v. City of Newport News, 782 F.2d 1165 (4th Cir. 1986) (upholding ordinance prohibiting and making a criminal offense the exhibition of films in enclosed booths: all viewing areas in movie arcades must be

2. Modification of L-shaped booths (probably within a one-year period) to make the insides of the booths visible from the aisle (the design of these booths is such that elimination of the doors does not accomplish the intended purpose);
3. Permanent elimination of glory holes between booths, including reinforcement of the walls with metal plates to prevent patrons from redrilling such holes or the design of booths to prohibit any common walls shared between booths (this style of booth was found at the Adult Zone);
4. Implementation of a one person per booth rule;
5. Installation in all of the establishments of a video monitoring system such as that now used in two or three of the stores, so that management can constantly monitor activity in the arcade area;
6. Imposition of minimum lighting standards for the hallways outside the booths; and
7. Implementation of sanitation standards for the booth areas and hallways around them.

Bathhouses

We did not have access to the Diplomat (a bathhouse) to fully understand the extent of the operations at this establishment. We would, visible from a continuous main aisle and must not be obscured by any curtain, door, wall, or other enclosure).

Chez Sex, Inc., v. Poritz, 297 N.J. Super. 331, 688 A.2d 119 (App. Div.), cert. denied, 694 A.2d 114 (N.J.), cert. denied, 522 U.S. 932 (1997), upholding a state statute that prohibited showing the videos in booths.

Mitchell v. Commission on Adult Entertainment, 10 F.3d 123, 140 (3d Cir. 1993).

See also *Ellwest Stereo Theatres, Inc. v. Wenner*, 681 F.2d 1243, 1245-1246 & n.2 (9th Cir. 1982) (upholding a city ordinance requiring that booths be open to and visible from a continuous aisle).

however, recommend that if this establishment is being licensed as a massage parlor that it be subject to the requirement that the operators and other employees providing massage services be licensed massage therapists.

Uses that Might be Banned

We recommend that the City seriously consider banning sexually oriented massage parlors and any other establishment offering massages by persons not licensed by the State Medical Board. As noted in the Findings, we have identified no useful public purposes that these establishments serve. Because they have been held not to have First Amendment protection²⁴, and because the state has essentially occupied the field of regulating legitimate massage therapy, there is simply no reason for the City to continue to permit this use and to give it an aura of legitimacy with a City license.

We recommend that the City ban any additional video arcades by prohibiting the showing of sexually oriented videos or movies for a fee in an enclosed space smaller than 120 square feet. Note that this restriction would not affect hotel room movies or pay-per-view movies offered to people in their homes.

Other Recommendations

We note the following facts:

- One of the live entertainment establishments accounted for 30 percent of the police calls to all of the 26 establishments during the 39-month period for which we reviewed the data.

²⁴ A federal court of appeals has referred to "massage parlors, conversation parlors and call services, which have no First Amendment protection." *Mitchell v. Commission on Adult Entertainment Establishments*, 10 F.3d 123, 139 (3d Cir. 1993). Another federal appellate court rejected a First Amendment challenge, as well as a vagueness challenge, to an ordinance setting out a dress code for massage parlors. *Mini Spas, Inc., v. South Salt Lake City Corp.*, 810 F.2d 939 (10th Cir. 1987).

- One massage establishment has two separate police reports indicating that employees have tried to rob customers and two other incidents involving solicitation.
- Another massage establishment accounts for 75 percent of the police calls to such establishments, and four of the police reports involved sex-related offenses.
- The adult movie theater has accounted for 21 percent of the total complaints for public indecency and/or solicitation complaints at all of these businesses over the 39 months.

Our observations at each of these establishments were entirely consistent with the police reports. Without expressing any opinion about the viability of such an approach, we would recommend that City enforcement officials and state prosecutors examine possible ways to address the continuing problems at these four establishments under nuisance or other existing laws. The closure or even substantial reduction of the problems at these four establishments would significantly reduce Toledo's problems with the secondary effects of sexually oriented businesses.

A REPORT ON THE SECONDARY IMPACTS OF ADULT USE BUSINESSES IN THE CITY OF DENVER



Prepared for:
Denver City Council

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EXECUTIVE SUMMARY

Background

In the two decades since the U.S Supreme Court upheld a Detroit ordinance imposing separation requirements on adult use businesses, state and local governments increasingly have turned to zoning laws to regulate the location and operation of such businesses.

Regulations imposed on adult use businesses have serious constitutional implications because of the First Amendment's guarantees of freedom of expression and speech. The importance of these issues is reflected in the hundreds of appellate court cases nationwide challenging the constitutionality of state or local regulation of adult uses.

In October 1996, the Denver City Council imposed a temporary moratorium on the issuance of zoning permits for adult use businesses in certain districts, and directed city departments and agencies to undertake a comprehensive study of the secondary impacts of such businesses on nearby properties and neighborhoods.

Efforts to regulate adult uses in Denver are aided by the experiences of other municipalities in defending their ordinances against such challenges, including documentation of the negative impacts caused by adult use businesses on property values and the safety and well-being of people who live and work in areas surrounding such businesses.

Zoning

Twenty adult use businesses are currently operating in Denver under approved use permits in the B-3, B-4, B-5 and B-8 zone districts. They include five adult theaters/bookstores, four cabarets, three pop shops and eight adult bookstores (seven of which also offer live entertainment and/or video booths).

Seventeen of these 20 businesses do not meet separation requirements established in 1976 for adult uses but, because they were in existence prior to that time, have continued to operate as legal nonconforming uses. Three new adult use businesses, all of which meet the city's separation requirements, have been established since 1992.

Applying the current separation requirements, there are currently 597 acres of land available for adult use businesses to operate in the City's business zone

districts and Planned Unit Development (PUD) zone districts. The number of individual sites currently available for adult uses is 89, including the 20 sites currently occupied by adult use businesses. An additional 25 sites are available for use by adult businesses in industrial districts, where structures erected before 1956 are eligible for use exceptions.

Licensing

Of the 20 adult use businesses currently operating in Denver, all but one (Las Vegas Adult Palace) require licensing, as either amusements or cabarets, by the Denver Department of Excise and Licenses.

The department issues Amusement Class 16 licenses to establishments and individuals providing live entertainment, Amusement Class 15 licenses to establishments that have picture show devices and Amusement Class 6 licenses to those that show movies. If the adult entertainment establishment sells alcohol, the operator must possess an adult cabaret license, in addition to a liquor license.

Both amusement and cabaret licenses can be suspended, revoked or not renewed by the excise and licenses department after notice to the applicant of the allegations forming the basis of any complaint, followed by a hearing. The cabaret provisions are more detailed and inclusive regarding the grounds for suspension, revocation or non-renewal. The department director has the authority to put conditions on a cabaret license, but not on an amusement license.

Most adult use businesses in Denver have had their licenses suspended on one or more occasions for criminal violations by patrons or employees (or, in some cases, for licensing violations short of criminal behavior). The overwhelming majority of such violations involved public indecency, including masturbation, fondling and deviate sexual intercourse. In addition, many adult use businesses have had warnings or order-ins issued by the police or by the department of excise and licenses for similar offenses.

Among the four groups of adult use businesses licensed by the City, Amusement Class 15 licensees, which offer adult books and adult picture show devices, do not seem to generate the same amount of violations as those establishments that offer live entertainment or movies.

Neighborhood Impacts

The Adult Use Study Team reviewed impact studies, or summaries of studies, conducted in 21 jurisdictions. These studies have found such businesses to cause negative secondary impacts to nearby properties and neighborhoods, including criminal activity, litter, noise, traffic problems and depreciation in property values.

Surveys, interviews and site inspections conducted as part of this study show that people who live or own businesses near adult use businesses – particularly bookstores and theaters – feel their presence in the neighborhood lowers property values, generates crime and contributes to an overall decrease in quality of life.

While all of the adult businesses in the study areas have had a negative impact on adjacent residential areas, those that have had the greatest impact are adult theaters/bookstores, which generally operate 24 hours a day, seven days a week. The intense level of activity generated by adult cabarets and pop shops has also had a negative impact on adjacent neighborhoods.

In general, a greater percentage of residents than business owners have experienced negative secondary impacts from adult use businesses. This is probably due to the fact that most of the neighborhood businesses are open only during the day, while residents are in the neighborhood day and night. Enough of the local businesses, however, are experiencing impacts to warrant concern.

Among the specific findings of the Department of Planning and Community Development's survey of neighborhood residents and business owners:

Overall Impact on Neighborhood

Of the residents surveyed, 69% felt that adult use businesses had a negative overall effect on their neighborhood. The most frequently mentioned impacts were neighborhood appearance, litter, traffic and decreased property values.

A negative perception of the overall impact of adult use establishments was less prevalent among neighborhood business owners. Fifty six percent of business owners surveyed said the presence of adult uses in the neighborhood had no effect on their daily activities. The most frequently mentioned impacts were neighborhood appearance, decreased property values and litter.

Specific Activities and Impacts Observed by Neighbors

Activities observed by those living near adult use businesses included littering, trespassing and drinking alcohol in public . Litter generated by such businesses includes printed material containing pornography, used condoms, sex paraphernalia and used syringes. Residents also mentioned having seen people urinating, masturbating and soliciting for prostitution in areas adjacent to adult use establishments.

Of the activities observed by neighborhood business owners, the most frequently mentioned were littering, harassment of pedestrians and fighting.

Actions Taken by Neighborhood Residents and Business Owners in Response to Negative Impacts Caused by Adult Businesses

Some survey respondents said that the negative impact of adult use businesses on their neighborhood has forced them to take action or seek assistance, including restricting parking in front of their homes, calling the police and installing new lighting .

Business owners mentioned calling the police , restructuring business hours and installing better locks or hiring security guards.

Impact of Adult Uses, by Type of Business

- ***Adult bookstores with live amusement.*** Among people who live or work near adult bookstores featuring live amusement, 75% of residents and 67% of business owners felt that such businesses had a negative overall impact on the neighborhood. The most frequently cited complaints were drug dealing, trash, and prostitution and other illicit sexual activity in parking lots and nearby alleys.
- ***Adult theaters.*** Among people who live or work near adult theaters, 80% of residents and 41% of businesses owners felt that such businesses had a negative overall impact on the neighborhood. Complaints included prostitution, drug dealing, litter and the parking of patrons' cars on neighborhood streets.

- *Adult Cabarets and Pop Shops.* Among people who live or work near adult cabarets or pop shops, 78% of residents and 47% of businesses owners felt that such businesses had a negative overall impact on the neighborhood. The most frequently cited complaints were litter and trash containing pornographic material.

Incidence of Crime

To assess the impact of adult use businesses on neighboring properties, the Department of Public Safety collected and analyzed three categories of data for 1995 and 1996 -- calls for service, reported offenses and arrests -- for 15 study areas surrounding such businesses. Study areas were established by aggregating the statistics from the most active locations within a one-block area with the data for each existing adult use business.

The analysis showed that the incidence of certain kinds of crimes was proportionately higher in the study areas -- and significantly higher at many of the individual adult business locations -- than in the city as a whole. These crimes included disturbing the peace, public indecency, prostitution, drug-related violations, loitering, robbery, larceny, theft from motor vehicle, drinking in public/vehicle and urinating in public.

The analysis also showed that the incidence of certain kinds of criminal activity -- prowler and disturbance complaints, public drunkenness, drug-related crimes and public indecency -- was higher in the areas surrounding adult theaters and bookstores than in areas surrounding other types of adult businesses.

Effect on Property Values

Using 1994-97 assessment data, existing adult businesses in Denver were categorized into seven study groups in order to measure the impact of such businesses on assessed property values.

Analysis showed that commercial properties within the adult business blocks and residential properties abutting the adult business blocks tended to increase to a lesser degree than other properties in the same location.

Also, the impact on residential values is greater for properties that abut adult use businesses than on commercial properties that abut such businesses.