

TUCSON

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ITEM # 12
BY: Bill Call

EXHIBIT NO. 1

Police Memorandum dated May 1, 1990

TUCSON



MEMORANDUM

DATE: May 1, 1990

TO: Mr. William Call
City Prosecutor

FROM: Michael J. Leverenz *ml*
Assistant Chief of Police
Investigative Services
Ext. 4480

SUBJECT: ADULT ENTERTAINMENT ORDINANCE

Per your request, the following information describes some of the events and activities that were occurring in adult entertainment bookstores and establishments that clearly demanded the need for a stronger ordinance.

BACKGROUND

In late 1986, the Police Department received numerous complaints of illegal sexual activity and unsanitary conditions occurring in many of the adult entertainment bookstores and establishments. Initial reports indicated that sexual activity was occurring on the premises between customers and prostitutes, customers and the entertainers and between the customers themselves. Through covert investigations it was soon discovered that many of these allegations were in fact true.

Investigating officers found that many of the dancers were prostitutes who were offering private shows where customers could, for a price, observe them performing live sex acts. One of these acts was the "double dong" show. This show consisted of two females using a double headed dildo simultaneously. In a similar act dancers would perform oral sex on each other. Many times the dancers would require customers to expose themselves before they would perform. At several of the businesses, customers were allowed inside the booths with the dancer and were encouraged to undress and masturbate. For a little more money, the dancers would help the customer masturbate. Nearly all of the dancers engaged in sexually explicit conversations with the customers. For the right price customers would be allowed to touch the dancer in every place that bikini panties did not cover and if enough money was paid the customers would be allowed to insert their fingers into the vagina

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of the dancer. Undercover officers also learned that customers could hire the dancers to engage in acts of prostitution. Confidential sources indicated that, in some instances, these acts actually occurred on the premises with the knowledge of the management.

Investigating officers also discovered that underage females were being hired to dance nude. The youngest person known to have been working in one of these businesses was a fifteen year old female. The business that she was working at required that she dance several times an hour and perform what are known as spread shows. In these type of shows a female masturbates either manually or with a vibrator in front of a customer. In most cases these minors were in possession of false identification which they were assisted in obtaining by the older dancers and, in one case, allegedly by the business manager.

"Glory holes" were discovered in the walls of adjoining booths in some of the bookstores and adult entertainment establishments. These holes were used by male customers to facilitate sexual acts with the occupant of the neighboring booth. Additionally, certain book stores were found to be frequented by homosexuals and it was not unusual to have men standing around the booth areas attempting to pick each other up. It was also obvious to anyone who went into these businesses that there was a problem with the sanitary conditions. Upon entering the viewing booths, investigators often found puddles of semen on the floors and/or hanging on the walls. If the customer did use a tissue these were also usually found on the floor of the booth and in some cases in the hallways.

In order to verify the accuracy of their observations, investigating officers collected samples on two separate occasions. Between April and August of 1987, investigators collected 26 random samples at eight separate adult entertainment bookstores and establishments. Of these 26 samples the TPD Crime Lab reported that 21 (81%) tested positive for semen. The second collection occurred between October and December of 1988. This time investigators collected 27 random samples at ten separate adult entertainment bookstores and establishments. Of these 27 samples, 26 (96%) tested positive for semen.

At virtually every adult entertainment bookstore and establishment employees were arrested for prostitution or obscene sex shows. At one of these businesses a nationally known porn star was seen on

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stage in front of approximately twenty people inserting her tongue and finger into the vagina and anus of another performer. At another business, a dancer was arrested after she performed oral/anal sex on another female. At the end of her show she blew air out of her vagina in order to make noise. As a result of arrangements that were easily made at these businesses, dancers were also arrested for performing sex shows and other acts of prostitution at other locations.

NEED FOR A STRONGER ORDINANCE

During the time that we were conducting these criminal investigations, the Health Department began investigating the sanitary conditions in these businesses. The Health Department recognized, as we did, that many of the activities that were occurring were made possible by the doors on the booths. When it was suggested that their removal would substantially reduce the opportunity for people to have anonymous sex, the Adult Entertainment Industry quickly joined forces with a common goal in mind. That goal was to keep the doors on the booths.

In order to demonstrate that a health ordinance was not needed these businesses began cleaning the booths and, in some instances, the entire premises. Whole businesses suddenly were painted and in some cases remodeled. Signs started being displayed discouraging loitering and asking customers to place their tissues in trash cans. The whole industry began changing due to the fact that they were trying to convince the Health Department and the public that they could police themselves and that the doors did not have to come off. In an attempt to diffuse the cry for the removal of the doors the bottom part of the doors were cut off.

Shortly thereafter, City Ordinance 7299 was enacted which provided for the licensing of employees and established regulations regarding the operation and location of adult entertainment enterprises. On November 1, 1989, Mr. Michael J. Bloom, attorney for several of the enterprises affected by the ordinance, filed a law suit in the United States District Court challenging this ordinance. Since then a series of meetings occurred between Mr. Bloom, the Police Department, and the City Attorney's Office to determine if compromise was possible. As a result, we found that a major issue of contention was whether the doors should come off or be allowed to stay on. During an on-site inspection of these booths with Mr. Bloom, he advised us that his clients position was

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that the doors had to stay on. He stated that his clients were very concerned of the possibility of non-paying customers congregating around the booth of a paying customer. Mr. Bloom also indicated that his clients would be agreeable to wording in the ordinance that require the bottom of the doors to be raised to a height that would permit all the interior floor space (of the booth) to be visible from the public hallway. The idea being that this would allow anyone to count the number of feet in the booth thereby insuring that there was only one person in there. Discussions occurred with supervisors and officers of the Police Department's Vice Detail pertaining to the alternatives. After these discussions, and recognizing that although Mr. Bloom's position has some merit, our first recommendation was that the doors be removed from the viewing booths for the following reasons.

1. "Glory Holes" - even if the doors were raised to knee level, they would still provide customers with enough shielding to encourage and permit illegal sex acts to continue.
2. Masturbation - doors encourage and facilitate this act and we do not feel the community believes this should be an acceptable or sanctioned practice in a city licensed business open to the public.
3. Sanitation - as previously stated random inspections of booths by investigators found some rather offensive conditions. Although there has been significant changes in the operation of these businesses, recent spot checks indicates that this problem persists.
4. Booths - the viewing booths can be configured in a manner that will preclude viewing by non-paying customers.
5. Court Decisions - the removal of doors has been upheld by the courts.

Since then several meetings with Mr. Bloom have taken place regarding this issue. On April 30, 1990, the Police Department was advised that Mr. Bloom, in a letter to Mr. William Call, indicated that his clients would agree to raising the bottom of the doors to a height of 30 inches from the floor. Subsequent to this compromise offer, the Police Department agrees to recommend that the doors remain on the booths under the following conditions:

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1. The bottom of the door must be a minimum of 30 inches from the floor, so that the occupant of the booth is visible from the waist down when seated.
2. The booth can not be modified nor can a chair be used that will circumvent the intent of condition #1

We feel that this compromise answers the privacy issues raised by Mr. Bloom and his clients, as well as, providing a deterrent effect against the type of behavior that we originally cited for the doors coming off entirely. Additionally, we believe that the proposed ordinance will also benefit the businesses that it regulates because:

1. Employee licensing obligates the Police Department to conduct background investigations on all applicants. This will ultimately result in the selection of better employees.
2. If the denial or revocation of a license is recommended a hearing is required before any action is taken.
3. The presence of partial doors should not reduce business.
4. The presence of partial doors will assist the businesses in maintaining a cleaner environment and meeting the regulation set forth in the ordinance.

It is for these reasons and the belief that the ordinance will not adversely affect these business establishments that the Police Department recommends the ordinance be adopted in its present form.