



WHY DECRIMINALIZING SEX WORK IS GOOD CRIMINAL JUSTICE POLICY

Too many people are incarcerated and too many resources are spent targeting victimless crimes. Tens of thousands of people are arrested annually in the United States for prostitution and related charges.¹ The majority of those arrested are adults who engage in consensual, victimless activities.² Where sex work is decriminalized, law enforcement is able to focus resources on prosecuting human trafficking and other violent crimes.³

Those who are arrested and jailed for buying or selling sex face incarceration, fines, parole, and probation. They are likely to end up with permanent records that hinder future opportunities for employment, housing, and other necessities.⁴

Too often, police abuse their powers and exploit or rape sex workers.⁵ Sex workers engaging in prostitution who are harmed by police officers have nowhere to turn for help. Decriminalization would empower sex workers and substantially reduce this abuse of power.

Tough-on-crime policies lead to mass incarceration. Decades of these policies have overcrowded American prisons with nonviolent offenders. The devastating consequences of the War on Drugs have prompted reform;⁶ it is time for laws criminalizing and marginalizing sex workers to see the same shift.

Arresting adults for consensual activities is a misuse of taxpayer money. The cost of arresting people for victimless crimes — along with the additional cost of jail, prosecution, and probation after the arrest — places a significant burden on taxpayers.⁷ Yet criminalization neither ends nor reduces prostitution;⁸ it solely pushes sex work into the black market, where workers are unprotected from exploitation and abuse.

We know what prohibition does to markets. The prohibition of alcohol failed to reduce the demand, and made alcohol more dangerous. The prohibition of drugs did the same. Laws have been adapted to address these realities, replacing criminalization with harm-reduction policies. Combatting violence and abuse in sex work should be prioritized over arresting consenting adults.

Criminalizing sex work only amplifies the harms associated with it. Police, prosecutors, and jails are ill-equipped to improve the lives of people who are arrested for trying to earn a living via prostitution.

¹"Crime Data Explorer," Federal Bureau of Investigation, accessed March 26, 2020, <https://crime-data-explorer.fr.cloud.gov/>. FBI data reports that there were 24,944 arrests for "Prostitution and Commercialized Vice" in 2018.

²Emily Bazelon, "Should Prostitution Be a Crime?" *The New York Times*, May 5, 2016, <https://www.nytimes.com/2016/05/08/magazine/should-prostitution-be-a-crime.html>.

³Fraser Crichton, "Decriminalising Sex Work in New Zealand: Its History and Impact," *openDemocracy*, August 21, 2015, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/decriminalising-sex-work-in-new-zealand-its-history-and-impact>.

⁴Meredith Dank, Jennifer Yahner, and Lilly Yu, "Consequences of Policing Prostitution: An Analysis of Individuals Arrested and Prosecuted for Commercial Sex in New York City," *Urban Institute*, April 2017, https://www.urban.org/sites/default/files/publication/89451/legal_aid_final_0.pdf.

⁵"Arrest the Violence: Human Rights Violations Against Sex Workers in Central and Eastern Europe and Central Asia," *Sex Workers' Rights Advocacy Network*, November 2009,

<https://www.opensocietyfoundations.org/publications/arrest-violence-human-rights-violations-against-sex-workers-11-countries-central-and-eastern>.

⁶Paul N. Samuels, "Public Opinion Favors Criminal Justice and Drug Policy Reform, Making Now the Time to Act," *Legal Action Center*, January 2016, <https://www.lac.org/news/public-opinion-favors-criminal-justice-and-drug-policy-reform-making-now-the-time-to-act>.

⁷Robert M. Hardaway, *No Price Too High: Victimless Crimes and the Ninth Amendment* (Connecticut: Greenwood Publishing Group, 2003).

⁸"Assessment of Review of Operation of Article 64A of the Sexual Offences Order (Northern Ireland) 2008: Offence of Purchasing Sexual Services," *Northern Ireland Department of Justice*, September 17, 2019,

<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/assessment-of-impact-criminalisation-of-purchasing-sexual-services.pdf>.