

7. SUMMARY AND CONCLUSIONS

When work on this study began in January, 2006, the authority of cities and counties to regulate off-site SOBs was under serious attack. Off-site SOBs had challenged the legitimacy of government regulations on two grounds. First, the extensive secondary effects literature that governments had relied upon did not report effects that could be attributed uniquely to the off-site subclass. Second, commonsense criminological theories suggested that off-site SOBs did not generate the same pernicious effects that had been associated with the broader SOB class.

When a Fifth Circuit panel seemed to buy both arguments in *Encore Videos*, some governments stopped enforcing regulations against off-site SOBs. Five years later, however, in *H and A Land Corp.*, another Fifth Circuit panel upheld a Kennedale ordinance whose secondary effects evidence included studies of off-site SOBs. At present, the most acute phase of the attack on the authority of governments to regulate off-site SOBs has passed.

Encore Videos had a profound impact on the way criminologists think about secondary effects. The first and most obvious impact is the addition to the literature of studies documenting the adverse secondary effects of off-site SOBs. Three such studies were reviewed in Section 4 of this report:

- When an "adult superstore" opened on an interstate highway off-ramp, total crime in a rural Illinois village rose by 60 percent. When the SOB closed two years later, total crime in the village dropped by 60 percent. A report of this case study has been published in a peer-reviewed journal (McCleary, 2006).
- Following the opening of a "lingerie boutique" in Sioux City, IA, total crime within 500 feet of site doubled. Total crime in a contiguous control circle was unchanged. A report of this case study was read at the national meeting of a scholarly association (McCleary and Weinstein, 2007) and is under review at a peer-reviewed journal.
- An updating of the 1977 Los Angeles secondary effects study found that both on-site and off-site SOBs posed large, significant public safety hazards. Risk-distance functions for both subclasses demonstrate the ambient victimization risk seeps out into the surrounding neighborhood for several blocks.

In addition to these three secondary effects studies

- An intensive case study of San Antonio SOBs, based on the risk-distance method developed for the 2007 Los Angeles study, found that ambient victimization risk extends for at least 1,000 feet in every direction of an off-site SOB.

In addition to extending the empirical secondary effects literature to the off-site SOB subclass, *Encore Videos* forced criminologists to rethink the fundamental mechanisms of their secondary effects theory. Relying on common sense, plaintiffs argued that the routine activity theory of hotspots did not apply to off-site SOBs because:

- The routine activities that occur at off-site SOBs are different than the routine activities that occur at on-site SOBs. Whereas on-site patrons linger inside, off-site patrons drive up; run in; purchase; run out; and drive off.
- Whereas virtually all on-site patrons are lone males, a significant proportion of off-site patrons are females and/or male-female couples.

But in fact, the routine activities at on-site and off-site are indistinguishable. On-site and off-site patrons spend similar amounts of time inside and outside the SOB; and like on-site patrons, off-site patrons engage in the same expected stigma management behaviors. The evidence suggests, furthermore, that there are few differences between on-site and off-site patrons. Although female

patrons are not uncommon at off-site SOBs, most off-site patrons are males. This is particularly true in the overnight hours when ambient victimization risk is at its highest.

Encore Videos challenged criminologists to re-examine the theory of secondary effects. The result of this re-examination is a stronger theory that applies equally to on-site and off-site SOBs; to rural, suburban, and urban settings; and to a range of business models. The theory is corroborated, finally, by empirical studies demonstrating that the typical off-site SOB – a store that sells sexually explicit media and miscellaneous adult merchandise exclusively for off-site use – attracts the same soft-target patrons, causing thereby the same crime-related secondary effects found for on-site SOBs.