

SUMMARIZING AND EVALUATING STUDIES AND REPORTS THAT EXAMINE WHETHER ADULT BUSINESSES CAUSE ADVERSE SECONDARY EFFECTS

PREPARED ON BEHALF OF THE ASSOCIATION OF CLUB
EXECUTIVES (ACE) AND THE FREE SPEECH COALITION



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INTRODUCTION



The Free Speech Coalition Organized in 1990, Free Speech Coalition is the trade association of the adult entertainment industry. As a 501 (c)(6) not-for-profit corporation, FSC is funded by membership dues as well as by fundraising efforts. Member services include: legislative watchdog for the industry; lobbying at the state and federal level; public education; member education on legal obligations; and as a last resort, litigation on key issues.



The Association of Club Executives (ACE) is the trade association of America's adult nightclubs. Their mission is to provide and share information concerning the political and legal status of the adult nightclub industry and to provide a platform for the strategic planning of initiatives to combat negative challenges.

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INTRODUCTION: USING SECONDARY EFFECTS INFORMATION PREPARED BY OTHER MUNICIPALITIES

Adult entertainment establishments are regularly confronted with state or municipal attempts to restrict their location (through zoning laws) and/or their business activities (through licensing and regulatory provisions). These restrictions are usually predicated upon a supposed concern about the “adverse secondary effects” of adult businesses. These “secondary effects” are usually said to include increases in crime, decreases of property values, and other forms of urban blight in the areas surrounding adult entertainment facilities.

Often, a city will claim that adult uses cause these adverse secondary effects not based upon any research that has been conducted in regard to the impact of the adult businesses located within that specific municipality, but rather upon “studies” and reports prepared by *other* cities -- some now approaching thirty years old -- that are used as proof of this connection.

Indeed, the United States Supreme Court in the famous Renton¹ decision has stated that a city need not conduct its own study or generate evidence beyond what other municipalities have compiled before being able to enact laws which regulate adult businesses, “so long as whatever evidence the city relies upon is reasonably believed to be relevant to the problem that the city addresses.”

When the government attempts to enact laws directed at adult entertainment businesses in this way -- using “secondary effects” information prepared by *other* municipalities -- one of the critical questions becomes: Can these materials be “reasonably believed” by city councils or state legislatures “to be relevant to the problems” that the governmental body is attempting to address?

Stated another way, the succinct question is this: Can a city council or state legislature reasonably rely upon these studies and reports prepared by other municipalities as justification for enacting adult business regulations?

THE PURPOSE OF THIS REPORT

The purpose of this report is to respond to the contention that “studies from across the country” have concluded that adult businesses “absolutely” cause adverse secondary effects.

¹ *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986).

We provide summaries of the reports that governmental bodies have previously relied upon in contending that regulations of adult establishments are necessary because of a concern of adverse secondary effects. We analyze those reports and provide critiques of their conclusions and, when appropriate, discuss the faulty logic used in coming to conclusions not supported by the data. Then, we set forth the *actual* findings of these reports and give quotations from them, where applicable, which specifically *refute* the assertion that adult businesses cause harmful secondary effects.

We also summarize in this document the “buried” governmental reports that find *no* connection between adult uses in communities and adverse secondary effects; and we provide information about the numerous and more recent scientifically sound studies whose authors conclude that adult businesses *do not* cause adverse secondary effects.

**MANY OF THE REPORTS RELIED ON BY THE GOVERNMENT
ACTUALLY STATE THAT THERE IS NOT A CONNECTION
BETWEEN ADULT BUSINESSES AND ADVERSE
SECONDARY EFFECTS**

As we note below many of the governmental reports relied upon to make the argument that adult businesses cause adverse secondary effects, particularly those conducted in *sound scientific manner*, actually state that they *do not* find a connection between adult businesses and adverse secondary effects. In fact, some studies actually find adult uses to be *less problematic* than other similar businesses in the community.

Given the way many of these studies and reports are described by supporters of adult business regulations, we are often quite surprised to discover, after a careful review, that many of the authors of these materials actually *deny* having found any connection between adult uses and negative secondary effects. Yet others find the connection to be at best equivocal.

MANY STUDIES DENY CONNECTION

For example, as we report here, in the highly cited and relied upon 1978, St. Paul, Minnesota, study, *the authors actually disclaim any notion that their conclusions can be applied to adult businesses*. Possibly even more important, the predecessor study to that report -- prepared two months earlier -- *states no fewer than fourteen times that sexually oriented adult businesses do not cause “adverse secondary effects.”* Yet, quite astonishingly, the “1978 St. Paul, Minnesota” report is identified in most ordinances of adult businesses as justification for concluding that adult uses cause such community problems.

QUOTES FROM THE STUDIES

In this report we provide *quotes from authors of these reports* that show that contrary to the often made statement that these documents “clearly” demonstrate a connection between adult businesses and adverse secondary effects, that this is not true.

METHODOLOGICAL FLAWS

Many of the studies and reports use such flawed methods that they are now both criticized and discounted even by experts who assist cities in writing these types of laws, leading to the inescapable conclusion that they cannot be reasonably relied upon by municipalities to justify enactment of laws directed at adult businesses. Below we comment on the various methods used in preparing these reports to determine whether they are scientifically sound and should therefore be relied upon or not as the basis for new laws regulating adult businesses.

We conclude that with few exceptions, most of the older studies are so flawed that they simply should not be relied upon by any reasonable person trying to determine whether adult uses are *really* a community problem. After analyzing these reports and studies, we have yet to be presented with any scientifically reliable information upon which we could conclude that adult businesses create adverse secondary effects.

“BURIED” GOVERNMENTAL STUDIES FIND NO CONNECTION BETWEEN ADULT BUSINESSES AND “ADVERSE SECONDARY EFFECTS”

We have learned through our research that there are a number of *governmental* investigations that failed to find any connection between adult businesses and adverse secondary effects, that have been seemingly ignored--and in some instances apparently “buried”-- by the government. We have seen instances where governmental entities try to act as if these reports simply do not exist.

These studies do not appear to have been cited by any later investigations of the secondary effects question, and they are not referenced in any of the “summaries” which we have seen submitted to city councils and state legislatures by anti-adult business groups trying to convince legislative bodies of the connection between adult uses and adverse secondary effects.

Probably for the first time in any written comprehensive form, we include the findings of these often-ignored and in some instances “buried” documents.

STUDIES THAT HAVE NOT FOUND ADVERSE SECONDARY EFFECTS

In recent years, numerous scientifically sound studies have been conducted which have found no evidence of community harms being associated with adult uses. A number of these studies have been cited for approval by courts around the United States, and others

have been published in what are called “peer-reviewed” legal and/or scientific journals; all of these circumstances lending credibility to these reports and the conclusions that they reach.

These investigations have been prepared by experts who have been qualified in courts of law to testify about these types of issues, including, among others, the authors of this document – R. Bruce McLaughlin and Dr. Daniel Linz of the University of California -- as well as Dr. Kenneth Land of Duke University, Dr. Bryant Paul of Indiana University, Dr. Randy Fisher of the University of Central Florida, and Dr. Terry Danner of St. Leo College.

We conclude that local and state governments are enacting laws based on out-dated and scientifically flawed studies that assert that adult businesses create negative secondary effects in the communities in which they are located. Credible research suggests that a well-maintained adult business is no more likely to create adverse effects on a community than any other legitimate business.

The adult industry has changed greatly in the two decades since the studies being relied on were conducted. We feel that it is time for new, free of the methodological shortcomings of the previous studies to be considered. Legislation affecting the adult industry should include a requirement that local communities either conduct new studies prior to passage of local ordinances or base such laws on current and demographically comparable studies.

**THE STUDIES AND REPORTS RELIED UPON BY COMMUNITIES
WHEN CONSIDERING THE ENACTMENT OF “ADULT”
BUSINESS REGULATIONS**

THE CORE SET OF STUDY SUMMARIES OFTEN USED BY THE GOVERNMENT

A core set of reports has been circulating around the country, primarily due to the efforts of attorneys who have worked for the Community Defense Council--a quasi-legal organization formed to help municipalities pass laws restricting the operation of adult entertainment facilities. These are the materials have been relied upon by local governmental bodies who attempt to undertake adult business regulation.

- Phoenix, Arizona, 1979
- Garden Grove, California 1991
- Los Angeles, California, 1977
- Whittier, California 1978
- Indianapolis, Indiana, 1984
- Minneapolis, Minnesota, 1980
- Cleveland, Ohio 1977
- Oklahoma City, Oklahoma, 1986

- Amarillo, Texas 1977
- Austin, Texas, 1977
- Beaumont, Texas 1982
- Houston, Texas 1983
- Seattle, Washington 1989
- New York City, New York (Times Square) 1994
- Dallas, Texas 1997
- Environmental Research Group 1996
- Tucson, Arizona 1990
- Manatee County, Florida 1987
- State of Minnesota, Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses 1989
- Town and Village of Ellicottville, New York 1998
- Islip, New York 1980
- New York City, New York 1994
- Oklahoma City, Oklahoma 1992
- Houston, Texas 1997
- Newport News, Virginia 1996
- Des Moines, Iowa 1984-1987
- St. Croix County, Wisconsin 1993
- Denver, Colorado 1998

PHOENIX, ARIZONA, 1979

1. What does the report contain?

A study examined crime statistics for 1978, comparing areas that have sexually oriented businesses with those that do not. Three study areas (near locations of sexually oriented businesses) and three control areas (with no sexually oriented businesses) were selected. The study and control areas were paired according to the number of residents, median family income, percentage of non-white population, median age of population, percentage of dwelling units built since 1950, and percentage of acreage used for residential and non-residential purposes. Three categories of criminal activity were included in the study: property crimes (burglary, larceny, auto theft), violent crimes (rape, murder, robbery, assault), and sex crimes (rape, indecent exposure, lewd and lascivious behavior, child molestation).

2. What form of adult entertainment is examined in the study?

It is difficult to determine exactly what businesses were included in the study but quite likely given the date it included theaters, bookstores, arcades and peepshows. A study conducted later in 1994 examined cabarets, arcades and bookstores.

3. What the government tries to emphasize.

This study claimed to find higher overall crime rates in study areas containing adult-oriented businesses compared to control areas containing no such businesses.

4. Contrary to the government's assertions...

City planning experts Damien Kelly and Connie Cooper, whose work is relied upon by many cities as justification for zoning ordinances confirm the shortcomings of the Phoenix study.

With regard to the Phoenix study they state in their book "Everything You Always Wanted to Know About Regulating the Sex Business" (American Planning Association, Planning Advisory Service Report Number 495/496): "The city no longer cites the study and it is difficult to attach a great deal of significance to it." (Pg. 62)

Further, they note: " (the study) actually found a lower rate of violent crime in the areas with sex businesses than in the paired areas." (Pg. 62)

5. Other problems with this report.

The 1979 study fails to adhere to professional standards because the control sites are not sufficiently comparable with the study site.

There was not a sufficient period of time for the collection of data. A longer period of time was necessary to ensure that the study is not merely detecting an erratic pattern of crime activity.

6. What can be fairly said about the study?

The results of the Phoenix 1979 study offered, at best, equivocal evidence of the relationship between crime rates and the operation of adult entertainment businesses. In fact, an index of "violent crimes," which included murder, robbery, assault and rape, was constructed as part of the research. The adult business areas showed a lower rate of violent crime (*including rape*) than the matched control (non-adult) areas.

GARDEN GROVE, CALIFORNIA 1991

1. What does the report contain?

This report summarized statistics to determine whether adult businesses should be regulated because of their impact on crime, property values and quality of life. Statistics were measured from 1981 to 1990, and included crime data and surveys with real estate professionals and city residents.

2. What form of adult entertainment is examined in the study?

Garden Grove Boulevard, which has seven adult businesses, was selected as the study area. The businesses include adult theatres, bookstores, peepshows and adult cabarets.

3. What the government tries to emphasize.

Crime increased significantly with the opening of an adult business, or with the expansion of an existing business or the addition of a bar nearby. The rise was greatest in “serious” offenses.

4. Contrary to the government’s assertions...

Consistently, the authors do not find effects for “Type II” crimes, which include sex crimes. Identical effects are found for alcohol serving establishments that do not feature adult entertainment as those effects found for adult entertainment facilities. Finally, since business expansion was the focus of the study, a failure to examine the effects of other business expansions on crime rate due to increased customer traffic renders the study difficult to interpret.

5. Other problems with this report.

The Garden Grove study fails to use the proper control comparisons. The study instead examines only the effects of expansion of an adult business. It employed an average of several adult businesses that did not expand as a control without attempting to determine if these businesses matched the test business in terms of demographics or other neighborhood features related to crime.

The only thing the authors can be sure of given their study design is that compared to *other adult sites* as controls when an adult site expands its business, crime rises. Without a comparison of these effects for other types of businesses we do not know if this is merely a business expansion effect applicable to the expansion of *any* type of business and thus not an adult business adverse secondary effect at all, or whether it is an effect endemic to adult businesses per se.

6. What can be fairly said about the study?

The Garden Grove study does not find adverse affects endemic to adult businesses. The Garden Grove study only demonstrates that when a business is expanded to twice its original size there may be more crime presumably because more people are in the area. What the study demonstrated are general *business expansion effects, not adverse secondary effects* of adult businesses.

LOS ANGELES, CALIFORNIA 1977

1. What does the report contain?

The Department of City Planning studied the effects of the concentration of sexually oriented businesses on surrounding properties for the years 1969-75 (a time of proliferation for such businesses). The report focuses on five areas with the greatest concentration of these businesses (compared to five "control" areas free of them), and cites data from property assessments/sales, public meeting testimony, and responses from two questionnaires (one to business/residential owners within a 500 foot radius of the five study areas and a second to realtors/real estate appraisers and lenders). Crime statistics in the study areas were compared to the city as a whole. Also included: a chart of sexually oriented business regulations in 11 major cities, details of current regulations

available under state/municipal law, and appendices with samples of questionnaires, letters and other study materials.

2. What form of adult entertainment is examined in the study?

This study examines bookstores, theatres, nightclubs, spas, and adult motels.

3. What the government tries to emphasize.

More crime occurred where sexually oriented businesses were concentrated. More than 90 percent of realtors, real-estate appraisers and lenders responding to the city questionnaires said that a group of such businesses decreases the market value of the homes.

4. Contrary to the government's assertions...

In the study, the researchers openly admit that they found no evidence of a relationship between the operation of adult entertainment businesses and potential negative effects on property values. The authors of the study themselves disavow secondary effects for adult businesses. For example they say...

... it cannot be concluded that adult entertainment businesses have *directly* influenced changes in the assessed value of commercial and residential properties in the areas analyzed. (Pg. 2). (There is)". . . insufficient evidence to support the contention that concentrations of sex oriented businesses have been the *primary cause* of these patterns of change in assessed valuations between 1970 and 1976." [Emphasis in Original] (pp. 25 - 26.)

5. Other problems with this report.

In two of the three areas, the land values in the areas with adult businesses fared **better** than that the land values in the control areas.

Los Angeles study involved a "special" police study of the areas of Hollywood containing clusters of adult entertainment businesses. However, the researchers failed to adhere to even the most basic and rudimentary professional standards by failing to attempt to make a comparison of crime statistics in these areas with those in comparable control (non-adult) areas.

In addition, the researchers admitted to a substantial change in police surveillance of the area under study, which renders any results at least suspect and most likely meaningless. Put simply, the police most likely found greater amounts of crime in the adult establishment areas because they were trying harder to find it.

The second part of the Los Angeles study claimed that survey results suggest that public opinion is strongly opposed to the operation of adult businesses. Such a "study" does nothing more than attempt to gauge subjective opinions and does not then serve to answer the more relevant question of whether adult businesses actually cause secondary effects. In addition, even in this subjective endeavor, the researchers failed to adhere to minimum professional standards by failing to conduct the research in accordance with proper survey techniques.

In the third part of the Los Angeles study, the researchers openly acknowledge that they found no significant differences in crime rates between the census tracts encompassing the areas containing adult entertainment businesses and areas containing no such establishments.

The study authors concluded that in general there were no significant differences in crime rates between the census tracts encompassing the study (adult) and control (non-adult) areas and that no firm conclusions relevant to the study could be developed.

6. What can be fairly said about the study?

This study is perhaps the most often incorrectly referenced of any empirical research investigating the effects of adult-oriented businesses on surrounding areas. In fact, although it is the most relied-upon piece of research supposedly establishing the relationship between adult-oriented businesses and negative social repercussions, the researchers actually never claim any significant support for such a connection.

The researchers reported that it was difficult to find any consistent increase or decrease in property values associated with adult businesses. Results of the comparisons found that for some study and control area comparisons, there was a far larger decrease in the control (non-adult) area.

It seems that those who have incorrectly referenced this study as supporting the relationship between adult entertainment businesses and lower property rates have simply disregarded the fact the study's authors do not say they found negative effects.

Finally, this study is now nearly thirty years old and is out of date.

WHITTIER, CALIFORNIA 1978

1. What does the report contain?

This is a staff zoning report entitled: City of Whittier, California, Planning Department, Staff Report, Amendment to Zoning Regulations, Adult 1 Businesses in C-2 Zone with Conditional Use Permit, Whittier, CA., January, 1978.

2. Contrary to the government's assertions...

The authors themselves say:

... Item 5 shows that the rate of sales of housing is about the same (57% - 61%), 4 but item 7 shows that the owner occupancy rate has increased from 64% to 84% in 5 study area [Adult Use] one. (p. 5)

... The one major factor to keep in mind in reviewing the data, however, is that not all of it can be isolated as being directly related only to the presence of adult 10 businesses because of the variety of the factors influencing the study areas over 11 the last ten years. (p. 3).

INDIANAPOLIS, INDIANA 1984

1. What does the report contain?

This study appeared to be the report most widely cited and relied upon by municipalities as evidence of negative secondary effects. The study compared six sexually oriented business "study" areas and six "control" locations with each other and with the city as a whole. The study offered findings regarding the supposed relationship between adult businesses and negative secondary effects.

2. What form of adult entertainment is examined in the study?

Adult bookstores, movie theatres and adult cabarets are examined in the study.

3. What the government tries to emphasize.

From 1978-82, crime increases in the study areas were 23 percent higher than the control areas (46 percent higher than the city as a whole). Sex-related crimes in the study areas increased more than 20 percent over the control areas. Residential locations in the study areas had a 56 percent greater crime increase than commercial study areas. Sex-related crimes were four times more common in residential study areas than commercial study areas with sexually oriented businesses.

Homes in the study areas appreciated at only half the rate of homes in the control areas, and one-third the rate of the city. "Pressures within the study areas" caused a slight increase in real estate listings, while the city as a whole had a 50 percent decrease, denoting high occupancy turnover. Appraisers responding to the survey said one sexually oriented business within one block of residences and businesses decreased their value and half of the respondents said the immediate depreciation exceeded 10 percent.

Appraisers also noted that value depreciation on residential areas near sexually oriented businesses is greater than on commercial locations. The report concluded: "The best professional judgment available indicates overwhelmingly that adult entertainment businesses -- even a relatively passive use such as an adult bookstore -- have a serious negative effect on their immediate environs."

4. Contrary to the government's assertions...

The authors themselves say:

"The anomalies demonstrated in the comparison of the Study Area with the general population and the Control Area will not, in themselves, establish a causal relationship between Adult Entertainment Businesses and the crime rates in the immediate area surrounding them (p 18)."

5. Other problems with this report.

The methodological problems with this study can be summarized as follows:

- (1) The control sites were not sufficiently comparable (properly matched) with the study sites.
- (2) No measurements were taken prior to the establishment of an adult entertainment business to ensure that the study was not merely picking up an already established crime pattern that is independent of the adult businesses in the area.
- (3) There was a potential confounding effect caused by adult entertainment businesses that supplied both sexually oriented entertainment and alcoholic beverages.

(4) The researchers did not adhere to minimum professional standards by failing to conduct a survey study of real estate professionals in accordance with proper survey techniques.

6. What can be fairly said about the study?

The overall study offered equivocal findings regarding the supposed relationship between adult businesses and negative secondary effects. More importantly, in a sub-area analysis most relevant to the question of the relationship between adult businesses and secondary effects, lower rather than higher crime rates were found in all study (adult business) areas when compared to control (no adult business) areas.

The overall study failed to adhere to rudimentary professional standards of scientific evidence, and an error rate could not be calculated due to a failure to meet basic statistical assumptions.

MINNEAPOLIS, MINNESOTA, 1980

1. What does the report contain?

This study is undertaken by the Minnesota Crime Prevention Center and the U.S. Department of Justice, National Institute of Justice. This report is divided into two sections: the relationship of bars and crime, and the impact of "adult businesses" on neighborhood deterioration. Census tracts were used as study areas and evaluated for housing values and crime rates. Housing values were determined by the 1970 census compared to 1979 assessments. Crime rates were compared for 1974-75 and 1979-80. The study is strictly empirical and reported in a formal and statistical manner.

2. What form of adult entertainment is examined in the study?

In the study, an "adult business" is one where alcohol is served (including restaurants) or a sexually oriented business (i.e. saunas, adult theaters and bookstores, rap parlors, arcades, and bars with sexually oriented entertainment).

3. What the government tries to emphasize.

The report concluded that concentrations of sexually oriented businesses have significant relationship to higher crime and lower property values.

4. Contrary to the government's assertions...

Here is what the authors actually say:

“The assumption that concentration of adult entertainment businesses have a direct negative impact on property values *is not borne out*. Controlling for general neighborhood quality indicates that, at the census tract level, *adult businesses as a group do not lead to lower housing value*.”

The assumption that crime at the census tract level has a direct link with adult businesses is confirmed, but weakly.

The most general finding is that while adult businesses, in general, do appear to be located in areas of higher crime and lower property values, *this does not indicate that they have caused these*

undesirable conditions. Once in place, they may contribute to the maintenance of such conditions on a neighborhood level. [Emphasis Added] (pp. 13 - 15)

The current policy of avoiding concentrations of sex businesses can neither be supported nor contradicted. (p. 17)

There is no evidence in either portion of the study that adult businesses *cause* neighborhood deterioration, although other measurement or analysis techniques may reveal such a connection. On the basis of this study, the alternative hypothesis that general neighborhood quality determines the kind and quality of businesses to locate in the neighborhood seems more plausible. (p. 21)

At the conclusion of the report the study authors themselves assert: "The most general finding is that while adult businesses appear to be located in areas of higher crime and lower property values, this is not because they have *caused* these undesirable conditions." (Pg 75)

Elsewhere, the authors state: "The conditions which encourage the businesses to locate in an area may also be the ones that cause lower property values and higher crime rates." (Pg 75.

The methodology used in the Minneapolis study is valid but the study authors themselves disavow the idea that these businesses are responsible for adverse secondary effects. (Pg 72 of report) "Crime relationship tends to disappear when other variables are considered."

5. What can be fairly said about the study?

This is a methodologically sound study. Its conclusions concerning the lack of a causal relationship between adult businesses and adverse secondary effects can therefore be relied upon.

CLEVELAND, OHIO 1977

1. What does the report contain?

This is information given by a police captain participating in a panel discussion at the National Conference on the Blight of Obscenity held in Cleveland July 28-29, 1977. The topic was "The Impact of Obscenity on the Total Community." Crime statistics are included for 1976 robberies and rapes.

2. What form of adult entertainment is examined in the study?

Pornography outlets (movie houses and bookstores with "peep show" booths.

3. What the government tries to emphasize.

The report concluded that there was a much higher crime rate where the pornography outlets are located.

4. Contrary to the government's assertions...

The Cleveland "study" is not an empirical study of crime or calls for service to the police.

5. Other problems with this report.

There is no comparison information presented for the police reports mentioned at the symposium.

Also, increased surveillance of an area simply because an adult business is located there will have an impact on the amount of crime detected by the police. If increased police surveillance and the opening of an adult business in a particular area are confounded in this way, it is impossible to tell whether crime has increased due to the presence of the adult entertainment business or increased surveillance police discovering more crime.

6. What can be fairly said about the study?

This so called “study” is actually a recounting of several incidents by the police concerning selected times they encountered crime at adult locations at a symposium moderated by anti-pornography crusader Bruce Taylor.

OKLAHOMA CITY, OKLAHOMA, 1986

1. What does the report contain?

This study contained the results of a survey of 100 Oklahoma City Real Estate Appraisers. Appraisers were given a hypothetical situation and a section to comment on the effects of sexually oriented businesses in Oklahoma City. The hypothetical situation presented a residential neighborhood bordering an arterial street with various commercial properties which served the area. A building vacated by a hardware store was soon to be occupied by an "adult" bookstore. No other sexually oriented businesses were in the area and no other vacant commercial space existed. Only 34 completed surveys were received by the city.

2. What form of adult entertainment is examined in the study?

Not applicable, this study used only “hypothetical situations.”

3. What the government tries to emphasize.

Thirty-two percent of the respondents said that such a bookstore within one block of the residential area would decrease home values by at least 20 percent. Overwhelmingly, respondents said an "adult" bookstore would negatively affect other businesses within one block (76 percent). The level of depreciation is greater for residents than businesses. The negative effects on property values drop sharply when the sexually oriented business is at least three blocks away. In the subjective portion, 86 percent of the respondents noted a negative impact of sexually oriented businesses on Oklahoma City. Frequent problems cited by the appraisers included the attraction of undesirable clients and businesses, safety threats to residents and other shoppers (especially children), deterrence of home sales and rentals, and immediate area deterioration (trash, debris, vandalism).

4. Problems with this report.

By doing a survey, instead of an empirical analysis, Oklahoma City elected not to use the best available evidence.

Survey research, if relevant to the question at all, must be properly conducted. The Oklahoma study survey research involved asking real estate professionals, local property owners, or community

residents to estimate the effect of the presence of an adult entertainment business on a particular community.

The Oklahoma survey does not provide sound empirical evidence of any true relationship between these businesses and their actual impacts on the surrounding areas.

Survey evidence is not comparable to, nor can it replace, the evidence supplied by objective comparisons of property values within areas containing adult entertainment businesses, with property values or crime statistics within areas containing no such businesses. Such a comparative analysis is the only social scientific means by which to establish a relationship between the presence of adult entertainment businesses and decreases in property values for the surrounding areas.

Even if some survey research may be relevant to the issue at hand--although we doubt whether it truly is--it must be properly conducted in order for the researcher to calculate an error rate. Professional standards do exist for performing methodologically valid social scientific survey research so that it possesses some degree of reliability and trustworthiness. Adherence to these standards is essential if researchers hope to obtain legitimate unbiased survey results.

First, it is important to ensure that a random sample of potential respondents is included in the study.

Second, a sufficient response rate must be reached, and those who do respond must not be a biased sub-portion of the sample.

Finally, there must be a sufficient number of respondents to provide a stable statistical estimate.

The Oklahoma Study fails on all three counts.

5. What can be fairly said about the study?

The Oklahoma City Study included a survey of real-estate appraisers. It was not conducted according to scientific standards for survey research and had an exceptionally low response rate. There is absolutely nothing in the Oklahoma City Survey that any prudent land use planner or local government official could reasonably rely on, or cause the belief that Adult Uses cause adverse secondary effects.

AMARILLO, TEXAS 1977

1. What does the report contain?

This Planning Department report included information from the police department who provided an analysis of areas of concentrated "adult only" businesses.

2. What form of adult entertainment is examined in the study?

The city defined "adult businesses" as taverns, lounges, lounges with semi-nude entertainment, and bookstores or theaters with publications featuring nudity and explicit sexual activities. (At the time, Amarillo had three such theaters and four bookstores with space for such publications).

3. What the government tries to emphasize

The police department provided an analysis showing that areas of concentrated "adult only" businesses had two and one-half times the street crime as the city average. The Planning Department concluded that concentrations of these businesses have detrimental effects on residential and commercial activities caused by: (1) noise, lighting and traffic during late night hours; (2) increased opportunity for street crimes; and (3) the tendency of citizens to avoid such business areas.

4. Contrary to the government's assertions...

The Amarillo Report found that the crime rate was greater around alcohol only areas, than around alcohol and nude areas;

The reports authors state that there may be other causes of any "adverse secondary effects" which may be found to exist. (Amarillo Planning Department,, p. 9.)

5. What can be fairly said about the study?

In summary, there are inadequate data to prove the validity of the results of the study. However, Amarillo distinguished between adult uses and uses serving Alcoholic Beverages. The Amarillo Report notes more problems from Alcoholic Beverage establishments than from Adult Uses.

AUSTIN, TEXAS, 1977

1. What does the report contain?

The study examined crime rates, property values and trade area characteristics. The report focused on sexually related crimes in four study areas (with sexually oriented businesses) and four control areas (close to study areas and similar). Two study areas had one sexually oriented business and the others had two such businesses. To determine the effects of these businesses on property values, the city sent surveys to 120 real estate appraising or lending firms (nearly half responded). For trade area characteristics, three businesses (a bookstore, theater and topless bar) were observed on a weekend night to determine customer addresses.

2. What form of adult entertainment is examined in the study?

At the time, 49 such businesses operated in Austin, mostly bookstores, theaters, massage parlors and topless bars.

3. What the government tries to emphasize.

Sexually related crime ranged from 177 to 482 percent higher in the four study areas than the city average. In the two study areas containing two sexually oriented businesses, the rate was 66 percent higher than in the study areas with one such business. All control areas had crime rates near the city average. Eighty-eight percent said that a sexually oriented business within one block of a residential area decreases the value of the homes (33 percent said depreciation would be at least 20 percent). Respondents also said such a business is a sign of neighborhood decline, making underwriters hesitant to approve the 90 to 95 percent financing most home buyers require. They said commercial property is also negatively affected by such businesses. Of 81 license plates traced for owner addresses, only three lived within one mile of the sexually oriented business; 44 percent were from outside Austin.

4. Problems with this report.

From a total of 49 potential adult sites, the study authors eliminated 43 of these potential study sites because they anticipated that there would not be clear demonstrations of negative effects (including eliminating some businesses because the “transient population associated with the University of Texas might unduly influence the results of the evaluation” pg. 11).

5. What can be fairly said about the study?

Methodologically, the City of Austin Study is fundamentally flawed and provides very little useful information because of the biased selection procedures used to determine which adult business locations were suitable for study.

BEAUMONT, TEXAS, SEPTEMBER 14, 1982

1. What does the report contain?

This report by the city Planning Department featured information from the Police.

2. What form of adult entertainment is examined in the study?

Eating or drinking places featuring sexually oriented entertainment (strippers, etc.).

3. What the government tries to emphasize.

Police verified that bars, taverns and lounges (especially those with sexually oriented entertainment) are frequent scenes of prostitution and the sale/use of narcotics. On the whole, all criminal activity was higher at sexually oriented businesses.

4. Contrary to the government’s assertions...

The report actually states that "The high incidence of lounges [not identified as Adult Uses] and package stores ... discourages the retention or new development of neighborhood commercial uses and is not conducive to neighborhood commercial revitalization" (pp.____).

5. Other problems with this report.

The Beaumont Police Department has concluded that Adult Uses are the "frequent scene" of prostitution and illegal sexual activities, and of narcotics crimes. Yet, the study offers no proof whatsoever of these allegations. There is no proof that grouping of Adult Uses has a greater adverse impact because the character of the area "attracts a distinct class of people and a criminal element.

6. What can be fairly said about the study?

The perceived problems in Beaumont are far more related to Alcoholic Beverage establishments than to Adult Uses. The problems identified are typical urban redevelopment problems that often arise and are not the result of Adult Uses.

HOUSTON, TEXAS, NOVEMBER 3, 1983

1. What does the report contain?

Report by the Committee on the Proposed Regulation of Sexually Oriented Businesses determined the need and appropriate means of regulating such businesses. Four public hearings provided testimony from residents, business owners, realtors, appraisers, police and psychologists.

2. Problems with this report.

There is no empirical data included in this study. There is then a discussion of the effect of adult uses on property values, which purportedly included "documented instances in which property values had been affected by the establishment of sexually oriented businesses, ...". There was also "expert testimony" as to a "cause and effect syndrome" related to adult uses. Without the underlying documents and testimony, it cannot be ascertained if this testimony is academically and statistically sound, or whether it reflects personal and/or academic biases.

Then, based on testimony from the Police Department and from others, the Committee felt: "that the testimony justified the conclusion that the criminal activity that does tend to occur in the vicinity of sexually oriented businesses, particularly where those businesses have clustered, has an adverse effect on property values." Again, without the underlying documents and testimony, it cannot be ascertained if this testimony is academically and statistically sound, or whether it reflects personal and/or academic biases.

3. What can be fairly said about the study?

There is no empirical data included in this study.

SEATTLE, WASHINGTON MARCH 24, 1989

1. What does the report contain?

The report concerned a proposed amendment to add topless dance halls to existing land use regulations for "adult entertainment establishments."

2. What form of adult entertainment is examined in the study?

Seattle had eight "adult cabarets," six established since 1987.

3. What the government tries to emphasize

The increased number of cabarets resulted in citizen complaints, including phone calls, letters (from individuals and merchant associations) and several petitions with hundreds of signatures. Protests cited decreased property values; increased insurance rates; fears of burglary, vandalism, rape, assaults, drugs and prostitution; and overall neighborhood deterioration. The report noted that patrons of these cabarets most often are not residents of nearby neighborhoods. Without community identity, behavior is less inhibited. Increased police calls to a business, sirens and traffic hazards from police and emergency vehicles are not conducive to healthy business and residential environments.

4. Problems with this report.

There was no empirical research conducted in the form of a study in Seattle. The city relied on reports from a number of cities, including Indianapolis, Los Angeles, Phoenix, Austin and Cleveland.

5. What can be fairly said about the study?

This so called study is nothing more than a compendium of works in other cities, together with an analysis of Seattle's Zoning Districts and their suitability for adult uses. There are no new data, valid or otherwise in this Report. Further, the Report misrepresents the findings of the Los Angeles and Kent studies.

There is nothing in the Seattle Report that any prudent land use planner or local government official could reasonably rely on, or cause the belief that adult uses cause adverse secondary effects.

NEW YORK CITY, NEW YORK (TIMES SQUARE) 1994

1. What does the report contain?

The consulting firm Insight Associates performed this study in 1994. Researchers combined analysis of available data on property values and incidence of crime with a demographic and commercial profile of the area to show relationships between the concentration of adult-use establishments and negative impacts on businesses and community life. The Times Square Business Improvement District also collected data for property values for the 1985/86 and 1993/94 years.

2. What form of adult entertainment is examined in the study?

There is a vast array of businesses that may be considered 'adult.' These include video and bookstores, motels, massage parlors, sex clubs, topless and bottomless or nude bars (not all of which serve alcohol), and peep shows. Materials may include sexually explicit videos or magazines. Services may include body rubs, or entertainment such as nude dancing.

3. Contrary to the government's assertions...

Anecdotal evidence from property owners, businesses, community residents and others regarding public perceptions of the impact of sexually oriented businesses on their neighborhoods suggested there were problems. They complained of the increase of adult establishments on Eighth Avenue. Some data from before the recent increase in adult establishments was unobtainable, and the study thus could not show if there had been an increase in actual complaints corresponding to the proliferation of sexually oriented businesses.

Methodologically speaking, the New York Times Square Business Improvement District Study failed to properly match control and test (adult) areas in order to insure reliable comparisons between the two for either crime rates or property values. In order to insure that accurate and fair comparisons are being considered, a control or comparison area must be selected that is truly "equivalent" to the area(s) containing the adult entertainment business(es). This lack of methodological reliability prevents the reader from drawing reliable conclusions.

Perhaps because of these methodological deficits the study authors Insight Associates themselves concluded:

“...while it may be that the concentration of adult use establishments has a generally depressive effect on adjacent properties...we do not have sufficient data to prove or disprove this thesis.” (Pg. 41 of the Adult Entertainment Study by the Department of City Planning citing the findings of the Times Square Study by Insight Associates).

In the section entitled: “General Crime Statistics,” the conclusions of Insight Associates were:

“One cannot assert that there is a direct correlation between these statistics and the concentration of adult use establishments on 42nd Street between Seventh and Eighth Avenue[s], or along Eighth Avenue between 45th and 48th Streets. But there is very definitely a pointed difference in the number of crime complaints between these study blocks and their controls.” (pg. 32).

4. Other problems with this report.

Methodologically speaking, the New York Times Square Business Improvement District Study failed to properly match control and test (adult) areas in order to insure reliable comparisons between the two for either crime rates or property values. In order to insure that accurate and fair comparisons are being considered, a control or comparison area must be selected that is truly “equivalent” to the area(s) containing the adult entertainment business(es). This lack of methodological reliability prevents the reader from drawing reliable conclusions.

5. What can be fairly said about the study?

The authors of this study admit in their own summary of property value and crime activity analyses that they could find no adverse secondary effects for adult businesses.

NEW YORK CITY, NY 1994

1. What does the report contain?

This study was performed by New York City’s Department of City Planning (“DCP”). The DCP reviewed studies and ordinances from other localities and studied the industry as it existed in New York City—among other things, meeting with members of the sexually oriented business industry. The DCP reviewed accounts of secondary effects from sources as diverse as the City Planning Commission, the Office of Midtown Enforcement, the Chelsea Business Survey, the Task Force on the Regulation of Sex Related Businesses, the Times Square Business Improvement District Study, and a number of newspaper reports and correspondence from citizens. DCP examined signage and neighborhood conditions in six study areas containing sexually oriented businesses, also surveying local organizations, businesses, police officers, real estate brokers, and sanitation department officials in each of the six areas. It also comparatively analyzed criminal complaints and assessed property values in the study areas and in control areas without sexually oriented businesses.

2. What the government tries to emphasize.

The DCP concluded that other localities' studies had found sexually oriented businesses to have negative secondary effects including "increased crime rates, depreciation of property values, [and] deterioration of community character and the quality of urban life." It found that between 1984 and 1993 the number of sexually oriented businesses in New York City increased from 131 to 177. The DCP found that sexually oriented businesses tend to cluster, especially in central areas and along major vehicular routes connecting central business districts with outlying city areas and suburbs. Crime report statistics in New York City did not show higher crime rates in areas with sexually oriented businesses than in areas without them, but property values in proximity to sex businesses grew at an appreciably slower rate than in areas away from such businesses.

The DCP found widespread fear of sex businesses' secondary effects on the part of the citizenry, and also found that survey respondents indicating that their businesses or neighborhoods had not suffered adverse secondary effects tended to be the ones living in areas with isolated sex businesses. Real estate brokers overwhelmingly reported that sex businesses would have negative effects on surrounding property values.

3. Contrary to the government's assertions...

The study authors admit that crime report statistics in New York City did not show higher crime rates in areas with sexually oriented businesses than in areas without them.

The study reports:

"The community liaison or beat officer was interviewed for each of the six study areas. **When the survey and control block fronts were compared for criminal complaints and allegations, the officers generally did not link higher incidents with adult uses.** Three officers believed that criminal allegations are higher on the survey block fronts compared to the control block fronts but, in two of these cases, the higher incidence of allegations was attributed by them to uses unrelated to the adult use. In a single instance, an officer replied that the adult entertainment establishment located in the study area has some effect on crime, and then 'only rarely.' **Four of the six officers thought the adult uses have no effect on crime.** "One officer stated that if more adult entertainment establishments were to locate in the study area, crime probably would increase. However, that officer and another responded that more bars, movies or theaters, or video/bookstores of any kind would effectively increase crime in the study area." (pg.53).

The Police Department provided the Department of City Planning with information about criminal complaints drawn from precinct files (pg 55). Once these data had been analyzed the Study authors concluded:

"In summary, it was not possible to draw definitive conclusions from the analysis of criminal complaints. Land uses other than

adult entertainment establishments, e.g., subway station access, appear to have a far stronger relationship to criminal complaints. It was not possible to isolate the impact of adult uses relative to criminal complaints.” (pg 57).

The Department of City Planning Study reached the following conclusion with regard to property values and adult businesses:

“The analysis of trends in assessed valuation relative to adult entertainment was inconclusive. It would appear that if adult entertainment uses have negative impacts, they are overwhelmed by other forces that increased property values, at least as measured by assessed values. Even at the small scale of the survey block front, there is a wide diversity in the assessed value trends ranging from an increase of more than 18 percent to an increase of more than 200 percent over the period of analysis, strongly suggesting the importance of other factors. The influences on assessed value that the city’s assessors take into account are numerous and include the sale prices of similar comparable properties adjusted for differences in size, age, and location. While the total assessed values on the survey block fronts may be influenced to some extent by the presence of adult entertainment uses, demonstrating such effects is very difficult.” (pg 57)

Therefore, it is reasonable to conclude that the Department of City Planning Study finds no direct evidence of the adverse secondary effect of decreased property values caused by Adult Uses. The following findings and conclusions were drawn by the City regarding property values and crime:

"The analysis of criminal complaint data and property assessed valuation data was less conclusive than the surveys. Regarding criminal complaints, it appears that land uses other than adult entertainment establishments, e.g. subway station access, have a far stronger relationship to criminal complaints. **It was not possible to isolate the impacts of adult uses relative to criminal complaints. ...**

"Comparisons of percentage changes in assessed valuations between 1986 to 1992 [*sic*] for the study areas, survey and control block fronts, community district, and borough, did not reveal any significant relationship. It would appear that the negative impacts of adult entertainment uses on property values that were found in other studies were overwhelmed by forces that increased property values overall, at least as measured by assessed values. ...

"In some cases, particularly in study areas with only one adult entertainment establishment, the DCP survey did not yield conclusive evidence of a direct relationship between the adult use and the urban ills affecting the community. ..." (pg 65).

4. What can be fairly said about the study?

In summary, what can fairly said about the New York City Department of City Planning is that it found no empirical evidence of adverse secondary effects of Adult Uses.

DALLAS, TX APRIL 29, 1997

1. What does the report contain?

An analysis of the effects of sexually oriented businesses on their surrounding neighborhoods was completed by The Malin Group on December 14, 1994 and supplemented by them on April 29, 1997. This study compared two control areas—one with no sexually oriented businesses and one with two sexually oriented businesses more than a half mile apart—with a study area having similar land use and traffic patterns and containing a high concentration of sexually oriented businesses. The Malin Group also interviewed property owners, real estate brokers and agents who are actively leasing, listing, managing, buying or selling properties in the study and control areas. The Malin Group also collected and analyzed crime statistics within the study areas and the two control areas.

2. What the government tries to emphasize.

The study revealed that the number of sex-crime arrests in the study area containing sexually oriented businesses was five times higher than in the control area with no sexually oriented businesses, and nearly three times higher than in the control area with two isolated sexually oriented businesses. The study determined that in areas with sexually oriented businesses, crime rates are higher, property values are lower, or the properties take longer to lease or sell. Heightened concentrations of these businesses correlate to heightened impact on their neighborhoods. Negative public attitudes toward areas of concentrated sex-related land uses create "dead zones" unattractive to shoppers, store owners, and investors, and greatly decrease property marketability and values in the vicinity of the sexually oriented businesses. Several interviewees indicated concern for the safety of children and other pedestrians in the area.

The study indicated that the location of multiple sexually oriented businesses in one neighborhood can have a major impact on the neighborhood by contributing to crime, driving away family oriented businesses and impacting nearby residential neighborhoods. When concentrated, sexually oriented businesses typically compete with one another for customers through larger, more visible signs and graphic advertising. They tend to be magnets for certain types of businesses such as pawnshops, gun stores, liquor stores, check-cashing storefronts and late-night restaurants. Even residences in the vicinity of concentrated sexually oriented businesses tend to be relegated to rental use, as families move out of them but find them difficult to market due to diminished resale value.

The study indicated that sex-related crimes occurred five times more frequently in the study areas than in the area without sexually oriented businesses, and nearly three times more frequent than in the area with widely separated sexually oriented businesses. The Milan Group reviewed records of police calls emanating from 10 different sexually oriented businesses over a four-year period from 1993 through 1996 and found that such businesses were a major source of police calls. The seven sexually oriented businesses in the study area collectively averaged more than one call to the police per day. Those performing the study also reviewed records of sex-related arrests from the four-year period ending in March, 1997. The number of arrests for sex crimes—including rape, prostitution and other sex offenses—was 396 in the study area including the concentration of seven sexually

oriented businesses. By contrast, the control area without sexually oriented businesses had 77 sex crime arrests during the study period, and the control area with two widely spaced sexually oriented businesses had 133. The evidence demonstrated that there were increased arrests for sex crimes, other criminal acts, and disturbances that required increased police presence in the vicinity of sexually oriented businesses.

3. Contrary to the government's assertions...

The authors admit in their report: "These results cannot be solely attributed to the (sexually oriented businesses) because of the differences in demographics other (sic) factors may be contributing to the crime in the Study Area" (pp.____).

4. Other problems with this report.

The study suffers from several methodological flaws.

Three of these flaws render the results impossible to interpret. First, there is no attempt made to match control and test (adult business) areas in terms of demographic or other characteristics of the areas. This failure to match test and control areas prevents the authors from reliably concluding that any differences found between the test and control areas are due to the presence of adult businesses per se. As the authors admit in their report: "These results cannot be solely attributed to the (sexually oriented businesses) because of the differences in demographics other (sic) factors may be contributing to the crime in the Study Area."

Second, there is an unequal number of police beats contained in the control and test areas. One test area included three police beats and is compared to a control area with two beats. The control area with one fewer beat has, not surprisingly, fewer sex related arrests than the three beat test area. The authors do not know if the fewer arrests are due to the presence of adult businesses or the fewer administrative units included in the study control areas.

Third, the authors examine calls for service to the police for the adult business addresses. However, they fail to compare the number of police calls to other addresses either in the immediate vicinity or elsewhere. Without such a comparison point it is impossible to tell if the calls attributed to the adult locations represent high, moderate or low police activity compared to the rest of the community.

Finally, the authors attempt to solicit the opinions of real estate professionals in the area. In this portion of the study no attempt was made to guard against a biased samples of residents and real estate professionals rendering the inquiry scientifically invalid. Even if methodologically valid, such information offers only subjective opinions concerning the impact of adult businesses and provide little, if any, evidence of actual negative secondary effects.

5. What can be fairly said about the study?

Using calls for service to the police, sex crime arrests and a set of interviews from real estate "representatives" this study purported to find that sexually oriented businesses, particularly those that offer live entertainment have a negative impact on surrounding properties in terms of higher crime and lower property values. The study suffers from several methodological flaws which render the results unusable.

ENVIRONMENTAL RESEARCH GROUP REPORT, MARCH 31, 1996

1. What does the report contain?

The study involved examining several municipal land use studies and historical data from the 1970s through 1996, compiling data and drawing conclusions based on statements and conclusions of previous land use studies.

2. What the government tries to emphasize

This study concluded that sexually oriented businesses provide a focus for illicit activities pertaining to prostitution, pandering, and other illegal sex acts. Also noted was an increase in crime statistics, especially sexual crimes such as illegal exposure. The most frequent clients of sex businesses are (and have been since at least the late 18th century) young, transient, single males. Statistically, this social category has interests that are in conflict with those of social groups consisting of families and/or the elderly. A national survey of real estate appraisers and lenders revealed that the placement of a sexually oriented business is generally an indicator of the decline of a community - in a small town, the business district as a whole is impacted. Finally, a review of surveys of real-estate appraisers suggests that the establishment of a sexually oriented business in either a residential or a commercial neighborhood will predictably lead to a significant drop in neighborhood property values.

3. What can be fairly said about the study?

This is a rehash of old reports. It is not an empirical study.

TUCSON, ARIZONA MAY 1, 1990

1. What does the report contain?

This report records the investigation following citizen complaints to the Tucson Police Department regarding incidences of illegal sex and unsanitary conditions in sexually oriented businesses. Undercover police verified the complaints and noted several other violations, also making arrests.

2. What the government tries to emphasize.

A major concern of the report is the issue of doors on peep show booths. The booths were the major area of sanitation and public health concerns in that the police ascertained that 81% to 96% of samples obtained from such booths tested positive for semen.

The police also made arrests for illegal sexual performances and acts of prostitution. The police also determined that underage females (including one who was 15 years old) were being employed as nude dancers with the full knowledge and support of management and required to perform nude, engaging in masturbatory acts several times an hour on stage.

4. What can be fairly said about the study?

The effort by the Police Department was apparently triggered by "numerous complaints" inside adult bookstores and adult cabarets. While these activities have the secondary effect of diverting police resources, they are actually a primary effect.

Further, depending on state or local definitions of “prostitution” most, if not all of the acts were illegal, and subject to criminal charges. If the implication is that the businesses provided a place for prostitution, then the same is true of most cities, whose sidewalks are often used for solicitation, and whose quiet streets are used for actual intercourse.

The next issue relates to underage dancers. This concern is irrelevant to the adverse secondary effects issue for several reasons.

First, it is, again, a primary effect.

Second, the problem seems to have its root in false identification used by the dancers, which clearly shows that management was attempting to comply with the law; while some persons broke it. Third, this problem is often addressed by state law, and, where not addressed by state law, can be best addressed with a constitutional Licensing Ordinance.

It is immaterial to Adult Use Regulations whether dancers are 14 years old or 40 years old. While clearly a problem, in spite of managements’ efforts to comply with the law, the employment of underage dancers does not justify Adult Use Regulations, with the possible exception of a simple and constitutionally legal licensing ordinance.

MANATEE COUNTY, FL June 1987

1. What does the report contain?

The study reviewed both Detroit’s dispersal-type sexually oriented business ordinance and Boston’s concentration-type ordinance. The Department evaluated more than fifteen other cities’ and counties’ land use studies and concluded that sexually oriented businesses were associated with significant negative secondary effects, which justified imposing special land use controls on the location of sex businesses.

2. What the government tries to emphasize.

The study reviewed the current crime statistics for Manatee County and found an increase in crimes and lowering of property values in areas near sex-related businesses.

3. Contrary to the government’s assertions...

There are no crime statistics or property values for Manatee County included in the Report.

A criminogenic impact analysis of two Manatee County adult businesses, the Peek-A-Boo Lounge of Bradenton 5412 14th Street West Bradenton, FL and Temptations II 3824 U.S. 41 North Palmetto, FL by Dr. Terry A. Danner, Chair, Department of Criminology, Saint Leo University showed no adverse secondary effects for these business.

The research question that was posed for this study was whether or not there existed objective and quantifiable empirical evidence that suggested within a reasonable degree of social scientific certainty that two adult cabarets located in Manatee County, Florida have been criminogenic business enterprises in such a way that their operation has resulted in a significant and sustained increase in the crime volumes within the urban areas of their location.

Considering the totality of the evidence generated by the analysis of the data used in this study there was, within a reasonable degree of social scientific certainty, insufficient evidence to support the rejection of the null hypothesis for either the Peek-A-Boo Lounge or Temptations II.

The preponderance of the evidence relevant to the Peek-A-Boo Lounge supported the null hypothesis that there is no causal connection between its operation and annual crime volume variance in the statistical reporting grid wherein it is located.

The evidence supporting the null hypothesis for Temptations II was overwhelming. It strongly supported the null hypothesis that there is no causal connection between its operation and annual crime volume variance in the statistical reporting grid wherein it is located.

4. What can be fairly said about the study?

This study represented by the Government as an empirical study, however, nowhere in the report is there evidence that an original empirical analysis was undertaken. Instead, the report is a summary of other reports for other cities.

An empirical study by criminologist Dr. Terry Danner, Chair of the Department of Criminology Saint Leo University insufficient evidence to support the theory that two Manatee County adult businesses the Peek-A-Boo Lounge and Temptations II were not associated with adverse secondary effects in the form of greater crime.

STATE OF MINNESOTA, REPORT OF THE ATTORNEY GENERAL'S WORKING GROUP ON THE REGULATION OF SEXUALLY ORIENTED BUSINESSES, JUNE 1989

1. What does the report contain?

The Minnesota Attorney General's Working Group reviewed studies performed in a number of large U.S. cities, consulted with police departments in a number of other cities, researched enforcement strategies from other states, and heard testimony concerning the impact of sexually oriented businesses on their surrounding neighborhoods and concerning the relationship of sexually oriented businesses to organized crime.

2. What the government tries to emphasize.

The Working Group concluded that there was "compelling evidence that sexually oriented businesses are associated with high crime rates and depression of property values." The Working Group recommended that communities take steps to minimize the negative secondary effects of sexually oriented businesses.

3. Contrary to the government's assertions...

The Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (Minnesota Attorney General; 1989. P. 5-10.) is a highly selected reading of studies undertaken by other communities, at times stating conclusions about the existence of secondary effects that are disavowed by the authors of the studies themselves upon a close reading (e.g., the 1978 St. Paul Study and the 1980 Minneapolis Study).

MINNEAPOLIS:

The Minneapolis Study is gravely and grossly mis-presented in this *Report*. The Minneapolis Study actually found:

- (1) The assumption that concentrations of adult entertainment businesses have a direct impact on property values is not born [sic] out in the path analysis. Controlling for general neighborhood quality indicates that, at the census tract level, adult businesses as a group do not lower housing value.
- (2) The assumption that crime has a direct link with adult businesses is confirmed in this path analysis, but very weakly (p. 72).

The Attorney General's *Working Group Report* mis-represents the findings of the Minneapolis Study. The misrepresentation is especially egregious when it is remembered that the *Minneapolis Study* dealt not just with sexually oriented Adult Uses but also with:

all adult entertainment establishments ... saunas, rap parlors, adult theaters, etc., in addition to [alcoholic beverage-serving] bars.(pg. 1)

Accordingly, the 1980 *Minneapolis Study* neither says what the *Report* represents it as saying, nor provides any support for adult use zoning or licensing regulations. The 1980 *Minneapolis Study* does not provide evidence that the harms it considers are real, or that adult use zoning regulations would alleviate those harms to any degree, let alone to a substantial and material degree. Many years later, no reasonable and qualified planner or impartial governmental official could reasonably rely on this document in formulating land use policy or regulations.

ST. PAUL, 1978:

Likewise, with respect to the 1978 St. Paul Study dealt only with (in its findings), alcoholic beverage establishments, not on establishments offering First Amendment protected expression, and, clearly and explicitly disclaimed:

... the term "adult entertainment establishments (or businesses)" should be fully understood. This term includes all businesses in St. Paul possessing a liquor or 3.2 beer license during the study period (1970-1976) as well as all sexually-oriented private clubs, adult bookstores, adult theaters and saunas/massage parlors known to have operated during the study period.

This point requires some further elaboration. While there are a large number of liquor and 3.2 beer licenses in St. Paul, there are many fewer adult bookstores and movie theaters, saunas/massage parlors, and sexually oriented taverns and clubs in the city. Furthermore, sexually-oriented adult entertainment businesses often tend to locate near to [sic] bars. The effects of sexually-oriented businesses on [the] surrounding environment are lost in the overall impact which the group of adult entertainment establishments has. As a result, no significant correlations were obtained for the sexually-oriented adult entertainment businesses as a category by itself. **Therefore, no conclusions can be drawn from this study specifically addressing sexually oriented adult entertainment businesses.** As will be seen in the next section, one of the recommendations is for further study in this

regard. However, such a study probably would have to involve one or more additional municipalities in order to obtain a large enough number of sexually-oriented businesses for statistically significant conclusions distinct from conclusions on adult entertainment businesses generally. [Emphasis Added]

Therefore, the Working Group's *Report* is misleading in its purported reliance on it.

The June, 1978, version of the *St. Paul Study*, was the second version of the Study released. There was an earlier version in April, 1978.

No fewer than 14 times, the April, 1978 *St. Paul Study* states that sexually oriented Adult Uses **do not** cause "adverse secondary effects". Unlike the more recent studies, this study was based on empirical data, and while it was not perfected, it is a very marked improvement over most of the other "studies". Among its specific findings were the following:

The number of all adult entertainment establishments (all alcohol serving and sexually oriented establishments combined) present in neighborhoods in 1970 is significantly related to the neighborhood quality. That is, neighborhoods with higher crime rates and lower median housing values in 1970 tend to have more adult entertainment facilities located in them. Specifically, neighborhood quality in 1970 is related to the number of alcohol-serving establishments. When types of alcohol establishments are studied, neighborhood quality shows a relationship to the presence of establishments without live entertainment licenses, but has only a (statistically) marginal relationship to establishments with live entertainment licenses. **No relationship is found between neighborhood deterioration and the number of sexually oriented establishments present in 1970.**

A similar pattern of association appears in the 1976 analyses. The number of all adult entertainment establishments (alcohol-serving and sexually oriented combined) in 1976 is significantly related to neighborhood quality. As in 1970, this relationship is seen for the number of alcohol-serving establishments. The relationship between neighborhood quality and liquor-serving establishments in 1976 is present for both entertainment- and nonentertainment-licensed facilities (**although the relationship is stronger for the establishments without entertainment licenses**). **Again, as in 1970, no relationship is found between neighborhood deterioration and the presence of sexually oriented establishments.**

In summary, ... the presence of all adult entertainment establishments (alcohol-serving and sexually oriented combined) tends to be associated with greater neighborhood deterioration, in both 1970 and 1976. *However, when types of adult entertainment establishments are studied separately, this relationship is found only for the alcohol-*

*... serving establishments, not for sexually oriented facilities.” Pg. 9 [Bold Emphasis Added; *Italic* Emphasis in original]*

These analyses show the same overall pattern of results as found in Stage I. For both 1970 and 1976, the presence of all adult entertainment establishments (alcohol-serving and sexually oriented combined) is related to neighborhood deterioration. As in Stage I, when adult entertainment establishment types are analyzed separately, the relationship is found only for alcohol-serving establishments. Neighborhood quality/deterioration is significantly related to the total presence of alcohol-serving establishments, and to the presence of establishments without live entertainment licenses. The relationship found between deterioration and entertainment-licensed establishments in Stage I does not persist after zoning and neighborhood age are controlled. **As in Stage I, there is no relationship, in either 1970 or 1976, between neighborhood deterioration and the presence of sexually oriented establishments.**

In summary, as shown in Table 2, a relationship between neighborhood quality and the number of all adult entertainment establishments (alcohol-serving and sexually oriented combined) located in the neighborhood does persist after introducing controls. This relationship is found for the alcohol-serving adult entertainment facilities studied but not for the sexually oriented establishments. These same patterns of association are present for both 1970 and 1976. *Therefore, the relationship between neighborhood deterioration and the presence of all adult entertainment establishments is more accurately viewed as a relationship between neighborhood deterioration and the presence of all alcohol- serving establishments.* (pg. 11) [Bold Emphasis Added; *Italic* Emphasis in original]

... As in Stage I and Stage II findings, a relationship is found to exist between all adult entertainment establishments (alcohol-serving and sexually oriented combined) and deterioration. When adult entertainment establishments are studied by type, relationships with deterioration are found for all alcohol-serving establishments and for alcohol-serving facilities without entertainment licenses. As in Stage II, the relationship between deterioration and entertainment-licensed establishments does not persist after legal and market influences are controlled. There is no relationship between neighborhood deterioration in 1970 and the number of sexually oriented establishments in 1976.

There is a relationship between neighborhood deterioration in 1970 and the subsequent number of all adult entertainment establishments (alcohol-serving and sexually oriented combined) in an area in 1976. Therefore, adult entertainment establishments

tend to locate in neighborhoods which already suffer deterioration. (pgs 13-14)

... Again, a pattern of relationship exists between the presence of all adult entertainment establishments (alcohol-serving and sexually oriented combined) and neighborhood deterioration. Deterioration in 1976 is related to the number of alcohol-serving establishments in 1970 and to the number of establishments without live entertainment licenses in 1970. **As in Stage II analyses, deterioration is not related to establishments with entertainment licenses after controls for legal and market influences are introduced. And finally, there is no relationship between the presence of sexually oriented establishments in 1970 and level of neighborhood deterioration in 1976.**

There is a relationship between neighborhood deterioration in 1976 and the number of all adult entertainment establishments (alcohol-serving and sexually oriented combined) in the area in 1970. *Therefore, neighborhood deterioration tends to follow the location of adult entertainment establishments.*

When the strengths of the cross-time relationships are compared, the “deterioration-*follows*-establishments” relationships are consistently stronger than the “deterioration-*precedes*-establishments”, relationships. Thus, *although certain types of adult entertainment facilities tend to locate in already deteriorated neighborhoods, there is a stronger influence in the opposite direction. There is a greater tendency for deterioration to follow the location of certain adult entertainment establishments.*

In conclusion, as shown in Table 3, adult entertainment facilities tend to be established in areas of relative deterioration. A pattern of deterioration appears to follow the locations of certain types of adult entertainment establishments. This could be an increase in the pattern of deterioration *already* present. This cycle of ‘*deterioration-adult entertainment-deterioration*’ is seen only for areas in which there are alcohol-serving establishments. **Sexually oriented establishments, when analyzed by themselves, do not show this cyclic pattern of relationship with neighborhood deterioration.** (pg 13)

In summary, ... the number of adult entertainment establishments in a neighborhood has a strong threshold effect on associated neighborhood deterioration, for both 1970 and 1976. This means that the increase in deterioration associated with each additional establishment is not constant. The effect of each additional adult entertainment establishment on neighborhood quality depends upon the number of such establishments already present in the

area. *The addition of an adult entertainment establishment to an area with more than one or two of these establishments already present is associated with a marked increase in neighborhood deterioration.* Then types of adult entertainment establishments are studied separately, **threshold effects are found** for the number of alcohol-serving establishments present, **not for the number of sexually oriented establishments.** (pgs 16,18)

It should be noted, while the presence of sexually oriented establishments taken by themselves does not show a significant association with neighborhood deterioration, these establishments tend to locate in areas which already reflect the effects of other adult entertainment establishments, making it difficult without further analysis to ascertain the unique contribution which sexually oriented establishments have on neighborhood deterioration. (p. 21.)

Thus, even when the number of sexually oriented adult uses increases, no correlation between these uses and neighborhood deterioration is found.

The April, 1978, *St. Paul Study* has been reviewed in detail by McLaughlin and by Linz. In summary, it adheres closely, although not perfectly, to the professional and the legal protocols for this sort of endeavor and thus has significant evidentiary and probative value.

4. What can be fairly said about the study?

This report often ignores admonitions by the authors themselves either severely qualifying or disavowing findings of adverse secondary effects. The Report is symptomatic of the problems with the studies reviewed above and below. All of the studies that claim to show adverse secondary effects are lacking in methodological rigor. The studies that have been done either by government agencies or by private individuals that have employed the proper methodological rigor have universally concluded that there are no adverse secondary effects.

NEW HANOVER COUNTY, NC, JULY 1989

1. What does the report contain?

The Planning Department of New Hanover County, NC reviewed studies and ordinances from other counties and cities.

2. What the government tries to emphasize.

The unregulated proliferation of sexually oriented businesses had the potential for adversely impacting the county's economy, causing neighborhood blight and traffic congestion, and producing deleterious effects on public morality, crime rates, community reputation, and quality of life.

3. Other problems with this report.

This not an empirical study of the impact of adult businesses in New Hanover County, it is just a summary of other studies.

4. What can be fairly said about the study?

It cannot be relied upon for reaching any independent conclusions.

TOWN AND VILLAGE OF ELLICOTTVILLE, NY, JANUARY 1998

1. What does the report contain?

Ellicottville, NY, a community with a year-round population of approximately 1600, commissioned a study of the effects of sexually oriented businesses. Because Ellicottville had no sexually oriented businesses at the time of this report, it placed considerable emphasis on studies conducted in other New York municipalities—New York City, Islip, and Hyde Park—and in Minnesota, Phoenix, AZ, Austin, TX, Whittier, CA, and Indianapolis, IN.

2. What the government tries to emphasize.

The study concluded that negative secondary effects of sexually oriented businesses were likely to include “increased crime, decreased market values, public resentment, a general blighting of the commercial district, and a negative influence upon community character.

3. What can be fairly said about the study?

The Ellicottville Study contains no first-hand research.

ISLIP, NY, SEPTEMBER 23, 1980

1. What does the report contain?

This study performed a review of studies and ordinances from Detroit, MI, Norwalk, CA, Dallas, TX, Prince George’s County, MD, and New Orleans, LA, a survey of media coverage and public reaction arising out of the establishment of a sexually oriented bookstore in the city, and inspection of sexually oriented businesses. There was also a case studies of adult business.

2. What the government tries to emphasize.

In some cases the authors observed that the sexually oriented businesses that were close to other businesses appeared to have had a negative impact on those nearby businesses. Also, they noted that a significant number of the owners and managers had ties to organized crime, with multiple arrests and convictions.

3. What can be fairly said about the study?

There is no mention in the case studies of adult businesses of the “adverse secondary effects” usually alleged to be associated with Adult Uses - disproportionately higher demands for police service, disproportionately lower property values, and general urban blight (although two or three of the specific issues could fall into this category). Rather, the study focuses on issues related to any form of commercial development - parking, noise and dust, and proximity to residential areas. Further, the study found several of the existing Adult Uses **not** to be problematic.

OKLAHOMA CITY, OK JUNE, 1992

1. What does the report contain?

Jon Stephen Gustin, a retired sergeant of the Oklahoma City Police Department, authored a report on the successful abatement of adult oriented business nuisances in Oklahoma City, Oklahoma from 1984 – 1989. This report narrates the history of Oklahoma City's successful efforts to combat the negative secondary effects of sexually oriented businesses. Active police enforcement of laws relating to sex businesses began after a strong, grassroots campaign called for a response to the concentration of so many sex-businesses in one city.

2. What the government tries to emphasize.

Initially, police made several arrests at known houses of prostitution. Adult bookstores with peepshow booths also posed particular problems. Specimens of seminal fluid on walls and floors contributed to the forced closure of several such businesses. The district attorney's office consistently won the cases it brought against those committing illegal acts in sexually oriented businesses. Nude dancing businesses were also the source of several criminal and illicit sexual conduct, with undercover police officers making arrests for illegal sex acts on the premises of the businesses. A police department "escort service" sting operation resulted in the arrest of many men soliciting prostitution through such businesses. Sergeant Gustin reported that by 1992, most of the original sexually oriented businesses had shut down, with only a few remaining under the newly-enforced and stringent regulations.

3. Contrary to the government's assertions...

What Gustin does not say is if there is any relationship between the location of the reported street prostitution and the location of Adult Uses.

4. What can be fairly said about the study?

It has never been suggested that any form of prostitution is protected by the First Amendment. Of the four types of prostitution identified in the report only one – “massage parlors” could even be confused with First Amendment protected speech. Brothels are illegal (except in certain counties in Nevada), and hardly market themselves as a brothel for the purposes of land use. Likewise, “escort services” to the extent they may offer prostitution, are usually run from homes or offices, and have no land use impact whatsoever.

Gustin's definition of “Adult Entertainment Businesses” seems to be focused primarily, if not entirely, on obscene materials or performances. However, if adult bookstores sell obscene material, they are generally subject to criminal prosecution.

Likewise, if an adult cabaret presents obscene performances, the management and the dancers are subject to criminal charges. Gustin then reviews briefly the traditional police role in investigating complaints about adult businesses. (pg. 2) Conspicuously absent from the article is any description of the nature of the “complaints”. Were they complaints driven by “morality” concerns, – made by persons who simply did not like the content of the expression of the businesses? Or were they complaints about the interaction of commercial and residential land uses, complaints such as traffic,

parking, lighting, *etc.*, issues not unique to sexually oriented Adult Uses? Or were they more directly related to the Adult Use nature of the businesses, such as allowing a view into the business from the street or inappropriate behavior by customers of the Adult Use in its vicinity?

Without this information, it is impossible to tell if Gustin is commenting on valid complaints, unique to sexually oriented Adult Uses, which would be a true cause of concern, or whether he was commenting on other issues which should cause no concern.

In this section of the report concerning “Adult book stores with peep shows ...”, Gustin describes several problems, including male customers offering to perform sexual acts with undercover police officers, evidence of masturbation, and the sale and display of pornography. Nowhere in his article does Gustin allege that the offers to perform sexual acts were offers to commit prostitution. There is no suggestion that money was to change hands for these acts. How then, are these protected communications different from the “pick-up lines” employed at numerous types of meeting places throughout the country? They simply are not different. Further, for two adults to discuss the possibility of a sexual relationship, providing that the relationship is consummated in private, and that the act did not constitute prostitution, is also perfectly legal.

On the other hand there is no question that sexual intimacies in a public place, including masturbation, are illegal in most jurisdictions. However, such offenses are 1) a primary, rather than secondary effect, and, 2) are already proscribed by state criminal law, showing that these problems do not rise to the level of warranting adult use zoning or licensing regulations.

HOUSTON, TEXAS, JANUARY 7, 1997

1. What does the report contain?

This report by Houston’s Sexually Oriented Business Ordinance Revision Committee was prepared to supplement prior reports issued in 1983, 1986 and 1991, with the aim of reforming the existing sexually oriented business ordinance if necessary and assessing possible improvements to protect the interests of the public and the rights of sexually oriented businesses.

2. What form of adult entertainment is examined in the study?

Topless Clubs, Adult Theaters, Nude Clubs, Video Stores, Modeling Studios, Adult Bookstores

3. What the government tries to emphasize.

Hearing testimony and evaluating evidence from many sources, including police and parties favoring and disfavoring regulation of sexually oriented businesses, the committee concluded that criminal activity associated with sex businesses justified licensure requirements for such businesses and their entertainers and managers. It viewed video evidence concerning “glory holes” between peepshow booths, whereby patrons of such establishments engage in anonymous sex with one another on the premises, and recommended prohibition of such holes. It found that sex businesses with inadequate lighting or without clear lines of sight to all parts of the premises encouraged lewd behavior and illegal sexual activity. It found that many sex businesses had locked rooms on their premises, serving as venues for prostitution.

4. What can be fairly said about the study?

The report provides little evidence in support of the assertion that sexually oriented Adult Uses cause “adverse secondary effects” or that the effects that are produced are different from the impacts of the underlying commercial uses.

NEWPORT NEWS, VA MARCH, 1996

1. What does the report contain?

In this study, the Newport News Department of Planning and Development (“DPD”) briefly analyzed the Boston and Detroit varieties of sex business zoning ordinances, which attempt to minimize sex businesses’ negative secondary effects by concentrating such businesses and by dispersing them, respectively. The DPD reviewed the number, type, and location of the city’s sexually oriented businesses, evaluated public safety and adjacent property impact studies from Indianapolis, Los Angeles, Austin, Newport News, and other cities.

2. What form of adult entertainment is examined in the study?

Adult cabarets; adult bookstores/adult video store and non-sexually oriented nightclubs.

3. What the government tries to emphasize.

The report concludes that sexually oriented businesses and their surroundings have higher crime rates than other establishments—even those serving alcohol—and their surroundings. The DPD also concluded that sexually oriented businesses significantly decrease neighboring residential property values “and may lessen nearby commercial property values depending on the type of adult use and the amount of concentration.”

4. Problems with this study.

The Newport News, Virginia Study did not employ a long enough time period to rule out the possibility of a one time fluke. Less than two years worth of police calls for service were analyzed in this study.

The Newport News Study empirical research component involves a comparison of areas with Adult Uses and areas without such uses. Absent from the demographic data are data establishing age; race; owner occupied and renter occupied housing; age of housing units; household size; length of residence; education and daytime population. Therefore it is impossible to tell if the test and control areas are appropriately matched.

There are two additional problems with the comparisons. In comparison 1, the subject area is more dense, and has a lower median income; however, it also has lower rates of unemployment and poverty. In comparison 2A, the subject areas are less dense, and have less unemployment, but they have very significantly lower median incomes, and very substantially higher poverty rates. In Comparison 2B, the subject areas are less dense, have higher median incomes and lower unemployment rates than the control areas.

The major problem with the study areas no effort to made other potentially problematic land uses within any areas. These other potentially problematic land uses (confounding variables), are potential alternative explanations of the observed phenomena. For example, if a subject area contained “biker bars” or convenience stores, or other highly criminogenic land uses, the results of the analysis could

be correct, but the cause of the results is not the presence of Adult Uses but of the **other** highly criminogenic land uses – these may constitute alternative explanations for secondary effects.

The next part of the Newport News Study reports the results of a survey sent to “Realtors knowledgeable of local market conditions ... Although the Study contains four exhibits, the survey instrument is not provided. However, experience indicates that it likely mimics the instruments used in the earlier studies.

The absence of the survey instrument precludes a meaningful review of these results.

5. What can be fairly said about the study?

Because of methodological problems such as failure to properly match adult use areas and control areas the study can be said to offer only equivocal evidence of adverse secondary effects. The survey research conducted in the study suffered from numerous methodological problems that render the results equivocal.

DES MOINES, WASHINGTON 1984-1987

1. What does the report contain?

This is a series of reports, memoranda, and council minutes that arose out of concern on the part of the city council of Des Moines, WA over the impact of a sexually oriented theater which was operating in the city’s downtown revitalization area. The city council heard testimony from citizens, and reviewed new business license records for data regarding the rate of business failure and turnover in the vicinity of the theater. The council also considered the theater’s own community impact statement, a report police call records, case law and ordinances and supporting studies from other jurisdictions, and a study performed by planning consultants on behalf of the city.

2. What the government tries to emphasize.

The city council concluded that there was a correlation between the sexually oriented business in the revitalization area and the high number of business failures and high rate of business turnover in the vicinity. The turnover rate was approximately four times that of comparable downtown areas. The council attributed these phenomena at least in part to strong negative public perceptions of the sexually oriented business, fear on the part of passers-by, impact on children, transients, traffic problems, and a desire on residents’ part not to be perceived to have any association with such businesses—all of which led the public to shun businesses near the sexually oriented business.

3. Other problems with this study.

The Study examines one primary Adult Use – an adult theater on Marine Drive, but says nothing about the fact that there was “previously a ‘head shop’ in the heart of the Des Moines revitalization district.”

The police record provides a review of various other adult type uses such as the selling of drug paraphernalia, at a "head shop" and other historic uses in both the Business District area and along Highway 99 that have provided complaints and requirements for increased police activity.

The problems with the foregoing “analysis” are self-evident. What is being studied? It is the protected First Amendment speech offered by the adult theater; or is it the (arguably illegal), drug paraphernalia offered by the “head shop”? Without the answers to these questions, there is no possibility that these comments have any value.

Further, the problems identified earlier still persist. No effort was made to ascertain if there are other potentially problematic land uses in the area being studied; or to determine if the area being studied was in decline when the adult theater opened.

The section of the Des Moines Study is entitled “Land Uses” is a narrative describing a number of urban ills associated with “these uses” whatever “these uses” may be. This section also notes that there is a perception of harm associated with “these uses”. The Study **may** well be correct that the areas of Adult Uses which were observed are in decline. But it fails to identify if the decline was occurring **before** the Adult Uses arrived. It also fails to identify other potential sources of the decline.

4. What can be fairly said about the study?

This study offers no reliable evidence of adverse secondary effects for adult businesses.

ST. CROIX COUNTY, WISCONSIN, SEPTEMBER, 1993

1. What does the report contain?

This is a brief report prepared by the St. Croix County Planning Department, which reviewed a number of other jurisdictions’ studies and reports, noted negative secondary effects reported in those jurisdictions, and recommended zoning regulations to restrict sexually oriented businesses to commercial districts.

2. What the government tries to emphasize.

The negative secondary effects noted by the Planning Department included diminution in surrounding property values, rental values, marketability, neighborhood stores, physical deterioration of communities, traffic congestion, and late-night noise problems. The Department also noted the secondary effect of increases in crime—especially prostitution, drug offenses, assaults, and sex crimes within the vicinity of sexually oriented businesses. Additionally, the Department was concerned with the involvement of organized crime, diminished community reputation and its attendant economic effects, and diminished quality of life for residents.

3. What can be fairly said about the study?

This is not an empirical study. There was no attempt to collect first hand data in St. Croix. It is a summary of reports from other cities only.

DENVER, CO, 1998

1. What does the report contain?

A Report on the Secondary Impacts of Adult use Businesses in the City of Denver. Prepared for the Denver City Council by the Zoning Administration, Office of Planning and Development, January 1998.

3. Contrary to the government's assertions...

The authors themselves declare; "The study showed that the percentage of calls for police service linked to disturbance, prowler and sex-related crimes was roughly the same in the areas surrounding adult businesses as for the city as a whole."(pg 33.)

GOVERNMENT SPOSOED STUDIES SHOWING NO ADVERSE EFFECTS

There are at least seven local government adult use studies not in circulation that generally find sexually oriented adult uses do not cause unusual adverse secondary effects. These studies are conducted but often withheld by the municipality or county governments because they fail to substantiate the government's theory that adult businesses cause adverse secondary effects. The studies are listed below.

ST. PAUL, MINNESOTA, APRIL 1978:

This study, with a state agency as the lead author, considered both alcohol serving and sexually oriented adult uses. Fourteen times this Study states that there is no evidence of unusual adverse secondary effects caused by sexually oriented Adult Uses.

KENT, WASHINGTON, MEMORANDUM, 1982:

This memorandum was prepared by the author of the Kent Study (Kent Planning Department (*City of Kent Adult Use Zoning Study*; Author; Kent Washington; November, 1982.). This report draws on a series of interviews of appraisers conducted by the author of the study. The interview with an appraiser familiar with the area of *Northend Cinema* reported that the operation of the adult theater had ***had no impact on property values*** in its vicinity (*Northend Cinema Inc. v. Seattle*, 585 P.2d 1153 (Wa. 1978).

"[John] Mills [an appraiser selected for the survey because of this location in the Greenwood area of Seattle where the Ridgemont Theater (subject of *Northend Cinema v. City of Seattle*, 585 P.2d 1153 (Wash., 1978))] stated that he observed 'no demonstrated impact on value of property around the theater area' during the years when the Ridgemont showed adult movies. He stated that sales near the Ridgemont were 'no different per square foot than comparable property several blocks away. He agreed that under certain conditions property values could 10 descend as a result of an adult use locating nearby, especially in the case of residential property; however, such was not the case in the Greenwood area, in his opinion. These opinions were contained in a memorandum entitled: Memo to "Adult Use Zoning Study File" From: Fred N. Satterstrom, Project Planner", Subject: "Telephone Survey of Real Estate Appraisers Relative to the Impact of Adult Uses on Property Values in the Vicinity", August 16, 1982.

LANSING, MICHIGAN, 1987

This study Perlstadt, Harry, Ph.D., Preliminary Report Revised: The Social Impact of Adult Entertainment Facilities; Department of Sociology, Michigan State University, East Lansing, Michigan, June, 2, 1987. includes a properly conducted opinion survey, conducted at a time when

Adult Uses in general, and some new such uses were a “hot topic” in the City. Only 18% of the survey respondents expressed any sort of concern about Adult Uses.

LANSING, MICHIGAN, 1988

City of Lansing Planning Department, Impact of Adult Entertainment Uses: Measurement of Occupancy and Assessment Trends in Adjacent Residential Neighborhoods; City of Lansing; April, 1988. The property value assessments taken from pages 1-2 of the report are listed below.

Affected Area	Comp. Area
Change In Ass'd Val.	Change In Ass'd Val.
Pussycat	221% / 227%
Danish News	228% / 223%
Cinema X	201% / 209%
Averages	218% / 222%

These assessment value statistics show that the areas surrounding adult businesses and the control areas are nearly identical. This City of Lansing study found no adverse secondary effects on property assessments due to adult businesses.

THE PHOENIX STUDY 1994

This study, entitled :Adult Business Study: Impacts in Late Evening/Early Morning Hours, City of Phoenix Planning Department, June 1994, was never completed. It began an effort to determine what impacts, if any, could be attributed to extended hours of operation of sexually oriented Adult Uses. The study found that there was *no higher incidence of crime around Adult Uses; that police officers did not perceive Adult Uses to be more problematic than the comparison uses; and that interviews with business owners and residents in the area demonstrated little difference between the Adult Uses and the comparison uses.*

This study examined cabarets, arcades and bookstores. Residential interviews, police officer interviews, on-site observations were examined to determine what types of activities taking place outside the adult businesses. Calls for service were analyzed by time of day. Additional data from the police department on Organized Crime Bureau Vice unit about specific violations such as prostitution, disorderly conduct, noise /disturbance, loitering per time of day.

The findings directly contradicted the government’s assertions that adult businesses cause problems in the community. According to business owners who were surveyed more vandalism, more crime against customers and businesses, more money spent on security in control than adult areas. According to police surveyed only 2 percent of police said that adult businesses presented a lot of problems requiring police attention in Phoenix compared to 31 percent who said the control business areas had a lot of problems that required police attention.

EVANSVILLE, INDIANA, 1995:

This study was a formal Consultation Report prepared in compliance with the requirements of the Uniform Standards of Professional Appraisal Practice. The study, commissioned by the City in an effort to support a new adult use ordinance, found virtually no impact of the studied Adult Use, except possibly some difficulty in finding a user for one adjacent property.

FULTON COUNTY, GEORGIA, 1997:

In 1997, the Fulton County Board of Commissioners adopted a resolution directing the County Attorney's office to prepare a more stringent Adult Use Ordinance, and instructed the Fulton County Police Department to prepare a study comparing sexually oriented Adult Uses with alcohol-serving uses, in effort to support the proposed more stringent ordinance. Instead, the Police Department found more crime and calls for service at alcohol-serving establishments without sexually oriented entertainment, than at alcohol-serving establishments which also offered sexually oriented entertainment. The police Department concluded:

Based on this statistical study of calls for service and reported crime at adult entertainment establishments, there is no statistical correlation that shows that there is an increase in crime at adult entertainment establishments that serve alcoholic beverages. However, there is a statistical correlation that would indicate that there is greater instances [sic] of calls for service and crime at non-adult entertainment establishment that serve alcoholic beverages. (no page number).

(Fuller, Captain Ron and Lt. Sue Miller, *Fulton County Police: Study of Calls for Service to Adult Entertainment Establishments which Serve Alcoholic Beverages, June, 1995 - May, 1997*, Fulton County Police Department, Atlanta, GA, June 13, 1997.)

LAKEWOOD, WASHINGTON,

The City of Lakewood, Washington, also conducted a study in an effort to justify a more stringent adult use ordinance. Upon completing the study David Bugher Head of the Planning Department in the City of Lakewood Washington wrote the following memo to Daniel Heid the City Attorney admitting that the City had found little evidence of adverse secondary effects associated with adult businesses.

From: David Bugher
To: DHEID Subject: Adult businesses

Well, I have a depressing statistic. It's good in one way and bad in another. Since incorporation, the City has amassed 15,415 reported criminal incidences. Get this, 25% occurred along a 300 acre strip of Pacific Highway and South Tacoma Way. How many incidences were within 1,000 feet of all adult entertainment establishments? 400! A lousy 400! That's only 2.6% of the total! Jack Burns will love this. What bothers me is that many communities used the secondary effects of adult businesses (i.e. crime) to justify stricter codes. This element just doesn't seem to be present. Sure, there is a great amount of crime in the area, but it is associated with I-5 and low income neighborhoods along I-5. I have tried working this issue from a number of different angles. I have tried to focus the types of criminal incidences (rape, burglary, vandalism) to see if such a corollary existed. It

doesn't. I know this isn't what people want to hear, however that is what is reported. Dave

CENTRALIA, WASHINGTON, 2003

In a report entitled: "Crime Risk in the Vicinity of a Sexually Oriented Business: A Report to the Centralia City Attorney's Office," by Richard McCleary, Ph.D., December 1, 2003, Dr. McCleary reports on a study conducted for the City of Centralia. In this study Dr. McCleary examined the opening of an adult business, video store and arcade. He took account of the date the business opened and conducted a before/after study of that business. He then compared the results to the rest of the city. He examined three crimes, robbery, first-degree assault and auto thefts. He has testified in court that in his experience robbery is the most sensitive of the three Part I UCR crimes, assault is the weakest and auto theft falls midway between the two.

Results indicated that before the adult business moved in there were two robberies. After the business moved in there was zero. In his Centralia study, therefore, Dr. McCleary shows that robbery, the indicator that is most reliable according to his theoretical assumptions actually decreased rather than increased after the adult business opened. Meanwhile, by Dr. McCleary's own analysis showed that the City of Centralia generally experienced a 20-percent increase in robbery over the study period. Yet robbery declined in the area around the adult business in Centralia by 200-percent. The results for assault showed two pre-business opening and three such crimes post-business opening. For auto theft, before the adult business located in the neighborhood there was one such crime, afterwards there were none.

Further, when the single most import outcome in the secondary effects literature generally speaking, sexual assault, is examined, the study shows that the area surrounding plaintiff's adult business is substantially lower than the rest of the city. Dr. McCleary not only does not find increases in crimes such as rape he actually has demonstrated that rape has remained at a "0" level before and after the introduction of adult business in Centralia, whereas the number of rapes has *increased* for the rest of the city. The crime risk was *zero for rape* in the area of the adult business, while the rate for the city as a whole had increased by 51 percent.

From: David Bugher	PLAINTIFF'S STUDIES
To: DHEID	
Subject: Adult businesses	
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Dave	

A subsequent version of this report authored by Mr. Paul and Linz was presented at the 2002 International Communication Association where it was recognized as one of the "Top Four Refereed Papers in Communication, Law and Policy." "Using Crime Mapping to Measure the

Negative Secondary Effects of Adult Businesses in Fort Wayne, Indiana: A Quasi-Experimental Methodology.”

Unlike previous studies, conducted in other municipalities, specific attention was given to developing an empirical approach that fulfilled the requirements set out by the Supreme Court for the proper conduct of an objective and reliable inquiry. A 1000 feet circumference surrounding each of eight exotic dance nightclubs in Fort Wayne was established. Comparison areas were selected in the city of Fort Wayne and matched to the club areas on the basis of demographic features associated with crime and commercial property composition. The number of calls to the police from 1997-2000 in the areas surrounding the exotic dance nightclubs that served alcohol was compared to the number of calls found in the matched comparison areas. Our analysis showed little difference, overall, between the total number of calls to the police reported in the areas containing the exotic dance nightclubs and the total number of offenses reported in the comparison areas. Linz and Paul concluded from these findings that there was no evidence of adverse secondary effects associated with this form of adult businesses.

CHARLOTTE, 2004

An additional study was conducted in Charlotte North Carolina undertaken by Linz, Bryant Paul and Kenneth C. Land, Jay R. Williams and Michael E. Ezell of Duke University. This study is reported in the paper entitled: *An Examination of the Assumption that Adult Businesses are Associated with Crime in Surrounding Areas: A Secondary Effects Study in Charlotte, North Carolina*. This study sought to determine if a relationship exists between adult erotic dance clubs in Charlotte, North Carolina that feature topless dancing and serve alcohol and negative secondary effects in the form of increased numbers of crimes reported in the areas surrounding the adult businesses. Specifically, the study addressed the following research question: Once variables known to be related to crime events suggested by social disorganization and routine activities theories have been taken into account we ask: does the presence of an adult business in a localized area increase the concurrence in space and time of offenders motivated to commit crimes together with suitable targets for the crimes in the absence of guardians capable of preventing or deterring the crimes? This is the only peer reviewed published study testing routine activity theory as it applies to alleged secondary crime effects and adult businesses. For each of 20 businesses, a control site (matched on the basis of demographic characteristics related to crime risk) was compared for crime events over the period of three years (1998-2000) using data on crime incidents reported to the police. We found that the presence of an adult nightclub does not increase the number of crime incidents reported in localized areas surrounding the club (defined by circular areas with 500 and 1,000 feet radii) as compared to the number of crime incidents reported in comparable localized areas that do not contain such an adult business. Indeed, the analyses imply the opposite, namely, that the nearby areas surrounding the adult business sites have smaller numbers of reported crime incidents than do corresponding areas surrounding the three control sites studied. The report of this study has been published in the peer reviewed scientific journal *Law and Society Review*, March 2004. This report is the only secondary effects study published in a peer-reviewed journal.

CHARLOTTE, 2001

“Measuring Secondary Effects of Adult Businesses Using Spatio-temporal Estimation of Real Estate Price Appreciation,” by George W. McCarthy and Henry Renski of the University of North Carolina at Chapel Hill, and I report on an empirical study to assess property values surrounding adult nightclubs in Charlotte North Carolina. In this study we adopt an expanded repeat housing sales model to estimate, over time and space, appreciation rates for real estate parcels. Using 1980-2000 tax

assessment data from Mecklenburg County, North Carolina, we estimate annual appreciation rates and evaluate the extent to which appreciation rates are related to the location of adult clubs. We show that there is little evidence of a negative impact of the location of adult clubs on house price appreciation. While house prices show a slightly lower average appreciation rate over the entire period, when spatial and temporal controls are added, appreciation rates are actually higher for parcels in close proximity to adult clubs in 11 of the 20 years of the study.

SAN DIEGO, 2002

A Secondary Effects Study of Peep Show Establishments in San Diego, California, by Linz and Bryant Paul, Department of Telecommunications, Indiana University, was undertaken to test whether there is a greater incidence of crime in the vicinity of peep show establishments in San Diego, California than comparable “control” areas which do not contain peep show establishments, and to determine whether any secondary crime effects of peep show establishments in San Diego are disproportionately greater between the hours of 2 a.m. and 6 a.m. The city of San Diego was chosen for study because of a recently passed ordinance that makes it unlawful for any person to operate a “peep show booth” or “peep show device” between the hours of 2:00 a.m. and 6:00 a.m. The city claimed that the ordinance was needed to further a substantial government interest in combating crime. “Calls for service” to the police within a 1000-foot area on either side of the peep show establishment (i.e., involving an uninterrupted 2000 foot wide area) were compared to comparably sized control areas. The levels of crime within a 1000-foot area on either side of peep show establishments during the 2a.m. to 6 a.m. hours of operation were also compared to levels for the entire day. We found neither evidence of differences in crime levels, nor any evidence of disproportionately greater amounts of crime within the 2 a.m. to 6 a.m. time period. We conclude that this study constitutes evidence that the city of San Diego does not have a special problem with crime at the peep show establishments generally, nor is there a heightened problem with crime during the 2 a.m. to 6 a.m. period.

This study has been peer reviewed and presented at the annual meeting of the Western Region Conference of the Society for the Scientific Study of Sexuality, in San Diego, California, in April, 2004 (The comments of peers who reviewed the study for acceptance for presentation are available from the authors). This study is currently *in press* at the *Journal of Sex Research*.

FLORIDA, 2004

Examining the Link Between Sexual Entertainment and Sexual Aggression: The Presence of Adult Businesses and the Prediction of Rape Rates in Florida, by Randy D. Fisher, Bryant Paul and Daniel Linz. This paper was presented to the Law and Policy Division at the 2004 annual meeting of the International Communication Association: New Orleans, LA where it was peer reviewed. The purpose of the study was to examine whether rates of crime are associated with the rates of adult businesses in the 67 counties of Florida once other variables related to crime are controlled. Three kinds of crime were examined: UCR property crimes, UCR violent crimes, and rape. Rates per 100K people in the population were also computed for the numbers of nonsexual adult businesses: drinking establishments, gambling establishments, and hotels and motels in each county. These measures, along with measures of social disorganization and demographic variables, were examined for their relative ability to predict the three rates of crime. Regression analyses were performed to determine the unique contributions made by the control variables, rates of nude or semi-nude businesses, and rates of nonsexual adult businesses to prediction of the three rates of crime. Results revealed that rates of nude or semi-nude businesses were not significantly related to rates of property crimes or violent crimes. However, they were significantly, though *inversely*, related to rates of rape when other variables were taken into account. By contrast, rates of nonsexual adult businesses showed strong

positive relationships with rates of both property crimes and rape. These results are consistent with previous research using different methodologies and they support the predictions of routine activity theory. However, they may cast doubt upon the validity of the doctrine of the adverse secondary effects of businesses offering nude or semi-nude entertainment.

THE FOUR-CITY OHIO CRIME STUDY, 2004

Linz and Mike Yao at the University of California, Santa Barbara, have recently undertaken an investigation of crime rates (and contributing factors to the crime rates) in and around four major Ohio cities. The study shows a lack of correlation between the presence of liquor-serving establishments featuring nude or semi-nude dancing and crime. Hierarchical regression analysis in Toledo revealed that the presence or absence of adult cabarets in a given neighborhood did nothing to explain the presence of crime in that same neighborhood. Similarly, in Columbus, the addition of alcohol-serving adult cabarets as a factor in our analysis resulted in approximately zero explanatory power. The work in Dayton revealed a negative correlation between adult cabarets and incidents of rape, such that the presence of an alcohol-serving adult entertainment establishment is actually indicative of less rather than more rape events. Finally, in Cleveland, Linz and Yao found that the addition of alcohol-serving adult cabarets as a factor in his analysis also added “no ability to explain crime incidents. They suggest that the negative correlation between adult establishments and violent crime might be explained by the fact that in alcohol serving establishments that do not feature adult entertainment, people fight with one another particularly men over women. None of that exists in an adult entertainment venue. This study has been introduced as testimony in United States District Court for the Northern District of Ohio, Eastern Division in the case: *J.L. Spoons, Inc., et al., v. Kenneth Morckel, et al.* 314 F Supp. 2nd 746, ND Ohio, April 1, 2004. In this case the court noted:

Dr. Linz’s study shows a lack of correlation between the presence of liquor-serving establishments featuring nude or semi-nude dancing and the types of crime the State seeks to reduce. (See Transcript of March 12 Hearing, at 25-56). In Toledo, Dr. Linz’s hierarchical regression analysis revealed that the presence or absence of adult cabarets in a given neighborhood did approximately nothing to explain the presence of crime in that same neighborhood. Transcript of March 12 Hearing at 39, 45-46. Similarly, in Columbus, the addition of “alcohol-serving adult cabarets” as a factor in Dr. Linz’s analysis resulted in approximately “zero explanatory power.” Transcript of March 12 Hearing at 46. In Dayton, Dr. Linz’s work revealed a negative correlation between adult cabarets and incidents of rape, such that “the presence of [an alcohol-serving adult entertainment] establishment is actually indicative of less rather than more rape events.” Transcript of March 12 Hearing at 52. Finally, in Cleveland, Dr. Linz found that the addition of “alcohol-serving adult cabarets” as a factor in his analysis also added “no ability to [explain] crime incidents.” Transcript of March 12 Hearing at 54. The Court is uncertain to what extent the Supreme Court would advocate that we simply approve the State’s reliance on “propositions ... well established in common experience and ... zoning policies that we have already examined,” *Alameda Books*, 535 U.S. at 453, and ignore the implications of more persuasive, if counterintuitive, evidence like Dr. Linz’s study 11. Clearer guidance in this area would greatly aid the Court in determining whether the club owners have established

a strong likelihood of success on a claim that no restriction on nudity could possibly further the State's interest in reducing secondary effects.

THE FOUR-CITY OHIO PROPERTY VALUES STUDY, 2006

This study examines the relationship between adult oriented businesses and surrounding property values. It was conducted by Lance Freeman of Columbia University and Darrick Hamilton of New School University. Specifically, this study tests the assumption that adult oriented businesses are nuisances that have deleterious impacts, including a negative impact on property values, on surrounding neighborhoods. The study investigates the relationship between such businesses in Cleveland, Columbus, Dayton and Toledo Ohio and surrounding residential property values. The study uses conventional social science methods that have been developed to discern how environmental traits affect property values. The results indicate that once differences in property characteristics are accounted for there is no consistent relationship between proximity to an adult oriented business and sales prices.