"We Deserve Support and Liberation Instead": Analyzing New York City's Legal Responses to Sex Work 1994-2020

Eleanor Mammen

Follow this and additional works at: https://scholarship.claremont.edu/scripps_theses

Part of the Criminal Law Commons, Jurisprudence Commons, Law and Gender Commons, Law and Politics Commons, Law and Race Commons, Law and Society Commons, Law Enforcement and Corrections Commons, Legal History Commons, Lesbian, Gay, Bisexual, and Transgender Studies Commons, Other American Studies Commons, Other Feminist, Gender, and Sexuality Studies Commons, Sexuality and the Law Commons, and the State and Local Government Law Commons

Recommended Citation
https://scholarship.claremont.edu/scripps_theses/1591

This Open Access Senior Thesis is brought to you for free and open access by the Scripps Student Scholarship at Scholarship @ Claremont. It has been accepted for inclusion in Scripps Senior Theses by an authorized administrator of Scholarship @ Claremont. For more information, please contact scholarship@cuc.claremont.edu.
“WE DESERVE SUPPORT AND LIBERATION INSTEAD”:
ANALYZING NEW YORK CITY’S LEGAL RESPONSES TO SEX WORK 1994-2020

by

ELEANOR MAMMEN

SUBMITTED TO SCRIPPS COLLEGE IN PARTIAL FULFILLMENT
OF THE DEGREE OF BACHELOR OF ARTS

PROFESSOR JULIA LISS
PROFESSOR MARK GOLUB
PROFESSOR TODD HONMA

MAY 4, 2020
ACKNOWLEDGEMENTS

First off, I would like to thank all the incredible people I met during my short time at the Sex Workers Project at the Urban Justice Center. It was such an honor to learn from such passionate, intelligent, and creative people. You guided my thinking in invaluable ways and modeled how to work every day to create a world that we all feel safe and happy in.

Thank you to my readers, Julia Liss and Mark Golub, for their ongoing support and their continual challenging of my thinking. My thesis would surely not be what it is today without all of your kindness and feedback. Thank you to Todd Honma for your guidance in the fall in the American Studies Senior Seminar.

Most of all, thank you to my family, both in New York and in Claremont. Mom, Dad, and Mo: sometimes I feel overwhelmed by the amount of support and love you have shown me throughout my life. Thank you so much for giving me the opportunity to attend Scripps, and for modeling how to be curious, engaged, and thoughtful. To the little family I’ve made in Claremont, thank you so much for your constant care and warmth over the years.
# TABLE OF CONTENTS

INTRODUCTION 4

CHAPTER 1 14
“Dirty” and “Brazen”: Criminalization in the Quality-of-Life Policing of Sex Work

CHAPTER 2 29
“To Transform and Save Lives”: Victimization in New York’s Human Trafficking Intervention Courts

CHAPTER 3 59
The Stop Violence in the Sex Trades Act: Pursuing Liberation Through Decriminalization

CONCLUSION 81

WORKS CITED 86
“When prostitutes win, all women win.”
Black Women for Wages for Housework (1977)

INTRODUCTION

In June of 2019, I found myself in a van hurtling up I-87 North from Jackson Heights, Queens to the New York State Capitol in Albany. I sat with current and former sex workers, most of them transgender people who immigrated to the United States from Central and South America years ago. All around me, in the packed car, people chatted with their friends in Spanish, laughing loudly and singing along to the radio. The positive energy in the van was palpable, as people danced in their seats and put their arms around one another.

I was there as an intern at the Sex Workers Project at the Urban Justice Center in New York City. The Sex Workers Project (SWP) provides free legal and social services to people engaged in sex work, whether they do by choice, circumstance, or coercion. Staff attorneys help clients remain in stable housing, clear their criminal records, access safer working conditions, obtain legal immigration status, and fight police misconduct and hate crimes. Staff social workers provide long term supportive therapy and case management. SWP plays a unique role in the U.S., as it provides services to all people engaged in sex work. It therefore focuses on meeting people’s needs rather than interrogating how or why they got involved in the sex trades to begin with.

3 Ibid.
That morning, I was with SWP clients and other sex working activists from Make the Road New York, a community organization that works with immigrant and working-class communities in Jackson Heights. We arrived at the State Capitol to advocate for the repeal of a loitering law that allows police officers to arrest any person they believe to be intending to engage in prostitution.\footnote{Loitering for the purposes of engaging in a prostitution offense, Penal Law 240.37, 1976.} Between 2012 and 2015, 1,300 people were arrested in New York City under this law.\footnote{Melissa Gira Grant, “The NYPD Arrests Women For Who They Are and Where They Go – Now They’re Fighting Back,” \textit{The Village Voice}, November 22, 2016, accessed February 7, 2020, https://www.villagevoice.com/2016/11/22/the-nypd-arrests-women-for-who-they-are-and-where-they-go-now-theyre-fighting-back/.} In 2018, more than half of the arrests for this charge occurred in Queens, concentrated in the large immigrant communities of Jackson Heights, Elmhurst, and Jamaica.\footnote{Emma Whitford, “There’s No Such Thing As a Low-Level Arrest When You’re Undocumented,” \textit{Jezebel}, December 19, 2019, accessed May 1, 2020, https://theslot.jezebel.com/theres-no-such-thing-as-a-low-level-arrest-when-youre-u-1831205673.} None of the arrests occurred in Manhattan or Staten Island, the two boroughs with the highest percentage of white residents.\footnote{United States Census Bureau, “QuickFacts: New York city, New York,” July 1, 2018, accessed May 1, 2020, https://www.census.gov/quickfacts/fact/table/newyorkcitynewyork,bronxcountybbronxboroughnewyork,kingscountybrooklynboroughnewyork,newyorkcountymanhattanboroughnewyork,queenscountyqueensboroughnewyork,richmondcountystatenislandboroughnewyork/PST045218.} Local activists call the law the “walking while trans ban” because of how often transgender women are arrested for simply standing on the street, waving at someone in a car, or talking on their cell phones in public.\footnote{Andrea Ritchie, \textit{Invisible No More: Police Violence Against Black Women and Women of Color} (Boston, Massachusetts: Beacon Press, 2017), Chapter 7, eBook.}

TS Candii, an organizer with VOCAL-NY, a statewide grassroots organization that builds power among low-income people, shared her experience with the loitering law: “Just a few weeks ago, I was approached by an officer, who threatened to arrest me for the ‘loitering for
the purposes of prostitution’ charge if I didn’t give him oral sex. I did, because I had no choice. That is state-sanctioned sexual violence, but it happens every day to our trans communities.”

Candii’s words echoed throughout the chamber, reverberating down the halls as suit-clad politicians looked on. Candii showed how, under the guise of cracking down on sex work, state officials disproportionately exert the coercive power of criminal law onto marginalized communities throughout the city. After Candii spoke, other organizers shared their experiences of turning to sex work as a pragmatic survival tactic in the face of transphobic employment discrimination, racist police violence, and the uncertainty of being undocumented Latinx immigrants in the Trump era. In their eyes, the state, as embodied by police officers, judges, and prosecutors from the District Attorney’s Office, was one of many violent and paternalistic institutions impacting their ability to simply work and live with dignity.

This experience had a profound impact on me. Already disillusioned with the criminal legal system and the blight of mass incarceration, I was horrified to learn about the daily violence sex workers face and inspired by their resilient organizing under such conditions. This experience also informed the line of inquiry that led to this thesis. My project asks: How has the law transformed some of the most marginalized members of our communities into the supposedly deserving targets of severe criminalization, stigmatization, and social control? How does the state, particularly the criminal legal system, discursively construct sex workers as subjects, and how are these constructions essential to the formation and maintenance of the modern liberal state? What are sex workers currently organizing for in New York City and how should these movements inform our understanding of the role of law in achieving social change?

---

Developing an intentional vocabulary with which to discuss these issues was an important first step in my intellectual process. Throughout this thesis, I intentionally use the term “sex work” to further the political project, spearheaded by sex workers themselves, of asserting that selling sex is, in fact, work. The term was first coined in 1978 by sex worker and activist Carol Leigh.\textsuperscript{10} Although people often conflate sex work and prostitution, sex work is actually a far more all-encompassing concept. Most broadly, the term “sex worker” refers to people who sell or trade their own sexual services in exchange for a resource, often money, but sometimes other survival resources such as shelter, drugs, or hormones. These sexual services exist on a vast spectrum, including stripping, peep-shows, pornographic movies, phone-sex chatlines, BDSM work, as well as prostitution.\textsuperscript{11} This thesis focuses on street-based prostitution because these sex workers are the most visible, and therefore have the most regular contact with the community in general and law enforcement in particular.\textsuperscript{12} Because this sector of industry carries greater risk of arrest, people willing to engage in street-based sex work are as a whole more marginalized and economically vulnerable.\textsuperscript{13} As Kimberlé Crenshaw asserts in her theorization of intersectionality, academics and lawmakers must focus on people with intersecting marginalized identities in order to create laws that treat everyone fairly.\textsuperscript{14} Since the majority of street-based sex workers in New York City are poor cis and trans women of color,\textsuperscript{15} their intersecting identities carry powerful lessons for how we can build a society that serves everyone, not merely sex workers with the

\textsuperscript{10} Mac and Smith, \textit{Revolting Prostitutes}, 1.
\textsuperscript{11} Ibid, 59.
\textsuperscript{12} The Sex Workers Project at the Urban Justice Center, “Revolving Door: An Analysis of Street-Based Prostitution in New York,” (2003), 5.
\textsuperscript{13} Ibid.
\textsuperscript{15} The Sex Workers Project, “Revolving Door,” 6.
most privilege. Therefore, although street-based prostitution is only one facet of sex work, I use the term “sex work” throughout this thesis to refer specifically to street-based prostitution.

The aim of this thesis is to investigate how the law rhetorically constructs sex workers, and how the implementation of these laws impact sex workers in New York City. To answer these questions, it is necessary to develop a cohesive framework with which to articulate the role of law in society. The work of legal scholar and social justice activist Robert Cover provides a nuanced framework for understanding the relationship between the law, social justice, and violence. He also provides insight into the role that communities play in the everyday making of legal meaning. He argues that communities each inhabit a different nomos, that is, “normative universe” that dictates what each community considers just and lawful.16 Through “interpretive commitments,” individuals make legal meaning with other members of their community, thereby making laws “signs by which each of us communicates with others.”17 Cover asserts, “Law is a resource in signification that enables us to submit, rejoice, struggle, pervert, mock, disgrace, humiliate, or dignify.”18 What everyday people consider lawful and just confers social meaning onto certain actions and individuals, creating a web of significations that ultimately determines what a given community considers “right” and “wrong.”

Cover also asserts that the law always acts with either the implicit threat of or actual use of violence.19 He writes, “The jurisgenerative principle which legal meaning proliferates in all communities never exists in isolation from violence. Interpretation always takes place in the shadow of coercion.”20 Additionally, “the state’s claims over legal meaning are, at bottom, so

17 Ibid, 99.
18 Ibid, 100.
20 Cover, “Nomos and Narrative,” 138.
closely tied to the state’s imperfect monopoly over the domain of violence that the claim of a community to an autonomous meaning must be linked to the community’s willingness to live out its meaning in defiance.”

Cover outlines a political and legal system in which resilient and creative communities create their own legal meaning, even as the state uses the threat of or actual violence to enforce its definition of the law onto civilians.

One of Cover’s most meaningful contributions is the idea that legal meaning is not only created by the state, such as by the courts; it is also made collectively, socially, and culturally. Therefore, legal meaning is always contested, with the possibility of future transformation. Cover uses the term “jurisgenesis” to describe the collective creation of legal meaning. In turn, he points to the possibility that a collective change in legal meaning can ultimately lead to a radical transformation of society.

With this theoretical framework in mind, I argue that the state has used the law to simultaneously construct the sex worker as a victimized and criminalized “othered” subject. I use the phrase “the sex worker” intentionally in order to highlight how state rhetoric has cast sex workers as a monolithic community with unnuanced shared interests. This assertion in and of itself is not necessarily a groundbreaking statement. What this thesis contributes, however, is the argument that not only overtly carceral legal approaches are to blame. In fact, seemingly progressive legal strategies that purport to protect and support sex workers recreate the violence and paternalism of the carceral system in new, disguised forms. Both self-described conservative and liberal state responses to sex work from the 1990s to the present day inhabit the same hegemonic nomos: the shared legal narrative that sex workers must be controlled in order to reduce the blight of crime and violence in their communities. Throughout this thesis, I use the

---

21 Ibid, 153.
terms “criminal legal system” or “carceral system,” rather than “criminal justice system,” to refer to the U.S. system of laws. I do so in an effort to recognize that the legal system has historically failed to provide justice, particularly for communities of color, LGBTQ+ communities, and low-income communities. I argue that the decriminalization movement inhabits a different nomos, that condemns the state as a system of violence and imagines a new world in which the state does not turn to the criminal legal system for solutions to social issues.

Although the study of sex work is still a developing field, there is a sizable body of scholarship on sex work in various fields, primarily feminist studies, public health, sociology, economics, and legal studies. For the most part, this scholarship focuses on a single time period in one location, with the exception of some international legal comparisons. In this thesis, I will analyze the discursive and political effects of various legal responses to sex work in New York City. New York is the most populated city in the U.S.,\(^\text{22}\) the fourth most racially diverse,\(^\text{23}\) and is widely considered a national leader both in urban policing strategies and progressive legislation. For these reasons, New York City serves as an important case study for regional legal responses to sex work. Analyzing sex work law in one city from the 1990s to the present day provides a more nuanced understanding of the current political and legal landscape and offers important lessons for the future of sex work law. This past year, New York City has become home to a burgeoning decriminalization movement, which pushes for the complete decriminalization of all non-trafficked sex work. This thesis is thus a timely response to ongoing and pertinent political questions, seeking to connect academic and activist discourses.

---


This thesis embodies the American Studies approach to research, as it uses a highly interdisciplinary methodology to understand legal approaches to sex work in New York City. I analyze laws, feminist legal theory, social work texts, films, ethnographic interviews with sex workers, police records, and materials released by sex worker advocacy organizations in order to investigate the topic of sex work law from a variety of political and historical perspectives. Using an interdisciplinary approach fundamentally questions the notion that any single narrative can speak to the experiences of all sex workers. There are many different experiences of sex work, and I am not looking for the “authentic” one. Instead, I am seeking to assess which dominant legal narratives about sex work currently exist and how the decriminalization movement intervenes in these mainstream discussions. My research makes clear that official discourses consistently exclude the voices of sex workers; my intention has been to remain vigilant to this pattern and actively center the voices of people engaged in sex work in my own writing. In a discourse so reliant on state narratives and “experts” from the criminal legal system and the social sciences, this perspective helps reposition sex workers themselves as the experts on their own experiences. In turn, it helps craft an understanding of the law from the “bottom up”; that is, with the experiences, needs, and demands of those most directly impacted as the starting point.

My first chapter focuses on the overt criminalization of sex workers through quality-of-life policing. The ideology of quality-of-life policing claims that eradicating low-level crimes such as sex work will lead to a reduction in violent crime. This chapter offers a historical perspective; I analyze primary sources published in the 1980s and 90s by conservative criminologists and state officials who implemented the policy in New York City. I argue that quality-of-life policing constructs sex workers as dangerous criminals who must be removed from their communities in order to ensure the safety of others. Informed by this view, its
proponents advocate for increased policing and more carceral punishment, exerting violence onto sex workers in the process.

My second chapter turns to more recent liberal responses to this criminalization narrative, specifically the Human Trafficking Intervention Courts, a New York State court system for sex workers established in 2013. As the failures of quality-of-life policing have become increasingly evident, progressive state officials in New York have built on second wave feminist legal theory to define sex workers through a framework of victimhood. In this chapter, I analyze court documents, reports on the efficacy of the courts, interviews with sex workers, film, and secondary sources written by lawyers, social workers, and court officials. Although casting sex workers as victims may seem like a more benevolent approach than quality-of-life policing, these sources reveal that this framework ultimately replicates the harms of criminalization. Defining sex work as universally violent against women allows state officials to enforce greater social control over sex workers, while claiming that they are acting in their best interests. The Human Trafficking Intervention Courts therefore legitimize the carceral system as the proper response to sex work, proliferating the social control of policing and punishment into the lives of sex workers.

My third and final chapter focuses on the decriminalization movement in New York City, known as Decrim NY, and how it has intervened in both these mainstream legal narratives about sex work. This chapter explicitly focuses on the words of sex workers; I analyze materials released by Decrim NY, as well as public statements by sex workers and proponents of the recently proposed decriminalization bill. I also rely on prison abolitionist and Critical Race Theory texts to provide theoretical context for my discussions of race, narrative, and imagining new legal systems. I argue that Decrim NY defines the systemic violence against sex workers as
state-sanctioned and calls for an end to policing and carceral punishment. By doing so, Decrim NY rejects the simplistic and harmful dichotomy of criminalization versus victimization, instead pushing forward a prison abolitionist approach to sex work that prioritizes the personal experiences of sex workers.

With this thesis, I aim to push beyond two flawed understandings of sex work: broken windows, which treats sex workers as criminals who need to be punished, and second wave feminist theory, which treats sex workers as victims who need to be saved for their own good. Analyzing the strategies of Decrim NY in contrast with these two frameworks points to a third approach that better represents the needs of sex workers and strives for true legal justice. This thesis intentionally moves away from the rhetoric of anti-prostitution abolition to that of prison abolition. Whereas the abolition of prostitution demands increased state power and a proliferation of the carceral system, the prison abolition movement calls for an end to carceral punishment and a reimagining of the world as we know it. Decriminalization is a vital first step to destigmatize sex work, support sex workers in making their own decisions, and combat the law’s pernicious reach into the lives of communities already marginalized by the state. The decriminalization movement pushes us to imagine a better world in which every community member is free to support themselves and focus on more than just surviving. As they have for decades, sex workers themselves lead the way in highlighting how the decriminalization movement can move us beyond the strict bounds of the criminal legal system, and towards a truly inclusive, equitable, and livable society.
CHAPTER 1

“Dirty”\textsuperscript{24} and “Brazen”\textsuperscript{25}: Criminalization in the Quality-of-Life Policing of Sex Work

I. Introduction

Given that sex work is criminalized throughout practically the entire country, with the exception of eight counties in Nevada,\textsuperscript{26} any analysis of the relationship between sex work and the law inevitably seems to lead to a discussion of crime. The dominant definition of crime is the aberrant actions of individuals who accordingly deserve punishment in some form, often through carceral sanctions. This definition sits squarely within the framework of neoliberalism, which casts individual failures, rather than structural inequality, as the cause of crime. However, it is useful to question the instinct to focus on the “criminal” behavior of individuals and instead turn to the idea of social control through criminalization. How and why does the state define certain behaviors as criminal, and how do these definitions exert social control disparately onto various communities? Angela Davis urges the public to separate discussions of crime and punishment: “The point is that punishment is not a logical consequence of crime. Punishment does not always follow crime, and you might also argue that factors other than crime play a prominent role in dictating who gets punished and who does not… we can develop a more compelling analysis… if we disarticulate crime and punishment from one another.”\textsuperscript{27} Framing crime as a means of social control, rather than an individual fault, pushes discussions of sex work to grapple with the consequences of state intervention in the industry. In turn, this method pushes back against the

\textsuperscript{27} Angela Davis, \textit{The Meaning of Freedom and Other Difficult Dialogues} (San Francisco, California: City Lights Books, 2012), 68.
idea that crime is static or inherent and instead interrogates how criminal law functions in people’s everyday lives.

This chapter will focus on the “tough on crime” legal approach to sex work, which uses criminalization as its primary tool. This “law and order” absolutism in NYC is best illustrated by “quality-of-life” laws, established by former Mayor Rudolph Giuliani and former Police Commissioner William Bratton in 1994. Quality-of-life policing constructs sex work as a corrupting influence that invites further violent crime. In turn, it positions the state as the only viable source of protection from these dangers. By doing so, it naturalizes, legitimates, and institutionalizes the social control of sex workers through state policies and criminal law. In practice, this method of social control disproportionately impacts queer and trans communities of color in NYC.

II. The Foundations of Quality-of-Life Policing

Quality-of-life policing, also known as broken windows policing, is grounded in the assumption that cracking down on smaller instances of public disorder will lead to an overall decrease in crime. In the foundational text on this policing strategy, published in the March 1982 issue of The Atlantic, academics George L. Kelling and James Q. Wilson explained the rationale behind their concept of broken windows: “Social psychologists and police officers tend to agree that if a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken. This is as true in nice neighborhoods as in rundown ones.”

---

say that people who cause disorder in their communities are not inherently “violent people, nor, necessarily, criminals, but disreputable or obstreperous or unpredictable people: panhandlers, drunks, addicts, rowdy teenagers, prostitutes, loiterers, the mentally disturbed.” Kelling and Wilson emphasized the importance of individual police discretion in quality-of-life policing in order to effectively match the needs and preferences of each neighborhood. Perhaps surprisingly to contemporary readers, Kelling and Wilson were quite forthright about their support of the police’s use of extralegal actions: “Sometimes what [a police officer] did could be described as ‘enforcing the law,’ but just as often it involved taking informal or extralegal steps to help protect what the neighborhood had decided was the appropriate level of public order. Some of the things he did probably would not withstand a legal challenge.” With “Broken Windows,” Kelling and Wilson effectively declared that it was each police officer’s duty to root out “disreputable” people and eradicate them, or at least their visibility, from public life.

Despite Kelling’s and Wilson’s claims that quality-of-life policing is as necessary “in nice neighborhoods as in rundown ones,” in practice, this style of policing disproportionately affects low-income communities and communities of color. Quality-of-life policing essentially functions by widening the group of civilians that come into regular contact with the police. Broken windows’ focus on visibility targets poor sex workers and sex workers of color, who are more likely to be working on the street. Of course, law enforcement officers throughout the U.S. have a long history of disproportionately attributing crime to people historically marginalized by the state, particularly poor people of color. Under the pretext of maintaining order, police officers

---

31 Kelling and Wilson, “Broken Windows.”
32 Ibid.
33 Ibid.
34 Ibid.
enforce racial, class, gender, and sexual hierarchies.\textsuperscript{35} This trend is borne out by the data. A report on quality-of-life misdemeanor arrests released by the New York City Department of Investigation found that from 2010 to 2015, there were significantly higher rates of quality-of-life misdemeanor arrests in precincts with higher percentages of black and Hispanic residents, men ages 15 to 20, and public housing residents. This data could not be attributed to higher rates of felony crime in those precincts.\textsuperscript{36} The department concluded that police officers merely arrested people at higher rates in neighborhoods that fit these demographics. In 2015, 87\% of the New York City Police Department’s (NYPD) quality-of-life misdemeanor arrests were of people of color, although black and Latinx people make up only 25.5\% and 28.6\% of the city’s population, respectively.\textsuperscript{37} Through quality-of-life policing, police officers seek to solidify an imagined causal link between certain racialized bodies and criminalized activities, thereby disproportionately exerting social control on people of color. In turn, quality-of-life policing demonstrates law enforcement’s dependence on supposedly neutral social scientific research that in fact reproduces and further entrenches social hierarchies.

\section*{III. Quality-of-Life Policing of Sex Work in New York City: The 1990s to the Present Day}

From the 1990s to the present day, the NYPD has adopted the ideology of “Broken Windows” by seeking to reduce the corrupting influence of sex work through overt criminalization and increased policing. This process began in earnest under former Mayor

\footnotesize
\begin{itemize}
\end{itemize}
Rudolph Giuliani and former Police Commissioner William Bratton in 1994, and was forcefully continued by Giuliani’s predecessor, former Mayor Michael Bloomberg. Giuliani and Bratton heavily increased arrests for quality-of-life offenses, including street-based sex work, and implemented new zoning laws to reduce the visibility of adult-oriented businesses. Arrest statistics from the late 1990s highlight the profound effects of this shift in policing policy. From 1997 to 1998, prostitution arrests increased by 17%, and continued to increase by another 19% from 1998 to 1999. While numbers of actual prostitution arrests declined by 5% from 1999 to 2000 at the end of Giuliani’s term, arrests for loitering for the purposes of prostitution increased by 35%. Thus, although “other prostitution” arrests (promoting prostitution and patronizing a prostitute) decreased by 20%, there was still an overall increase of 4% in all prostitution-related arrests. This last statistic is particularly instructive: activities by others such as managing sex workers or paying for sex faced fewer arrests from 1999 to 2000, but sex workers themselves (or even people who the police assumed to be sex workers) faced considerably higher rates of arrest under the Giuliani administration. This data makes clear that the NYPD specifically targeted people engaged in sex work, under the assumption that sex workers themselves are harbingers of crime and vice.

Two reports released by the City of New York illustrate the NYPD’s concerted criminalization campaign against sex workers: “Police Strategy No. 5: Reclaiming the Public Spaces of New York” and “The New York City Police Department’s Enforcement of Quality-of-Life Crimes.” By reading these documents against the grain to assess how state rhetoric constructs sex workers as aberrant criminals rather than members of our communities, it

38 The Sex Workers Project at the Urban Justice Center, “Revolving Door,” 14.
39 Ibid.
40 Ibid.
41 Ibid.
becomes clear that the NYPD has used quality-of-life policing as a form of social control against people engaged in sex work.

Published on July 6, 1994 under the auspices of Giuliani and Bratton, “Police Strategy No. 5: Reclaiming the Public Spaces of New York” effectively declared NYC’s adoption of quality-of-life policing, establishing it as the first major urban center in the U.S. to do so.\textsuperscript{42} The very first page of the document asserted that sex workers present a considerable threat to the rest of decent society because they visibly embody criminal activity. The document thereby located crime within the bodies of sex workers, rather than in a particular moment of paid sexual activity. In this conception, the victims of sex work are not sex workers themselves, but rather their neighbors who are affronted by the visibility of sex work. The document declared: “Over the years, enjoyment and use of these public spaces has been curtailed. Aggressive panhandling, squeegee cleaners, street prostitution… and graffiti have added to the sense that the entire public environment is a threatening place. Mayor Rudolph W. Giuliani has called these types of behavior ‘visible signs of a city out of control, a city that can’t protect its space or children.’”\textsuperscript{43} Giuliani and Bratton asserted that the success of quality-of-life policing could be measured in three ways: “in increased use of New York City’s public spaces, in reduced levels of fear… and in a broadening sense, evident in a population become more confident, that decency and civility are on the rise.”\textsuperscript{44} This rhetoric of success implied that sex workers are not valued New Yorkers. Indeed, increased arrests of sex workers will surely lead to their decreased use of public spaces and increased levels of fear. Thus the “population”\textsuperscript{45} that Giuliani and Bratton referenced is non-

\textsuperscript{42} INCITE! Women of Color Against Violence, “Quality of Life Policing,” 18.
\textsuperscript{43} The Honorable Rudolph W. Giuliani Mayor of the City of New York and William J. Bratton Police Commissioner, “Police Strategy No. 5: Reclaiming the Public Spaces of New York,” (July 6, 1994), 4.
\textsuperscript{44} Ibid, 8.
\textsuperscript{45} Ibid.
sex working New Yorkers, thereby removing sex workers from the state’s conception of the collective community. By positioning the reduced visibility of sex work as a win for “decency and civility,” the two leading NYC crime officials implicitly declared that sex workers are inherently threatening.

In addition to the construction of sex workers as criminal threats to decent society, “Police Strategy No. 5” represented the net-widening of the carceral system in NYC. “Net-widening” refers to the phenomenon of new criminal policies affecting people who might not otherwise have been arrested or criminally charged, thereby entrapping more New Yorkers into the carceral web. Giuliani and Bratton announced new actions to address quality-of-life offenses, namely the increased use of forfeiture proceedings and the streamlining of law enforcement bureaucracies. Police officers were now able to act as customers to arrest street-based sex workers and confiscate the cars of those who tried to buy sex. Additionally, Precinct Commanders no longer had to wait for approval from their supervisors to enforce laws against patronizing a prostitute. These new actions increased the criminalization of both sex workers and their clients. Although the criminalization of sex work is nothing new, this document represented a notable shift from prior policing strategies, by granting individual police officers more access into civilians’ lives and heightened discretion over who to arrest.

While “Police Strategy No. 5” is a planning document, its 1995 successor, “Policy Review: The New York City Police Department’s Civil Enforcement of Quality-of-Life Crimes,” analyzed the effects of this new policing strategy. This policy review, once again written by

46 Giuliani and Bratton, “Police Strategy No. 5,” 8.
49 Ibid.
Bratton, framed sex workers and their clients as public nuisances who invite further crime into their communities:

Public complaints about low-level crimes are an early warning to the police that a neighborhood is under stress. Prostitutes strut brazenly on the sidewalks… and ‘johns’ cruise the neighborhood looking for a score. Each of these conditions contributes to a general sense of public disorder and promises more serious problems in the future. Furthermore, such conditions create an atmosphere that frightens decent people and emboldens criminals.  

Here, Bratton located the criminality of sex work in the actions of sex workers “brazenly” strutting down the street and “johns… looking for a score.” He did not focus on someone paying another person for sex; instead, he located criminality within the very visibility of supposedly degenerate people simply walking down the street. A year after “Police Strategy No. 5” was released, the aim of quality-of-life policing remained the same: to ensure “streets that not only are safer, but feel safer, too.” Once again, this rhetoric begs the question: feels safer to whom? Certainly not sex workers, who faced increased arrests at the hands of police with heightened individual discretion.

As these two documents illustrate, quality-of-life policing of sex work has two fundamental characteristics. First, this method of policing is grounded in the assumption that sex work is a corrupting influence that furthers the spread of criminal activity. Second, it constructs the state (as embodied by the police) as the source of protection for non-sex working civilians. The legal narrative put forth by quality-of-life policing defines the community as non-sex workers and frames coercive law enforcement interventions as justice.

IV. Quality-of-Life Policing of Sex Work in Practice: Loitering for the Purposes of Engaging in a Prostitution Offense

51 Ibid.
52 Ibid.
Quality-of-life policing is not a relic of the past; it has profound implications for current New Yorkers, particularly sex workers and people profiled as sex workers. The quality-of-life law with the furthest reach into the lives of sex workers in NYC is Penal Law 240.37, “Loitering for the purposes of engaging in a prostitution offense,” which entered the criminal code in 1976 and remains in effect to this day. Under this law, police officers may arrest anyone they consider to be engaging in sex work, regardless of whether they have specific evidence of their engagement in a criminalized activity. The law applies to:

Any person who remains or wanders about in a public place and repeatedly beckons to, or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passersby in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons, for the purpose of prostitution.

The text of the law is vague and far-reaching. Many key terms are not clearly defined, including what an “attempt” must consist of and what “the free passage of other persons” means. It clearly seeks to achieve the reclamation of public space for widespread use, as outlined in Bratton’s quality-of-life initiatives. It defines anyone who “remains… in a public place” as a potential sex worker, and therefore a potential criminal. In doing so, it criminalizes the mere occupation of space.

Of course, the law does not affect all civilians equally. Vagrancy laws have a long history of being used to limit the public visibility of supposedly deviant women, especially queer and black women. After black codes were deemed unconstitutional in the 1860s, vagrancy laws transitioned into a widely used tool for state officials searching for new mechanisms of social control.

---

54 Loitering for the purposes of engaging in a prostitution offense, Penal Law 240.37, 1976.
55 Ibid.
56 Ibid.
57 Ibid.
58 Ibid.
control that were less explicitly race-based. The heavy history of vagrancy laws urges a closer look into the function of Penal Law 240.37.

This loitering law illustrates the necessity of analyzing both what a law says and how it is implemented in practice. Although the law does not explicitly criminalize marginalized communities, its vagueness allows for police officers to disproportionately exert social control onto certain individuals. In the name of reducing the visibility of sex work, police officers leverage the loitering bill to discipline supposedly aberrant women of color and enact violence, both systemic and individual, against them. In practice, Penal Law 240.37 exerts its force primarily onto the bodies of queer and trans people of color.

The law provides police officers license to judge people purely based on how they look and whether they comply with officers’ understandings of decent civilians. Police officers often cite women’s clothing on arrest forms as evidence of their intent to engage in sex work. Police documents from 2015 to 2016 list “tight black leggings,” “mini dress, bra strap showing,” and “tight jeans and tight tank showing cleavage [sic]” as evidence. The loitering law therefore allows for the criminalization of wearing revealing clothing. As I discussed in the Introduction, local activists call the law the “walking while trans” law because of how often transgender women are arrested for “loitering for the purposes of prostitution,” when they are in fact not engaged in sex work at the time of their arrest.

Between 2012 and 2015, 1,300 people were arrested in NYC for loitering for the purposes of prostitution. According to arrest data compiled by the Legal Aid Society and the

60 Grant, “The NYPD Arrests Women For Who They Are and Where They Go.”
61 Ritchie, Invisible No More, Chapter 7.
62 Grant, “The NYPD Arrests Women For Who They Are and Where They Go.”
New York State Division of Criminal Justice Services, 68.5% of these arrests were made in Bushwick, Belmont/Fordham Heights, East New York, Hunts Point, and Brownsville, which are all neighborhoods where residents are predominantly people of color. 63 Eighty-five percent of those arrested were black or Latina, even though those groups together comprise only 54% of NYC’s population. 64

NYC’s loitering law functions as an effort to discipline queer and trans people of color for not adhering to heteronormative, patriarchal, and racist norms. Penal Law 240.37 has four key effects on queer and trans women of color residents: the proliferation of gender checks, the stigmatization of survival tactics, police sexual violence, and the inculcation of fear of being visibly queer and/or trans in public.

Make the Road New York released a report in October 2012 on police abuse of LGBTQ communities of color in Jackson Heights, Queens. Many of the community members they interviewed reported that at the moment of their arrest, police officers conducted intrusive and abusive gender checks. One respondent, Carolina, said: “Because I dress very masculine they started telling me to ‘shut up you fucking dyke.’ They started to feel my breasts and search in that area (they were male cops and they’re not supposed to do that). They then proceeded to put me against the wall and told me to spread my legs. They searched me between my legs like I was a criminal.” 65 Here, the police officers conducted an examination, presumably as part of their duties. As police officers conduct these examinations to determine a person’s gender, they force them into a coercive and violent process of judgement and normalization. The police used their

---

63 Grant, “The NYPD Arrests Women For Who They Are and Where They Go.”
64 Ritchie, Invisible No More, Chapter 7.
gaze and surveillance of Carolina’s body to punish her, causing her to feel like “a criminal.”

Her experience shows that police officers use the loitering law as a pretense for classifying and judging queer and trans bodies.

The loitering law also furthers the stigmatization of survival tactics used by queer and trans women to stay safe and healthy. Most notably, until 2015, condoms could be used as evidence of intending to engage in prostitution. Although many people of all backgrounds carry condoms in order to protect themselves from sexually transmitted diseases, trans women of color were by far the largest majority of people arrested for this reason.

Despite the widespread belief in legal objectivity, civil rights lawyer-activist Andrea Ritchie notes that there was no specific threshold of how many condoms could be considered credible evidence. She writes, “There is in fact no legal limit on the number of condoms anyone can carry, but the lived reality is that police officers, by exercising their discretion to confiscate and cite them as evidence of wrongdoing, enact and enforce an unwritten rule that place people’s health and safety at risk.”

NYPD officers regularly deem trans women carrying condoms as dangerous, while presuming that other people carrying condoms are harmless, allowing them to carry out their daily activities with relative ease.

NYPD officers also use the loitering law as an excuse to enact sexual violence against members of marginalized communities, particularly queer and trans black and Latina women. Lisa, a trans Latina woman, reported that one night, at 2 am, a man offered her a ride home in his car. When she eventually accepted, he forcefully kissed her and touched her breasts. “In that instant I told him I didn’t want anything to do with him and because I kept refusing to be touched

---

68 Ibid.
by him he told me he was an undercover cop, took his badge out of his pocket and told me I was under arrest. He told me that if I didn’t have sex with him that I would be arrested and accused of prostitution." Lisa’s experience of police sexual violence illustrates that the lack of specific evidence required to charge someone with violating Penal Law 240.37 allows for the mistreatment of communities already made vulnerable by the state. The vast discretion the law provides to police officers affords them almost extralegal status, providing officers opportunities to commit acts of violence against civilians.

Ritchie reminds us that Lisa’s experience is one of many. “In the past decade, a law enforcement official was caught in a case of sexual abuse or misconduct at least every five days.” She cites a 2015 investigative report by The Buffalo News cataloguing more than seven hundred cases of police sexual misconduct which found that “‘distinctions between on- and off-duty police crime are often difficult to make’ and that off-duty sexual offenses are often facilitated by the power of the badge or the presence of an official service weapon.”

New York’s loitering law illustrates that police officers do not only perpetrate systemic violence through their surveillance of civilians; they also commit acts of violence against individuals.

Police officers’ use of the loitering law to conduct gender checks and enact sexual violence against queer and trans people of color in NYC has led to a culture of fear about being visibly queer and trans in public spaces. Enrique, a gay Latino man, described how he and his partner were stopped by police after they publicly displayed affection toward each other at a subway station; his partner was then arrested. “Then my partner overheard the officer say ‘Faggot’ to the officers driving the van, which was followed by laughter… The only reason we

---

70 Ritchie, Invisible No More, Chapter 5.
71 Ibid.
can think of for Freddy’s arrest is the fact that we are gay and that we kissed in public. Today I am still scared to show any public display of affection for fear that we will get stopped and arrested by the NYPD.” Enrique’s testimony shows that the effects of the police officers’ actions extended well past the moment of his partner’s arrest. Officers’ use of the loitering law to police queer people creates a widespread culture of homophobia and fear. This effect renders the actual use of anti-queer police violence somewhat redundant, as potential victims of that violence internalize its possibility whenever they are in public. Enrique’s fear of showing any public display of affection to his partner after this incident highlights the ways that the loitering law facilitates the constant surveillance and disciplining of queer and trans communities of color in New York. Under the guise of improving the quality-of-life for all New Yorkers, the policing of sex work functions as a dangerous form of social control that particularly harms queer and trans communities of color.

V. Conclusion

Quality-of-life policing frames sex workers and their clients as criminals who the state must control to ensure the safety and wellbeing of their neighbors. By doing so, they exclude sex workers from their conception of who belongs in NYC and normalize the idea that the state must harshly punish people who commit criminalized acts. Quality-of-life policing’s association of crime with particular bodies and its focus on reducing the visibility of criminalized acts disproportionately harm communities already historically marginalized by the state, particularly queer and trans communities of color. Penal Law 240.37, “Loitering for the purposes of prostitution,” highlights the use of sex work law as a tool for surveilling and controlling queer and trans people of color. The testimonies of people harmed by these laws highlight the ways in

72 Make the Road New York, “Transgressive Policing,” 16.
which criminal laws limit, constrain, and harm. In turn, they urge us to look beyond criminalization for more equitable responses to sex work.
CHAPTER 2

“To Transform and Save Lives”\textsuperscript{73}: Victimization in New York’s Human Trafficking Intervention Courts

I. Introduction

When “Anna” was arrested for prostitution in 2014, prosecutors diverted her case to a court in the Bronx that was part of a new system in NYC known as the Human Trafficking Intervention Courts (HTICs). New York State established this new court system with the intent of providing resources and more flexible solutions to people arrested on prostitution-related charges. When she was hospitalized for mental health treatment, Anna failed to appear for her second court date; on her third arrest, the arraigning judge set her bail at $2,500, which she was unable to afford.\textsuperscript{74} Asserting that Anna was a potential flight risk and needed to be protected from her physically abusive intimate partner/trafficker, the judge then sentenced Anna to indefinite detainment at Rikers Island and separated her from her four-month-old child.\textsuperscript{75} This sentence prompted “an intense courtroom scene in which Anna banged her head against the floor, screamed out in agony, and had to be physically restrained by officers.”\textsuperscript{76} She was ultimately released after twelve days – longer than most prostitution jail sentences.\textsuperscript{77}

In 2017, “Ms. F” was arrested for prostitution and prosecutors also diverted her case to an HTIC. After Ms. F disclosed to the court that she had been trafficked into sex work by a former partner, the prosecutor stated: “I do not want to see Ms. F going back to her ex-boyfriend, whatever she thinks he is. In my eyes that’s the person that’s exploiting her and that’s just not a

\textsuperscript{75} Ibid, 1358.
\textsuperscript{76} Ibid, 1357.
\textsuperscript{77} Ibid, 1359.
good situation Judge. I am going to ask that she be… remanded [to jail].” 78 The judge concurred: “She certainly cannot go back to her ex-boyfriend who’s abusive so that is not an option.” 79 With that, the judge sentenced Ms. F to jail until the City could place her in a residential drug treatment program and ensure that she would not maintain contact with her ex-partner. 80

Why did a court system specifically established to address the complex needs of survivors of human trafficking incarcerate these two women? Understanding how and why Anna and Ms. F’s case outcomes occurred requires applying a critical lens to the formation and implementation of the HTICs. As misdemeanor courts, the HTICs occupy a unique role in the NYC criminal legal system. Social science and media analyses of the U.S. criminal legal system tend to address either the system’s “front end” (policing) or “back end” (prison or jail). 81 However, criminal courts hold great sway over both these ends, as they are tasked with deciding which people identified by police will end up in jail, prison, or on parole. 82 Even though the state positions courts as neutral arbiters of the law, court officials exert social control over civilians like the police do. 83

State officials portray the HTICs as more inclusive and less punitive than the overt criminalization of quality-of-life policing. However, applying a critical lens to purportedly well-intentioned, liberal legal reforms, such as the HTICs, produces a more nuanced understanding of how the state naturalizes the social control of sex workers and legitimizes the carceral system as the provider of social services. As Naomi Murakawa argues, well-intentioned liberals have

79 Ibid.
80 Ibid.
82 Ibid.
83 Ibid, 2.
historically been just as responsible for the proliferation of the carceral state as conservatives. In *The First Civil Right: How Liberals Built Prison America*, she outlines how Democrats responsible for Civil Rights legislation in the 1960s and 70s focused primarily on carceral solutions to anti-black discrimination. Ironically, Democrats built up the very carceral system that disproportionately harms black Americans. The legitimization of the carceral system as the source of social justice has limited society’s understanding of what is possible: “The combination of a meager welfare state but a capacious carceral state… led interest groups to rely on criminal justice for social change… Not necessarily a reflection of pro-punitive sentiments, reformers tend to build on or adapt existing institutional structures; destroying and building anew is costly, requires challenged entrenched interests, and poses coordination problems.”

Murakawa urges readers to analyze the ways in which liberal ideologies naturalize carceral solutions. Through an analysis of the liberal rhetoric that constructs the HTICs, as well as how the courts work in practice, this chapter argues that the HTICs cast sex workers as victims in order to extend the reach of the criminal legal system into their lives, increasingly surveilling and exerting social control onto them in the process.

HTIC officials assert that the courts represent a dramatic shift from the overt criminalization of quality-of-life policing. Indeed, the HTICs do not share the same legal narrative as this policing strategy: the quality-of-life ideology condemns sex workers as corrupting influences, whereas the HTICs locate criminality within the industry of sex work, which all sex workers are victims of. The HTICs owe this victimhood framework to anti-prostitution feminist legal theorists Catharine MacKinnon and Andrea Dworkin, who led a highly influential feminist campaign against sex work in the 1980s. In practice, this liberal rhetoric of victimization is

---

ultimately just as harmful to sex workers as quality-of-life policing. The HTICs entirely conflate sex work with human trafficking, ignoring the complex lived experiences of many sex workers who do not identify as trafficking victims. The HTICs’ framing of sex workers as helpless victims also fails to acknowledge that the root cause of sex work, whether chosen or coerced, is a need for resources. The HTICs therefore fall in line with twenty-first century neoliberal politics, emphasizing individual responsibility over structural systems of oppression, such as racism, classism, sexism, homophobia, and xenophobia.

While the HTICs assert that sex workers are victims of trafficking, they also use criminalization as their entry point into sex workers’ lives. By arresting people and mandating that they engage in social services with the threat of criminal sanctions if they do not comply, the HTICs continue to criminalize and control people in the sex trades. By relying on the criminal legal system to provide support for people they frame as trafficking victims, the HTICs naturalize and legitimize the carceral system as the proper solution to the issues raised by both human trafficking and sex work.

II. The HTICs’ Ideological Predecessor: Anti-Prostitution Feminist Legal Theory

Just as the contemporary policing of sex work in NYC stems from the ideology of broken windows, the framework of the HTICs can be traced back to a particular school of thought. The ideological predecessor of the HTICs is anti-prostitution feminist legal theory, articulated by Catharine MacKinnon and Andrea Dworkin in the 1980s. These second-wave feminists asserted that all sex work is inherently violent against all women. Although they powerfully critique the law for historically upholding the priorities of men at the expense of women, they ultimately still turn to the state as a potential source of protection against this violence.
According to MacKinnon and Dworkin, all sex work embodies the same misogyny and violence as rape and sexual harassment. MacKinnon asserts, “Women in prostitution are denied every imaginable civil right in every imaginable and unimaginable way, such that it makes sense to understand prostitution as consisting in the denial of women’s humanity, no matter how humanity is defined.” 85 Time and again, MacKinnon repeats her refrain that all prostitution – not merely trafficking – represents the pure evils of patriarchal violence. She writes, “In prostitution, women are tortured through repeated rape and in all the more conventionally recognized ways. Women are prostituted precisely in order to be degraded and subjected to cruel and brutal treatment without human limits.” 86 In this conception, the very purpose of sex work is for men to violate women.

While quality-of-life laws frame sex work as a corrupting influence that invites further crime into neighborhoods, Dworkin and MacKinnon assert that sex work encourages further violence against all women, regardless of whether or not they are engaged in sex work. Dworkin asserts, “The only analogy I can think of concerning prostitution is that it is more like gang rape than it is like anything else. Oh, you say, gang rape is completely different. An innocent woman is walking down the street and she is taken by surprise. Every woman is that same innocent woman. Every woman is taken by surprise.” 87 In Dworkin’s conception, the experiences of prostitution and gang rape are fundamentally one and the same. They are connected because they are not unique to any one individual; instead, they are representative of the oppression of all women.

---

86 Ibid.
87 Dworkin, “Prostitution and Male Supremacy,” 3.
In this logic, because of the sheer cruelty of prostitution, women engaged in sex work practically cease to be human. Dworkin warns: “In prostitution, no woman stays whole. It is impossible to use a human body in the way women’s bodies are used in prostitution and to have a whole human being at the end of it, or in the middle of it, or close to the beginning of it… No woman gets whole again later, after.”\(^88\) In Dworkin’s view, there is a clear difference between her rhetoric, which adopts the framework of victimhood, and the industry of sex work, which represents violent criminality. As victims, sex workers require protection. In this way, feminist legal theory differs from quality-of-life policing, which in no way casts sex workers as deserving of help from the state. Nevertheless, Dworkin’s and MacKinnon’s rhetoric defines the category of “woman” solely through the lens of sexual subordination. Dworkin depicts sex workers in particular as “damaged goods,” made inhuman by their profession. In her view, women engaged in sex work can never assert their own agency even within constrained circumstances.

Dworkin and MacKinnon turned to the state for enforceable protection against male violence, pushing for punitive legislation for people who discriminated against and committed violence against women.\(^89\) Their anti-prostitution campaign pushed for new legal definitions of crime related to obscenity, sexual harassment, and rape and advocated for better case processing by courts. Herein lies the tragic tension in their work. These two authors powerfully name how pervasive sexual violence was and continues to be in the U.S. and point out how the patriarchal status quo often renders this violence invisible. MacKinnon argues that the law has historically protected the interests of men at the expense of women. She writes, “The state is male in the feminist sense: the law sees and treats women the way men see and treat women. The liberal

\(^88\) Dworkin, “Prostitution and Male Supremacy,” 3.
state coercively and authoritatively constitutes the social order in the interest of men as a gender – through its legitimating norms, forms, relation to society, and substantives policies.”

Her analysis highlights how male power is not merely individual, it is also systemic and institutionalized through the law. The state promotes laws as neutral and objective, making it very difficult for women to fight back against injustice when the police or courts do not protect them from rape, sexual harassment, or other forms of gender-based violence. Although both writers testify to the massive scope of sexual violence, they also embrace state power as the proper solution. Just as quality-of-life laws position the state as a necessary protection against crime, so too does this branch of feminism seek to use the state’s legal resources to tackle the patriarchy. Their belief that all sex workers are victims and their emphasis on carceral punishment as justice for survivors of sexual violence are on full display in the HTICs. Although well-intentioned, HTIC officials replicate this tension by enforcing the coercive power of the state against sex workers, supposedly to redress their own victimization.

III. A Brief History of the Human Trafficking Intervention Courts

The HTICs were first established on September 25, 2013, in an announcement made by Jonathan Lippman, the former Chief Judge of the New York State Unified Court System. Judge Lippman declared that New York was spearheading a “trailblazing new program” to restructure how the State prosecutes prostitution-related charges. This initiative was the product of a collaboration between the New York State Unified Court System and the Center for Court Innovation (CCI), a public-private court-reform think tank. Judge Lippman announced that the Unified Court System would soon be introducing new courts throughout the state, designated as

91 Lippman, “New York’s Human Trafficking Intervention Initiative.”
Human Trafficking Intervention Courts (HTICs). The judges in these courts would work under the assumption that people arrested on prostitution charges are victims of human trafficking. An HTIC judge’s primary role would be to refer defendants to local social service providers where they would attend mandatory counseling sessions. In his announcement, Lippman positioned the HTICs as a radical break from the long, complicated history of policing and adjudicating prostitution:

By offering vital services instead of punishment to these defendants, the Human Trafficking Intervention Initiative will act to transform and save lives – and in turn, enable law enforcement to identify, investigate and punish the traffickers. Today we are taking a giant leap forward towards solving this vast and critical problem. We know that by working together we can forge better outcomes for victims, enhance the quality of life in our communities and keep New York at the forefront in the battle to eradicate human trafficking.

Judge Lippman’s framing of people arrested for prostitution as members of “our communities” in need of resources and services tailored to their individual circumstances represents a notable turn from the quality-of-life policing of sex work. Lippman claimed that rather than increasing the policing of people engaged in sex work, the HTICs would transform the relationship between the criminal legal system and sex workers by shifting judges’ focus from incarceration to the provision of social services. Significantly, Lippman used the phrase “quality of life” to assert the need for therapeutic services for people engaged in sex work. He thereby shifted the meaning of “quality of life” from an excuse for the constant policing of people engaged in street-based sex work to the need for social services dedicated to trafficking victims.

Judge Lippman’s announcement of the HTICs occurred within the context of the popular diversion courts movement that began with the first specialized criminal court, the Miami-Dade

---

93 Ibid.
94 Ibid.
95 Ibid.
Drug Court. The Miami-Dade Drug Court was established in 1989 to address the unique needs of defendants struggling with drug addiction. Fundamentally, diversion courts, also known as “problem-solving courts,” seek to remedy a particular social issue through active judicial involvement. Today, approximately twenty years after the Miami-Dade Drug Court was first established, there are over 2,300 drug treatment courts in the United States, and many jurisdictions have extended this model to create domestic violence courts, mental health courts, and veterans’ courts, among others. In an era of heightened awareness and criticism of mass incarceration, judges and other city officials have marketed diversion courts as a more ethical and effective approach to addressing crime and reducing recidivism. The current eleven HTICs are direct offspring of this recent development in U.S. courts.

Not all diversion courts are the same. In fact, these courts are characterized by the vast variety of protocols they follow and outcomes they seek to achieve. There are three major kinds of diversion courts: classical diversion programs, in which the defendant does not receive a criminal conviction; alternative to incarceration programs, in which the defendant still receives a conviction but does not experience incarceration; and specialized criminal courts, which offer alternative case processing to particular groups based on their status (such as veterans), the crime with which they were charged (such as domestic violence), or a “problem” they have that may have contributed to their crime (such as mental health issues). The HTICs are specialized criminal courts specifically focused on providing therapeutic services to people with prostitution

97 Ibid, 60.
98 Ibid.
charges. The HTICs’ status as specialized criminal courts is significant because even though defendants are presumed to be victims of trafficking, they are still arrested and charged as criminals prior to their charges possibly being dismissed in the future.\textsuperscript{101} As Anna and Ms. F’s experiences highlight, some HTIC defendants also experience incarceration. Notably, HTIC defendants are not traffickers, but instead sex workers who are presumed to be victims of trafficking.

The HTICs are also the offspring of former New York Courts specifically dedicated to prostitution cases. The HTICs’ most notable predecessor is the Midtown Community Court (MCC), which the New York Court system and CCI jointly established in 1993.\textsuperscript{102} The MCC model combined punishment, in the form of mandatory community service, with self-help, through social and educational services.\textsuperscript{103} MCC officials extolled the utility of these programs in encouraging women to exit the sex industry. However, the court’s primary goal was the same as quality-of-life policing: simply to reduce the visibility of sex work in Manhattan.\textsuperscript{104} A CCI official explicitly said so: “It’s impossible to know for certain how many prostitutes have been persuaded to quit the business altogether. But from the perspective of stakeholders in the Midtown community, it almost doesn’t matter. What does matter is that visible signs of prostitution in the neighborhood have been dramatically reduced.”\textsuperscript{105} As conversations about mass incarceration and gender-based violence have gained national traction since the 1990s, the HTICs arose from the backdrop of MCC and the greater diversion courts movement.

\textsuperscript{102} Gruber, Cohen, and Mogulescu, “Penal Welfare,” 1341.
\textsuperscript{103} The Global Health Justice Partnership of the Yale Law School and Yale School of Public Health in collaboration with The Sex Workers Project of the Urban Justice Center, “Un-Meetable Promises: Rhetoric and Reality in New York City’s Human Trafficking Intervention Courts,” (September 2018), 20.
\textsuperscript{104} Ibid, 26.
\textsuperscript{105} Gruber, Cohen, and Mogulescu, “Penal Welfare,” 1343.
IV. The Mainstream Representation of the Human Trafficking Intervention Courts

The dominant narrative of the formation and implementation of the HTICs casts the court system as a benevolent, if somewhat lacking, resource for an under-served population. An important example of this representation is a 2019 documentary about the Queens HTIC, *Blowin’ Up*. As the only documentary on the HTICs, replete with footage of and interviews with all the key actors in the courts – the judge, the prosecutor, defense attorneys, social workers, translators, and defendants – an analysis of *Blowin’ Up* offers unique insight into how the HTICs have been represented to a mainstream audience not necessarily familiar with sex work law in NYC.

In a moving scene, “Dee,” a former sex worker, recounts her experience in the Queens HTIC. Sitting on a park bench, Dee explains what a positive impact the court had on her life:

> Good things came out of it. Like, I met [my social worker]… Even before I got arrested I wanted to stop. But, like, I just never knew how, how do I just pick up and be done. Like, okay, what if I need something, I need money. But in a way, it might sound weird, but I’m glad I got arrested, ‘cuz it was easy for me to step back and pull back and be like okay this is not what you want. This is not what you need either.106

She explains that her involvement with the HTICs helped her to confront her chronic depression, reassess her lifestyle, and form more stable relationships.107 Susan Liu, a social worker at Restore NYC who provides therapy for HTIC defendants, echoes Dee’s point by describing the powerful bonds that she shares with her clients: “I see myself in them. Somehow, I feel like we are the same. I mean, I pray a lot, and I feel like my prayers, many of the requests I make to God, are the same requests that the women, you know, their wishes when they tell me in session… Somebody who will never abandon me. Somewhere safe. Stable housing.”108 Dee and Susan’s testimonies work together to cast the HTICs as a radical break from the criminal legal system’s

---

107 Ibid.
108 Ibid.
traditional approach to sex work. These two testimonies assert that the HTICs promote a process of self-growth and mutual empathy. *Blowin’ Up* thereby asserts that the HTICs protect defendants from traffickers and help them restart their lives, while also benefiting the people who work in them.

The film thereby embodies the neoliberal trend of emphasizing and pathologizing individual decision-making, at the expense of analyzing systemic forms of oppression. Scenes depict individual court actors’ daily struggles: Judge Toko Serita flies to Japan to visit her mother after her father’s death; Eliza Hook, a social worker with Girls Educational & Mentoring Services, cries on the subway with her girlfriend because they will soon move away from NYC. *Blowin’ Up* focuses on individual experiences, rather than fully grappling with the systems of oppression that lead to sex trafficking and sex work. The documentary misses the opportunity to question whether the criminal legal system is the proper institution to provide therapeutic resources to people engaged in sex work.

While honoring the lived experiences of participants such as Dee, this chapter seeks to intervene in the narrative set forth by *Blowin’ Up*. This glowing depiction obscures the ways in which the HTICs frame sex workers as victims in order to further criminalize them. Despite the ways in which New York’s HTIC system seeks to transform the criminal legal system’s relationship with people engaged in sex work, it simultaneously constructs sex workers as both victims and criminals. This combination of victimization and criminalization has grave consequences. By framing defendants as victims, as MacKinnon and Dworkin did, officials are compelled to make decisions on sex workers’ behalf, asserting that they are helping trafficking victims while often ignoring what sex workers actually need in order to survive.

V. **The Human Trafficking Intervention Courts’ Conflation of Human Trafficking and Sex Work**
Philosophically and rhetorically, the HTICs are the offspring of the anti-prostitution abolitionist legal approach to sex work. By self-identifying as “abolitionist,” this movement positions itself as the inheritor of the eighteenth and nineteenth century anti-slavery abolition movement. The abolitionist position, furthered by MacKinnon and Dworkin, is that all sex work is forced degradation, whether sex workers are aware of it or not. In this logic, because sex work, which abolitionists refer to as “prostitution” or “sex slavery,” is inherently violent against women, all customers must be criminalized, “victims” must be assisted in quitting sex work, and the sex industry must be abolished entirely. In this view, women who enter the sex industry, even if they believe they are consenting at the outset, simply do not grasp the extreme violence to which they will subsequently be subjected. Thus, “the difficulty they experience in getting out of it later arises not because they find advantages in prostitution but because they do not have the resources to free themselves and they need help to succeed.” This abolitionist view is in full force in the HTICs’ rhetorical conflation of sex work with human trafficking. Judge Lippman framed the HTICs as the system necessary to help people exit the sex trades and ultimately abolish sex work as a whole.

Judge Lippman’s announcement of the HTICs discursively constructed all sex workers as victims of trafficking. He asserted:

While there is still an antiquated view that prostitution is a chosen profession, many individuals who end up in New York Courts on prostitution charges are victims of trafficking, recruited into the commercial sex industry by force, fraud, or coercion. Whether U.S. citizens or foreign nationals, these defendants often come from poor, unstable homes and have a history of sexual and physical abuse.

---

110 Ibid, 197.
111 Ibid, 199.
113 Ibid.
Although he conceded that only “many,”[114] but not all, people arrested for prostitution are victims of trafficking, he conflated sex work and trafficking by claiming the idea that anyone would choose to engage in sex work is “antiquated.”[115] He depicted sex workers as poor, abused victims who require rescue by the courts.

To be certain, human trafficking is a very pressing issue, one that requires state resources to fight these horrific human rights violations. According to the International Labour Organization, as of 2016, an estimated 24.9 million people were in forced labor around the world. Of this 24.9 million, 16 million people were exploited in the private sector in industries such as domestic work, construction, and agriculture, 4.8 million were exploited in the sex industry, and 4 million were in forced labor imposed by state authorities.[116] Although these figures are harrowing, they are also more complicated than they first appear. Trafficking statistics are notoriously unreliable. In a 2006 study, the U.S. Government Accountability Office found that the estimates of the number of people trafficked, including into sex work, were highly questionable due to “methodological weaknesses, gaps in data, and numerical discrepancies. For example, the U.S.’s government’s estimate was developed by one person who did not document all his work.”[117] These statistical inaccuracies prevent politicians from creating fact-based policies that effectively address the real harms of trafficking.

This statistical ambiguity also allows abolitionist advocates to make sweeping generalizations about the sex industry as a whole. Scholars have carefully documented the concerted abolitionist campaign to infuse sex trafficking policy and legislation in the U.S. with

114 Lippman, “New York’s Human Trafficking Intervention Initiative.”
115 Ibid.
an ardent belief in the inherent harm of the sex trades. An investigation by Truthout, a non-profit news organization, found that major anti-trafficking NGOs regularly interchange the term “trafficking” with “sexual exploitation,” “prostitution,” “porn,” and other related terms. This rhetorical ambiguity allows these NGOs to increase their statistical figures for the number of trafficking victims in the U.S., while also forwarding anti-sex work agendas by rhetorically conflating trafficking and sex work. Abolitionist organizations have an incredible amount of money and resources at their disposal, thereby allowing them to make a real impact on federal anti-trafficking policy. In 2012, the collective budget of thirty-six large U.S.-based abolitionist organizations totaled $1.2 billion. In addition, the U.S. federal government budgets $1.2 to $1.5 billion annually for anti-trafficking efforts. Beginning under the administration of George W. Bush, the U.S. government adopted a policy denying funding to anti-trafficking organizations that are not explicitly committed to eradicating prostitution. Despite the abolitionist movement’s relative wealth and political power, the vast majority of its money is spent on media campaigns, rather than supporting survivors of trafficking. In 2014, the U.S. had only approximately 1,000 beds available for victims of trafficking. As anti-trafficking advocates circulated sensationalist stories about the perils of sex trafficking in the early 2000s, legal discourses on prostitution soon followed suit, conflating prostitution with trafficking and sex workers with trafficking victims.

118 Mac and Smith, Revolting Prostitutes, 58.
120 Mac and Smith, Revolting Prostitutes, 59.
121 Ibid.
123 Mac and Smith, Revolting Prostitutes, 59.
In line with this trend, Judge Lippman’s rhetoric repeatedly conflated sex work with helpless victimhood. He said:

We have come to recognize that the vast majority of children and adults charged with prostitution offenses are commercially exploited or at risk of exploitation. All too often, they are victims of intimate partner violence, unable to extricate themselves and needing protection from their abusers. They may be runaways, easy prey to traffickers, or be in the grip of an addiction that has led to their exploitation.125

In some ways, Judge Lippman’s statement demonstrated a nuanced understanding of the many factors that may influence a person’s entry into sex work. Traditionally, the criminal legal system has generally failed to acknowledge how factors such as intimate partner violence, homelessness, and addiction may influence a person’s likelihood to commit an act that is criminalized. Nevertheless, there is no statistical information that can unequivocally confirm Judge Lippman’s overall assertion that “the vast majority of children and adults charged with prostitution offenses are commercially exploited.”126 Judge Lippman conflated the experiences of children and adults in the sex trades. By definition, any person under 18 involved in the sex trades in New York State is legally considered a victim of trafficking.127 However, the story of adults engaged in the sex trades is much more complicated.

Judge Lippman’s claim is in direct contrast to how many HTIC defendants self-identify. Judge Toko Serita, who oversees the Queens HTIC, which sees the most cases of any HTIC, acknowledges that only a small minority of defendants self-identify as trafficking victims. Restore NYC, a social service provider affiliated with the HTICs, reported to Judge Serita that 7 out of 74 court-referred women identified as such, while Mount Sinai’s Sexual Assault and

---

125 Lippman, “New York’s Human Trafficking Intervention Initiative.”
126 Ibid.
Violence Intervention Program, also affiliated with the HTICs, reported that approximately 10% of their court-referred clients identified as trafficking victims.\textsuperscript{128}

The Sex Workers Project at the Urban Justice Center (SWP) released a fact sheet on the rhetorical relationship between sex trafficking and sex work. They assert: “In a recent study, only four of 21 immigrant sex workers interviewed said they had been trafficked against their will.”\textsuperscript{129} Informed by this data, SWP fights back against “rescue” missions of trafficking victims, which are merely “an emotional and ‘quick-fix’ attempt to deal with a complex problem.”\textsuperscript{130}

Sex workers themselves paint a much more nuanced picture of the relationship between trafficking and sex work. A report on the HTICs released by the Red Umbrella Project, an advocacy organization for current and former sex workers, asserts that framing all sex workers as victims of trafficking is reductive and ineffective: “The extent to which people chose to work in the sex industry is debatable, as is the idea that job choice more broadly exists under capitalism. Sex work is work. Like other forms of work, it is undesirable work for many.”\textsuperscript{131} Trafficking is a serious issue but treating all sex workers as victims is not the answer. Jenna Torres, a Red Umbrella Project community organizer, condemns the HTICs based on her own experience as a defendant: “I didn’t need to be treated for sex work… This isn’t an illness.”\textsuperscript{132} Torres’ statement makes clear that Judge Lippman’s framing of all sex workers as victims of trafficking is simply not accurate.

\textsuperscript{130} Ibid.
\textsuperscript{131} Red Umbrella Project, “Criminal, Victim, or Worker?” 24.
Of course, self-identification is not the only requisite for identifying a survivor of trauma. Kate Mogulescu founded the Legal Aid Society’s Exploitation Intervention Project, which provides legal representation for survivors of trafficking and sex workers in NYC. Mogulescu says the people she represents largely meet the legal criteria for trafficking, or have been trafficked in the past, but do not consider themselves trafficking victims. She says, “No one comes into criminal court or to my office or to meet with any members of my team and says, ‘I’m a victim of trafficking, thank goodness the NYPD arrested me, because I’ve just been looking for assistance, and I don’t know where to look.’ That’s not what happens.” Mogulescu illustrates that regardless of whether HTIC defendants identify as survivors of trafficking, arresting people for prostitution only furthers harm and exploitation.

VI. The Human Trafficking Intervention Courts in Practice: The Criminalization and Arrest of People Engaged in Sex Work

The HTICs are the product of judicial decree; no foundational documents outline their parameters other than Judge Lippman’s very general description of their intended outcome, which he identified as the complete eradication of the human trafficking “epidemic.” Based on this announcement, the New York courts could have changed little, only sending a few cases of clearly trafficked defendants to the HTICs, with the majority of prostitution defendants remaining in the traditional criminal court system. Conversely, based on Judge Lippman’s directive, every case involving prostitution, even those involving multiple charges, might go to the HTICs and eventually be dismissed. So far, the HTICs have fallen between these two

---

135 Ibid, 1333.
136 Ibid, 1356.
extremes, while having profound implications for the future of policing and adjudicating sex work, both in New York and throughout the country.

Although Judge Lippman framed all people who engage in sex work as victims of trafficking, in practice, the HTICs define these defendants as criminals in dire need of individual change. Stigmatization and criminalization are inherent to involvement in the criminal legal system, regardless of whether charges are dropped months later. The rhetoric used by Judge Lippman, the Center for Court Innovation, and Judge Serita all highlight the strange tension between the repudiation of criminalized behavior with what indeed appears to be a genuine desire to be of use to people engaged in sex work. Although the courts connect defendants to social services, they do so while accepting the fundamental premise that sex work should be criminalized.

By the time they arrive in court, all defendants have been arrested for allegedly committing a prostitution-related offense, or they have been arrested for another offense but have been identified as having a “history” of prostitution.137 They have also been offered, and accepted, “diversion” as an alternative to fighting the charge at trial, taking a plea with more traditional criminal sanctions, or challenging their arrest through the defense of having been trafficked.138 While New York law guarantees that having been trafficked is a defense to a prostitution charge,139 defendants ironically forgo the ability to use trafficking as a defense against their charges by entering the HTICs.140 The New York State legislature has given very little explanation for this paradox.141 Most often HTIC judges dismiss defendants’ charges and

---

138 Ibid.
139 Ibid, 65.
140 Ibid, 43.
141 Ibid, 39.
seal their cases after they complete their mandated services – usually five to six sessions. This process, known as “adjournment in contemplation of dismissal” (ACD), occurs six months after their trial so long as they are not re-arrested.\textsuperscript{142}

Of course, for low-income women with little educational training or alternative sources of income, re-arrest is likely. The racial disparities of individuals involved in the HTICs are staggering. For noncitizens engaged in sex work, this six-month period of open charges (ACD) is deeply concerning because it may trigger deportation mechanisms.\textsuperscript{143} This risk has increased since February 20, 2017, when the Department of Homeland Security issued a memorandum directing U.S. Immigration and Customs Enforcement (ICE) personnel to prioritize removing noncitizens who have been convicted of a criminal offense, have been charged with any criminal offense that has not been resolved, or who have committed acts which constitute a chargeable criminal offense.\textsuperscript{144} Between 2016 and 2017, the Immigrant Defense Project reported a 1200% increase in ICE arrests at New York State courthouses, including HTICs.\textsuperscript{145} Immigrant women are dramatically overrepresented in the HTIC system,\textsuperscript{146} which subjects them to arrest, criminal charges, and court-involvement in the name of helping victims of trafficking.

Although state actors have long depicted the carceral system as the objective maintenance of law and order necessary to promote public safety, policing and court-involvement are sites of re-traumatization for people engaged in sex work, particularly people of color. Experiencing arrest and court-involvement can also trigger loss of income, public benefits, custody, and housing, among other devastating effects.\textsuperscript{147} It bears repeating that the racial disparities of those

\textsuperscript{143} Ibid, 30.
\textsuperscript{144} Ibid.
\textsuperscript{145} Ibid.
\textsuperscript{146} Ibid, 42.
\textsuperscript{147} Red Umbrella Project, “Criminal, Victim, or Worker?” 14.
arrested for prostitution are striking. Between 2012 and 2015, 85% of those arrested for loitering for the purposes of prostitution were Black or Hispanic/Latinx. During this same period, 91.5% of people arrested in New York State for practicing massage without a license were Asian. Although they are staggering, these statistics do not fully capture the sheer violence of this racialized policing. Communities of color in NYC report experiencing high levels of police brutality while being arrested for sex work. One defendant interviewed by SWP reported: “I’ve had a police officer stick his finger in my pussy. I’ve had them lifting up my dress. I’ve had them [say] ‘oh you’re just a bird bitch, you ain’t nothing.’ ‘You’re the scum of the earth, why would you sell your body?’ Um, they never ask, ‘Hey, are you being trafficked?’ No! They automatically think, ‘Oh, this bitch really wants to sell her ass.’” Because arrest is the mechanism by which people enter the HTICs, the systemic violence and racism endemic to policing greatly impacts defendants’ experiences in the courts.

The court system itself is also a site of re-traumatization for people engaged in sex work. Because the HTICs are public, any interested individual is allowed to come watch the court proceedings. These courts become a spectacle, in which people engaged in sex work are the main attraction. A defense attorney who works in the Brooklyn HTIC says:

It’s a little bit of a circus. My clients come in; sometimes their pimps show up; and there are all these people observing. There are these detectives, and there are always program people… Even the court officers will come up and watch. It’s the prostitution part. It’s the sex part. People are drawn to this topic, and I think that they like watching it for whatever value it provides for them — entertainment or whatever. And I feel like my clients just accept a certain amount of mockery and public shame because it just comes with the turf.

---

149 Ibid, 45.
The “circus”-like atmosphere that this lawyer describes is exacerbated by the often more personal, informal nature of the interactions between HTIC judges and defendants. HTIC judges report that they strongly believe judges should act differently when presiding over an HTIC because the defendants are presumed to be victims. Because each judge has so much individual discretion, HTIC adjudication best practices vary widely depending on the court. Some judges merely ask the defendant whether they liked the program, dismiss the case, and say good luck, while others engage in an extended conversation with the defendant about their past criminal record, personal life, and future goals. Because each judge’s personality so heavily influences the court proceedings, the HTIC system threatens to give judges unchecked power, with which they dole out punishments that they believe are in the defendants’ best interests.

In his theorization of legal meaning, Robert Cover asserts that courts are by definition “jurispathic,” or law-destroying. A judge’s role is to “suppress law, to choose between two or more laws, to impose upon laws a hierarchy.” Judges are therefore “people of violence.” Despite their best intentions, HTIC judges still retain the authority to determine what the state considers legal and impose that definition onto sex workers with the threat of carceral violence if they do not comply. The threat of carceral violence that judges represent make them unsuited to provide social services to sex workers that will genuinely meet defendants where they are at and help them achieve self-defined success.

VII. The Ethical Concerns Raised by Mandated Social Services

---

152 Ibid, 1365.
154 Cover, “Nomos and Narrative,” 139.
155 Ibid.
156 Ibid, 155.
Defendants and their attorneys are very much aware of the power that judges hold. While it is clearly preferable – and, ideally, assumed – that judges treat defendants kindly and with respect, even judges who make an effort to seem approachable and caring mandate services with the implicit threat of further arrest and incarceration. One public defender describes an incident that highlights the blurred line between support and punishment within the HTICs:

A client of mine walked out of the courtroom after her court appearance extremely upset. The judge was concerned, called me up to the bench, and said, “Whatever it is your client needs – be it food, shelter, clothing – make sure she gets help.” When I met my client outside the courtroom, she explained to me that she was upset about the judge saying that if she didn’t complete services she would get 15 days jail.157

This public defender highlights how the two key features of the HTICs – trauma-informed services and carceral sanctions – are fundamentally at odds. Although this judge seemed to believe that they had the best interests of the defendant in mind, they did not recognize that the threat of incarceration was the most immediate and terrifying prospect for this defendant.

Although the criminal legal system and the field of social work use different tools, they both, at least theoretically, have similar goals: to rehabilitate individuals and thus better society. In turn, they are both highly contested social institutions. Beginning in the mid-1800s, the early social work responses to sex work in the U.S. were highly paternalistic, classist, and racist. Stephanie Wahab, a licensed social work and professor of critical and feminist studies, warns: “Social workers have contributed to and perpetuated the social control of women’s bodies by exclusively targeting women through reform and rescue efforts, and therefore contributing to the belief that women are at the heart of the ‘prostitution problem.’”158 Social work has a long history of controlling sex workers, supposedly for their own good. Social services are therefore

158 Stephanie Wahab, “For Their Own Good?: Sex work, social control and social workers, a historical perspective,” *The Journal of Sociology & Social Welfare* 29, no. 4 (December 2002), 44.
not a neutral response to sex work. In fact, social services identify the issue within each individual, with the belief that therapy can radically change defendants’ circumstances. Similar to the carceral system, social work’s focus on the individual furthers neoliberalism by pathologizing issues that have systemic roots.\textsuperscript{159}

Although social work has a controversial history and contemporary limitations, many defendants do appreciate the opportunity to access social services. Regardless, the story of the distraught defendant who walked out of the courtroom, referenced on the previous page, raises the question of whether it can ever be ethical to mandate social services, with the threat of arrest or incarceration if the defendant does not comply.

Social workers have contributed a vast body of literature on the ethical issues that arise when social services are mandated, rather than freely chosen. Crystal DeBoise, who has practiced social work with survivors of trafficking and sex workers for over three decades, asserts that mandating services is fundamentally at odds with the foundational principles of social work, particularly its focus on affirming clients’ individuality. She describes her work with the Sex Workers Project. At SWP, “Clients aren’t required to make agendas or timetables to change whatever behavior society or the social worker views as ‘unhealthy’ or ‘problematic.’ Services are not time-limited and there are no hard-and-fast rules about missing appointments.”\textsuperscript{160} She also asserts, “Pushing a client into action she isn’t ready for most often results in the total breakdown and loss of the relationship, which then entirely isolates the client from any potential benefits therapeutic work may offer.”\textsuperscript{161} Time limitations, a concerted effort to change the

\textsuperscript{161} Ibid, 230.
presumably “problematic”\textsuperscript{162} and “unhealthy”\textsuperscript{163} behavior of engaging in sex work, and pushing a client into seeing a therapist regardless of whether they want to are all intrinsically built into the structure of the HTICs. Thus, the HTICs are fundamentally at odds with widely accepted social work best practices.

The HTICs’ rejection of social work best practices while mandating that defendants access services is in line with a broader trend in mass incarceration: the rise of social services being confined to carceral institutions rather than imbedded within the communities they serve. Two key terms inform an understanding of this trend. First, formerly incarcerated activist and researcher James Kilgore provides the framework of “carceral humanism.” Carceral humanism describes the phenomenon of recasting jail authorities, including politicians, jail guard unions, and private prison operators, as caring social service providers.\textsuperscript{164} In this conception, the criminal justice system is the solution to all social issues, including mental health issues, and, in this case, traumas (real or imagined) associated with sex work. Second, in specific reference to the HTICs, Aya Gruber, Amy J. Cohen, and Kate Mogulescu offer the term “penal welfare” to describe the state’s “growing practice of using criminal courts to provide social services and benefits.”\textsuperscript{165} Many public defenders, social workers, and sex worker advocates assert that they already possess the knowledge and resources to refer sex workers to currently existing social services.\textsuperscript{166} Why, then, must sex workers and survivors of trafficking go through the traumatization of being arrested, criminally charged, and going to court in order to access therapy and other resources? As social services and the carceral state become more intimately intertwined, the possibility of

\textsuperscript{162} DeBoise, “Human Trafficking and Sex Work,” 229.
\textsuperscript{163} Ibid.
\textsuperscript{165} Gruber, Cohen, and Mogulescu, “Penal Welfare,” 1333.
\textsuperscript{166} Ibid, 1393.
non-carceral solutions seems to shrink further and further from view. “Funding and other resources become increasingly tied exclusively to the criminal program, such that the penal welfare system becomes all-encompassing, crowding out noncriminal avenues of change.” By mandating social services under the threat of further arrest, incarceration, and fines, the HTICs extend the reach of the carceral state into the lives of marginalized individuals. This heightened surveillance disproportionately affects individuals already made vulnerable by the state, particularly poor and undocumented women of color.

VIII. Revisiting Blowin’ Up: Interrogating the Mainstream Representation of the Human Trafficking Intervention Courts

Although the documentary Blowin’ Up predominantly depicts the Queens HTIC as a benevolent institution, applying a critical lens to the film allows for a more complex understanding of the many issues plaguing the courts. These issues include heightened judicial discretion and the ethical issues raised by mandated social services. The contradiction between the apparent message of the film and the evidence it supplies is indicative of a larger societal instinct to focus on neoliberal responses to sex work, rather than doing the difficult work of addressing systemic inequality. When watched with a critical eye, Blowin’ Up demonstrates the tension between individual defendants and the systemic violence of the court.

One scene depicts the tension between the judge’s friendly demeanor and the coercive nature of the court. Judge Serita expresses joy that a defendant, “Ja-nai,” was placed in the HTIC rather than a traditional criminal court. Below is a brief segment of a conversation between Judge Serita, Ja-nai, and Eliza Hook, a social worker with Girls Educational and Mentoring Services who provided mandated services to Ja-nai:

Judge Serita: Are you happy, too?
Ja-nai: No.

---

Judge Serita: You’re not happy to see me?
Ja-nai: I’m happy to see you but I’m just upset I’m getting in it [court].
Hook: I know, I know. I am, too.
Judge Serita: Yeah, well, we’re gonna work on that, okay? All right.

Hook hugs Ja-nai.
Judge Serita: Yeah, don’t hurt Ms. Hook’s feelings.

All laugh.
Judge Serita: All right, so how many sessions are we talking about, five?
Ja-nai: Five. I wanna do five, that’s it.
Judge Serita: You’re counting the number of sessions, huh?"168

Judge Serita’s light-hearted language and demeanor fail to acknowledge that Ja-nai does not want to be involved with the HTICs and wants to attend as few counseling sessions as possible. Judges’ convictions that they are always acting in the best interest of the defendants, bolstered by their presiding over a supposedly therapeutic court, may create a net-widening effect, by which the carceral system further encroaches into the lives of marginalized people.

Other scenes in the documentary exemplify the heightened surveillance women of color experience in the HTICs. In one scene, Judge Serita questions a seventeen-year-old defendant, “Ms. Moss,” about why she has yet to attend any of her mandated sessions. Ms. Moss responds that she has no time to go to counseling because she goes to high school full-time and works at McDonald’s after school until 11 pm four days a week.169 Judge Serita responds that Ms. Moss must go to one therapy session and then she will be released on adjournment in contemplation of dismissal (ACD), meaning that if she is not arrested within the next six months, her charges will be dropped and her case sealed.170 This scene shows that rather than providing any sustained therapeutic value to Ms. Moss, counseling sessions act as a nuisance that impede her ability to attend school and make up the money she can no longer earn from sex work.

168 Blowin’ Up.
169 Ibid.
170 Ibid.
In another scene, social worker Eliza Hook talks to her client, whom the film does not identify by name. After Judge Serita releases the client on ACD, she stands in the hallway, crying with happiness. Hook coaches her on how to avoid re-arrest in the next six months during her ACD period so she does not have to go back to court. Because this conversation highlights the financial strain that HTIC defendants often face, it is worth quoting at length:

Hook: What’s the likelihood that you are gonna stay out of the life? You can be honest with me, it’s me. There’s nothing that you can say to me that –
Defendant: I mean –
Hook: There’s no judgement, I just wanna make sure that you’re not gonna get re-arrested and how you’re gonna go –
Defendant: That’s definitely the plan to not get arrested.
Hook: Whatever your process, it is your process. I got no judgment about that.
Defendant: I honestly don’t know. But I’m gonna try. I’m sincerely gonna try this time.
Hook: Okay, so do you have regulars that you see?
Defendant: Mm-hmm.
Hook: That’s –
Defendant: More convenient than –
Hook: Well, that’s safer.
Defendant: Right.
Hook: You know what I mean?
Defendant: I financially need to do something.
Hook: Well, you’re taking steps to exit the life. You’re doing that. Right? Like, you have a plan. But it’s easy to get in and hard to get out, right? It’s really hard to get out.
Defendant: It’s really hard to get out.
Hook: Easiest thing to get into, hardest thing to get out of.
Defendant: ‘Cause it’s like there’s no money like that.
Hook: Right.171

The defendant emphasizes that she has internalized not the importance of ending her engagement in sex work, but rather the importance of not getting re-arrested, particularly by avoiding undercover police officers. Indeed, ending her engagement in sex work is simply not financially viable. Earlier in the film, she says that she first started doing sex work because her boyfriend was incarcerated and that was the best way for her to financially support herself. A pimp later

171 Blowin’ Up.
trafficked her, using coercion and force to trap her into continuing to do sex work.\textsuperscript{172} Despite this trauma associated with trafficking, she is still adamant that sex work provides her with vital financial resources. Now that she can no longer get arrested because of her involvement with the HTICs, she “financially need[s] to do something.”\textsuperscript{173}

The defendant’s financial concerns are echoed by another defendant in an interview with SWP. She says forcefully:

They are going about it all wrong. Counseling isn’t gonna do shit. Let’s be real. Yeah, it helps with the emotional part but if you want a prostitute to get off the streets and away from her pimp you gotta give her money. Or help her financially. Because right now that’s her only financial situation. That’s her only means of survival. If she feels like that is the only way she’s going to survive in this world, that’s all she is going to do.\textsuperscript{174}

This defendant’s statement highlights that what is at issue in the HTICs is not sex work: it is work itself. The HTICs offer their defendants many options that traditional criminal courts do not: therapy, access to educational resources, more personal and potentially more trusting relationships with their lawyers and judges, and the potential of having their cases dismissed and sealed. They therefore represent a notable and positive turn away from traditionally more carceral sanctions against sex workers. Connecting sex workers and survivors of trafficking to community resources is a worthy cause, and many defendants have expressed gratitude for the HTIC system. However, the courts fail to provide sex workers with financial resources that may help them exit the sex trades, and instead frame sex work as an individual choice.

\textbf{IX. Conclusion}

Interrogating the development and consequences of the HTICs brings up many important questions. Why do the most marginalized members of our communities have to be arrested in

\textsuperscript{172} Blowin’ Up.
\textsuperscript{173} Ibid.
order to access therapeutic resources? If these defendants are presumably survivors of trafficking, why are they arrested at all? Why are poor women of color, more than other populations, arrested and charged for doing what they need to in order to survive? By simultaneously casting sex workers as both victims and criminals, the courts sensationalize the experiences of individuals who make difficult choices and attempt to assert their agency within incredibly constrained circumstances. Ultimately, the Human Trafficking Intervention Courts avoid naming the systemic issues, such as racism, misogyny, xenophobia, transphobia, and capitalism, that bring defendants to their doors in the first place. In order to address these issues in the lives of sex workers and survivors of trafficking, we must first acknowledge that they exist. We must then turn to sex workers themselves to find out what they define as their own needs and how they feel impacted by the criminal legal system. By doing so, we can begin to look beyond carceral solutions to take up the daunting, yet incredibly important challenge of providing genuine, sustainable support for both sex workers and survivors of trafficking.

175 Red Umbrella Project, “Criminal, Victim, or Worker?” 4.
CHAPTER 3

The Stop Violence in the Sex Trades Act: Pursuing Liberation Through Decriminalization

I. Introduction

On June 10, 2019, New York State legislators introduced a bill to decriminalize the sex industry, known as the Stop Violence in the Sex Trades Act. Beside the legislators stood members of the Decrim NY coalition, formed on February 25, 2019 by current and former sex workers and advocacy organizations. As the most comprehensive sex work decriminalization bill ever introduced in the United States, the bill represents a radical shift in public and political conversations about how to address sex work through the law and reduce violence in New York communities. Speakers present at the press announcement of the bill declared its groundbreaking nature, while also cautioning that New York State still has much work to do before achieving genuine liberation for people engaged in sex work. Audacia Ray, Director of Community Organizing at the New York City Anti-Violence Project, Decrim NY Steering Committee member, and a former sex worker, said:

This effort has been decades in the making. We cannot emphasize enough for how long the LGBTQ+ community and people trading sex, especially trans women of color, have struggled to end violence in our communities… We have made gains at the state level with more progressive legislators who are listening to sex workers about what we need, but we still have many years ahead of us of hard conversations with our neighbors about what keeps our communities safe.

---

179 Decrim NY, “For Immediate Release: Decrim NY, legislators intro first statewide bill to decriminalize sex work.”
With such a statement, sex workers and their supporters in office powerfully position sex work as squarely within more widely accepted progressive issues, particularly equity and justice for trans people, women of color, and low-income working communities. Significantly, Ray does not entertain the question of whether or not engaging in sex work is morally acceptable. Instead, she asks: Given that members of our communities are engaged in sex work, how can we best achieve justice for all in a manner that is sensitive to the particular needs of people involved in the industry? How can we reinterpret and reconstruct the law to meet these demands?

II. Theorizing the Legal Narrative of the Decriminalization Movement

Quality-of-life policing and the Human Trafficking Intervention Courts share many common features. Despite their practical differences, these legal responses to sex work from across the political spectrum further a shared legal narrative: sex work is a corrupting influence in our communities that the law must actively work to curtail. A key premise of this shared legal narrative is the idea that the most pressing threat facing sex workers, and the communities they work in, is violent individuals, particularly clients, pimps, and traffickers. From this perspective, it is the criminal legal system’s responsibility, through both policing and criminal courts, to protect communities from these violent individuals through creative legal solutions. These different approaches therefore work together to reproduce themes of both criminalization and victimization in order to exert social control onto sex workers through legal mechanisms.

The decriminalization movement in New York completely rejects this shared legal narrative, as well as the neoliberal emphasis on individual solutions so evident in the HTICs. As Audacia Ray’s statement above demonstrates, the narrative of the decriminalization movement positions sex workers as vital members of our communities. Whereas recent shifts in policing and court strategies related to sex work position violent individuals as the main threat facing sex workers,
Decrim NY asserts that the main danger to sex workers is currently the violence of the state itself. Decrim NY’s rhetoric and approach echoes Robert Cover’s assertion that “the jurisgenerative principle by which legal meaning proliferates in all communities never exists in isolation from violence. Interpretation always takes place in the shadow of coercion.”  The decriminalization movement therefore rejects statist reforms and frames the law as an ongoing site of systemic violence, rather than a neutral source of protection or redemption. This difference is not merely rhetorical; it has significant consequences for the policies that the decriminalization movement favors and the vision of the state it holds.

### III. Articulating the Difference Between Full Decriminalization, the End Demand Model, and Legalization

In order to understand the counter-hegemonic legal narrative that the decriminalization movement embodies, it is necessary to highlight the intersections and differences between decriminalization and other seemingly progressive legal responses to sex work. Politicians often conflate the full decriminalization of sex work, the decriminalization of selling sex, and the legalization of sex work. However, these three legal models are drastically different approaches to the issue.

New York’s decriminalization bill, which has yet to pass, amends current New York State statutes so that consenting adults who trade sex, collaborate with sex working peers, or patronize adult sex workers are no longer criminalized. The bill therefore decriminalizes both the selling and buying of sex. The bill upholds all pre-existing laws related to human trafficking, rape (including statutory rape), assault, battery, and sexual harassment. The bill thereby

---

180 Cover, “Nomos and Narrative,” 138.
181 Decrim NY, “For Immediate Release: Decrim NY, legislators intro first statewide bill to decriminalize sex work.”
182 Ibid.
identifies violence as criminal, while decriminalizing all other features of the sex trades. The model of full decriminalization is widely endorsed by many international human rights organizations, including Amnesty International, the World Health Organization, UNAIDS, Human Rights Watch, Freedom Network USA, and the Global Alliance Against Traffic in Women.  

The proposed bill’s decriminalization of both the selling and buying of sex is incredibly significant, as it opposes the more commonly advocated “decriminalization” policy, known as the Nordic or End Demand Model. This model is currently practiced in Sweden, Norway, Ireland, Canada, France, and Iceland. The Nordic Model decriminalizes the selling of sex, while maintaining the criminalization of the purchase of sex, under the assumption that it will reduce the overall demand for sex work. Proponents of the Nordic Model, including Catharine MacKinnon, argue that the policy acknowledges women sex workers’ need to make money while protecting them from violent pimps and traffickers. Proponents of full decriminalization, however, denounce the Nordic Model, asserting that it simply seeks to make sex work too dangerous to continue participating in. Decrim NY explicitly condemns the End Demand Model. In a press release on their website, the coalition asserts: “People who trade sex to access resources are demanding decriminalization of workers, their clients, their peer safety strategies, and their housing options… End Demand, Nordic Model, ‘Equality Model,’ whatever new branding they give because today’s name has received too much criticism: Prohibition will never

---

184 Mac and Smith, Revolting Prostitutes, 140.
187 Mac and Smith, Revolting Prostitutes, 140.
be decriminalization.”\(^{189}\) Despite some overlaps in language, members of the decriminalization movement clearly view themselves as fundamentally opposed to the Nordic Model.

The Nordic Model’s criminalization of clients signifies the understandable instinct to penalize privileged male customers, rather than marginalized women sex workers. This approach represents a notable turn from the current status quo in the U.S. Even in the U.S., where police officers make concerted efforts to arrest customers, only 10% of overall prostitution arrests are of clients.\(^{190}\) Compared to the full criminalization model currently enforced in New York, the Nordic Model appears to be a win for sex workers. However, in practice, the Nordic Model and the New York decriminalization movement are fundamentally opposed.

In practice, the Nordic Model is dangerous for sex workers. Reduced demand results in fewer clients, which in turn means less bargaining power for sex workers. With fewer possible customers, sex workers often have to accept reduced pay, more violent customers, and client demands to have unprotected sex.\(^{191}\) A 2004 report on the efficacy of the Nordic Model by the Norwegian Ministry of Justice and Public Security found that “the Swedish street prostitutes experience a tougher time. They are more frequently exposed to dangerous clients, while the [non-dangerous] clients are afraid of being arrested… They have less time to assess the client as the deal takes place very hurriedly due to fear on the part of the client.”\(^{192}\) Indeed, a systematic review of 33 countries by the London School of Hygiene & Tropical Medicine found that sex workers are three times more likely to experience sexual and physical violence in countries where sex work is criminalized, including where the Nordic Model is practiced.\(^{193}\) Although sex

---


\(^{190}\) Mac and Smith, Revolting Prostitutes, 142.

\(^{191}\) Ibid, 143.

\(^{192}\) Ibid, 145.

workers themselves may be formally decriminalized under the Nordic Model, their safety strategies are criminalized, including living with other sex workers, screening clients, and working with managers (sometimes referred to as “pimps”) to save costs.\textsuperscript{194} Although on paper sex workers may not be the target of the Nordic Model, they ultimately end up as victims of the criminalization of their clients. Politicians can therefore use the language of “decriminalization” while advancing widely diverging policies.

People also often conflate full decriminalization with legalization. As in the case of the Nordic Model, there are complex and incredibly significant differences between full decriminalization and legalization. Juno Mac and Molly Smith, who are both sex workers, define legalization as: “A legal model that heavily regulates a legal strand of the sex industry while continuing to criminalise workers who can’t or won’t comply with various bureaucratic requirements, such as mandatory health testing, employment in certain venues, or registering publicly as a prostitute.”\textsuperscript{195} Many jurisdictions practice this model, including Germany, the Netherlands, and certain counties in Nevada.\textsuperscript{196} As Mac and Smith highlight, legalization and decriminalization embody contrasting legal narratives. Whereas decriminalization repeals existing laws pertaining to sex work with the exception of laws related to violence, trafficking, and labor, legalization creates new regulations that greatly restrict what sex workers can and cannot do. As Mac and Smith put it, “With legalisation, only some sex work, in only some contexts, is legal, whereas with decriminalisation, prostitution is, as a starting point, not a crime.”\textsuperscript{197}

\textsuperscript{194} Mac and Smith, \textit{Revolting Prostitutes}, 147.  
\textsuperscript{195} Ibid, 176.  
\textsuperscript{196} Ibid.  
\textsuperscript{197} Ibid.
Legalization therefore does not question the criminal legal apparatus and its focus on punishment and social exclusion.

The regulations sex workers must adhere to vary depending on their jurisdiction. However, in order to work legally, it is common for sex workers to have to formally register as prostitutes with the government, have no prior criminal record, pay rent for rooms in expensive brothels, and have citizenship or documented immigration status. In Turkey, all trans women are barred from working in state-run brothels. Legalization thereby makes certain bodies legal while continuing to criminalize others, predominantly undocumented women, women of color, and trans women.

As a more thorough explanation of the nuances between full decriminalization, the End Demand Model, and legalization illustrates, the Stop Violence in the Sex Trades Act embodies a unique legal narrative. Under the End Demand model, violence is situated in the client. Because of the stigmatizing nature of its regulations, under legalization, violence is located in the disease and immorality that sex workers can presumably bring into a community if they are not adequately regulated. Both models therefore reproduce the hegemonic narrative of sex work as deviant and reprehensible. Within the ideological framework of full decriminalization, however, violence is considered to be located primarily in the state. As quality-of-life policing and the Human Trafficking Intervention Courts demonstrate, the state, whether intentionally or not, surveils, controls, and commits systemic violence against sex workers. Perhaps most dangerous of all is the state’s tendency to characterize this violence as acting in sex workers’ best interests.

IV. Sex Workers Speak on Their Own Behalf

198 Mac and Smith, Revolting Prostitutes, 179.
199 Ibid.
Thus far, the key “expert” voices on sex work referenced have been primarily academics and state officials. Sex workers’ opinions on their own labor conditions and relationships with the law have been sorely lacking. This is representative of the mainstream public debate on sex work, including in NYC. Decrim NY’s first key contribution is its emphasis on spotlighting sex workers’ voices. They use sex workers’ personal narratives to counter hegemonic and monolithic discourses about sex work. As the previous chapters have highlighted, criminal policies related to sex work ironically have little to do with crime. Instead, they have much more to do with cultural understandings of sexual morality, the role of women in society, and the limits of economic justice. Discussions about sex work therefore tend to conflate what state officials consider to be morally questionable behavior with criminality that must be policed and punished. There is little discussion as to what the consequences of policies will be for individual sex workers in their daily lives. How do the intersections of race, gender, class, disability, and immigration status affect sex workers from moment to moment? Narrativization allows sex workers to honor the nuanced differences between each of their experiences, while ultimately piecing together a greater understanding of their industry’s relationship to the law. Personal storytelling therefore disrupts the neoliberal emphasis on individual responsibility, while also ensuring that sex workers speak on their own behalf.

By focusing on personal storytelling in this way, the decriminalization movement continues a powerful tradition most clearly articulated by the Critical Race Theory movement. The legal tradition of Critical Race Theory began in the 1970s, as legal scholars, lawyers, and activists grappled with the ways in which the civil rights advancements of the 1960s had stalled or been rolled back. The movement is engaged with analyzing and ultimately transforming the

---

relationship between race, racism, and power through creative understandings of how the law functions in culture. According to Critical Race theorists Richard Delgado and Jean Stefancic, “Unlike traditional civil rights discourse, which stresses incrementalism and step-by-step progress, critical race theory questions the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law.” As an ideological framework, Critical Race Theory powerfully asserts that the law is essential in maintaining white supremacy over time, which has important implications for the study of legal responses to sex work. Critical Race Theory asserts that all law, including sex work law, upholds hegemonic systems of domination.

A primary element of Critical Race Theory is “legal storytelling” or “counterstorytelling,” which is premised on the idea that people of color have unique understandings of racism that they can communicate to white people in order to highlight aspects of the systemic racism they face on a daily basis. Personal experiences of racism can therefore offer unique insight and act as calls for political change. Telling stories of one’s own experiences with racism has the power to reorient others to more nuanced narratives that take white supremacy and systemic injustice into account. In turn, counterstorytelling pushes back against liberalism’s reliance on calls for procedural reform and claims that the law is neutral.

The decriminalization movement in New York City uses the tactic of counterstorytelling by centering the voices of sex workers and providing them the opportunity to narrate their personal experiences with the criminal legal system to a wide audience. By doing so, Decrim NY disrupts

---

202 Ibid.
203 Ibid, 11.
204 Ibid, 49.
205 Ibid, 11.
hegemonic narratives that equate all sex work with trafficking and that critique the sex industry without calling attention to systemic and state-sanctioned violence. These trends are evident in a story told by Cecilia Gentili, a member of the Decrim NY Steering Committee, founder of Transgender Equity Consulting, and a former sex worker:

As somebody who has survived trafficking, the apartment where I was being trafficked was raided for drugs, and I was arrested. And because I knew that criminalization of sex work would add an extra charge to the drug charge, I did not disclose that I was being trafficked at that time. So I believe that decriminalization would help police officers and law enforcement to identify victims of trafficking.

Gentili’s narration of her own experience with law enforcement highlights how the criminalization of sex work actually harms survivors of trafficking. The threat of criminalization pushed her to not turn to law enforcement officials who may have been able to help her escape her trafficker. Her story runs counter to the narrative sustained by the HTICs, which frames the state as a source of protection for survivors of trafficking. Her story therefore shows the power of individual experiences that diverge from dominant generalizations about sex work policy.

The story of another former sex worker, Jared Trujillo, similarly highlights how personal narratives can reframe the issue of sex work and call hegemonic assumptions about the conditions of sex work into question. Trujillo began doing sex work during law school to pay his rent and to explore his queer identity. He is now the President of the Association of Legal Aid Attorneys, which provides public defense lawyers for low-income defendants. He describes the complex dynamics of choosing to participate in sex work as a young queer person:

A lot of LGBTQ youth do [sex work] for a mixture between survival – which is what was part of it for me as well – but it’s also really just to fight for liberation which was also a large part of why I did sex work. When you look at someone who’s queer or trans and their entire life they’re told that their queerness, that their transness, is something to be ashamed of, that it’s something that they can get bullied for, it’s something that they may

be kicked out of their homes for. It’s something that they may be subject to physical or even sexual harassment for, and that they can take that and they could take back that agency and they can actually profit from their sexuality – that’s in many ways really liberating for people.\textsuperscript{207}

The significance of Trujillo’s words cannot be overstated. In the face of hegemonic narratives of sex workers as either depraved criminals or powerless victims, he asserts that sex work can be profoundly empowering. His position as a successful lawyer also disrupts the idea that current and former sex workers are all poor and uneducated. Ironically, he claims that profit can be a form of liberation. At first, this statement may seem to fall into the hegemonic trap of normalizing capitalism, but Trujillo is actually doing something else altogether. Within a capitalist system that prioritizes profit above all else, Trujillo argues that marginalized queer communities can use sex work to disrupt the vicious cycles of poverty and stigmatization.

Trujillo’s and Gentili’s stories highlight the decriminalization movement’s use of personal narratives to assert a more nuanced and inclusive understanding of sex work. Although individual, these stories function very differently from the neoliberal focus on individualistic narratives present in the HTICs. Most importantly, these stories are told by sex workers themselves and they were not shared as part of the carceral system. Of course, not all sex workers have the same views on their work. In the HTICs, sex workers’ stories often focus on poverty and survival, whereas Trujillo’s narrative focuses on queer liberation. The differences between these narratives does not do a disservice to the Decrim NY project or create a need for one “authentic” story of sex work. There is no one authentic sex work experience. Instead, these different narratives highlight the complexities of sex work that cannot be adequately addressed through criminalization. By listening to the stories of sex workers, we may begin to envision new

\textsuperscript{207} “This Lawyer is Fighting to Decriminalize Sex Work in New York.”
legal possibilities and a future without the criminalization of our most marginalized community members.

V. Defining Violence as Systemic

The legal narrative of Decrim NY continues to push back against the neoliberal emphasis on individual responsibility by defining violence against sex workers as primarily systemic. Quality-of-life policing, anti-prostitution feminist legal theory, and the HTICs implicitly assert that the most significant threats facing sex workers are violent pimps, traffickers, and clients. These are surely dangers that sex workers grapple with. However, to focus on these issues alone ignores the systemic violence that sex workers routinely face during interactions with police, immigration, and court officers.208 Experiences of state-sanctioned violence disparately affect already marginalized communities, particularly people who are low-income, undocumented, LGBTQ, and/or people of color. Decrim NY’s key contribution to the political landscape of sex work is its powerful assertion is that the state itself is a major source of violence against sex workers.

Systemic transphobia, racism, and xenophobia viciously compound in the lives of the most marginalized sex workers. These overlapping systems of domination are evident in the story of Bianey Garcia, a former sex worker who is now the TGNCIQ [transgender, gender nonconforming, intersex, and queer] Justice Organizer at Make the Road New York.209 Garcia is also a member of the Basebuilding Work Group of Decrim NY. She recounts her entry into the sex trades:

208 Mac and Smith, Revolting Prostitutes, 173. For more on state-sanctioned violence against women and sex workers, see: Emily Thuma, All Our Trials (Urbana Chicago; Springfield: University of Illinois Press, 2019); Elizabeth Bernstein, Brokered Subjects: Sex, Trafficking, and the Politics of Freedom (Chicago: University of Chicago Press, 2019).

I was born in Mexico but came to the U.S. as a teenager to avoid persecution for being LGBTQ. At the time, I still identified as a gay person. I was working in a restaurant and sometimes sleeping on the streets, sometimes sleeping at my friend’s. I met a man who let me move in with him so I’d no longer be homeless. After a few months, he told me he needed me to sell sex and give him the money. He knew I didn’t have family here and he threatened to report me to the police or immigration authorities because he knew I didn’t have papers. After he beat me one night, I decided to start secretly saving money from my dates so I could escape. After I left him, I worked as a busboy. I met some members of the trans community who helped me transition on hormones. After transitioning, the restaurant where I was working fired me. I looked for another job three months straight, going door to door every day with my resume and cover letter, but couldn’t get a job, so I started doing sex work again, this time independently instead of being trafficked.\textsuperscript{210}

Garcia’s story highlights the complexities of sex work and the nuanced relationship between sex work and trafficking. She identifies as a survivor of trafficking, but also asserts that sex work allowed her to transition on hormones and get back on her feet when she faced transphobic discrimination in the formal economy. Her story demonstrates the nuanced overlaps between trafficking survivors and consensual sex workers that current policing strategies and the HTICs fail to acknowledge. On one level, Garcia’s experience is one of individual violence from her former trafficker. However, focusing purely on the trafficker’s violence ignores the many other systemic forms of violence Garcia experienced before, during, and after she did sex work. Growing up gay in a homophobic culture, experiencing homelessness, living in fear of deportation, and transphobic employment discrimination are also forms of violence that had a profound impact on her engagement in sex work. Focusing on criminalized activities at the individual level allows the state to correct supposedly immoral behavior and place blame on marginalized individuals, rather than interrogating systemic forms of domination in the U.S. Garcia’s analysis works against this trend by identifying how a confluence of oppressive systems rather than her own deviance, led her to sex work.

\textsuperscript{210} Luo, “Decriminalizing Survival,” 8.
Statistics from the National Transgender Discrimination Survey (NTDS) conducted from 2008 to 2009 provide national context for Garcia’s experience as a trans sex worker. The NTDS found that out of 6,400 trans respondents, 19.8% reported having participated in sex work.211 An additional 2.3% reported that they had traded sex for rent or a place to stay.212 Black and Black multiracial respondents had the highest rate of sex trade participation overall, at 39.9%, with Hispanic or Latino/a respondents following close behind at 33.2%.213 In contrast, only 6.3% of white respondents reported having participated in the sex trade.214 Gender presentation also played an important role: transfeminine respondents were two times more likely to engage in sex work than transmasculine respondents.215 These statistics highlight how systemic sexism, transphobia, and racism (particularly anti-Blackness) compound to create situations in which many trans women must do sex work in order to survive. A statement from the Audre Lorde Project in NYC, a community organization for LGBTQ+ people of color, succinctly explains this phenomenon: “Due to the lack of employment opportunities, many of us are forced to accept work that is criminalized by the government, stigmatized by society, and offers very little safety.”216 Garcia is one of many trans people across the country who have turned to sex work in the face of highly constrained circumstances.

The decriminalization movement responds directly to the systemic transphobia that many sex workers face. New York State Senator Jessica Ramos, Chair of the Committee on Labor and one

211 Erin Fitzgerald, Sarah Elspeth, and Darby Hickey, “Meaningful Work: Transgender Experiences in the Sex Trade” (December 2015), 4.
212 Ibid.
213 Ibid.
214 Ibid.
215 Ibid.
of the lead legislative sponsors of the Stop Violence in the Sex Trades Act, declared at a press release:

I am the proud State Senator for the largest transgender community in this country. I have seen sex workers on Roosevelt Avenue my entire life and I have seen how many of my neighbors denigrate them. The bottom line is: Sex work is work! The world’s oldest profession isn’t going away any time soon, and over-policing has only further marginalized our most vulnerable communities. Decriminalizing sex work will protect sex workers from exploitation, allow them to seek protection from trafficking, and will help victims of sex trafficking seek justice. This movement is about creating equity on every level: racial equity, gender equity, and economic equity.217

In her statement, Senator Ramos identifies both individual violence (denigration from neighbors) and systemic violence (racial, gender, and economic inequity) in the lives of sex workers. The decriminalization movement therefore frames its mission as the end to all violence, both individual and systemic.

Taking up this theme of systemic violence, Robert Cover asserts that, whether or not it is obvious, the law always acts with the implicit threat of violence towards those who do not follow it. He writes, “The state’s claims over legal meaning are, at bottom… closely tied to the state’s imperfect monopoly over the domain of violence.”218 Contemporary prison abolitionists echo Cover’s insight in their reminders that policing is merely the “armed protection of state interests.”219 Cover highlights the systemic nature of violence, and pushes back against the neoliberal instinct to locate violence within the individual endemic to sex work policy.

The law’s systemic violence against people engaged in sex work is most clearly evident in the system of policing sex work. As an analysis of quality-of-life policing highlights,

---


218 Cover, “Nomos and Narrative,” 153.

transphobia, homophobia, racism, sexism, and sexual violence are endemic to the very system of policing. It may not be groundbreaking to define policing as a form of social control but doing so nevertheless highlights that the carceral system exerts great power on everyday civilians, particularly sex workers. In a study of street-based sex workers in New York City conducted by the Sex Workers Project, researchers asked sex workers what they considered to be their most severe problems. Sex workers voiced not only violence at the hands of customers, but also excessive police contact, violence at the hands of police officers, and a lack of housing and intensive support services which could assist them in staying off the street.\textsuperscript{220} The rate of police violence against sex workers is staggering; 27\% of respondents reported having experienced violence at the hands of law enforcement.\textsuperscript{221} Police violence against sex workers cannot be attributed to a few “bad apples;” it is a systemic form of domination that furthers the stigmatization and criminalization of people engaged in sex work.

The criminal legal system not only enacts violence against sex workers; it has also historically failed to protect sex workers from civilian violence. New York Criminal Procedure Law Section 60.42(2) states that evidence of a victim’s sexual conduct cannot be used in criminal proceedings unless “it proves or tends to prove that the victim has been convicted of an offense under section 23.00 (Prostitution) of the penal law within three years prior to the sex offense which is the subject of the prosecution.”\textsuperscript{222} In practice, this means that any sex worker who comes forward with their own experience of sexual violence can have their criminal record as a sex worker used to discount their credibility in court. This law makes it almost impossible for sex workers to achieve any semblance of justice if they turn to the criminal legal system after

---

\textsuperscript{220} The Sex Workers Project at the Urban Justice Center, “Revolving Door,” 78.

\textsuperscript{221} Ibid, 36.

\textsuperscript{222} Ibid, 78.
experiencing sexual violence. This issue is part of the larger trend of incarcerating women who are survivors of interpersonal violence; more than half the women currently serving time in New York prisons are incarcerated for defending themselves or their children against their abusers.223

The criminal legal system simultaneously fails to protect sex workers from violence and enacts further violence against them. The recent deaths of two NYC-based sex workers demonstrate the urgent need to move beyond condemnations of individual violence and engage critically with systemic violence against sex workers. In the tradition of counterstorytelling, their stories highlight the state’s complicity in violence against sex workers.

On November 25, 2017, a 38 year-old woman named Yang Song fell four stories to her death in Flushing, Queens during a vice raid in which police officers were attempting to arrest her for allegedly engaging in sex work.224 Yang Song worked in a massage parlor to support her elderly husband and send money home to her family in China.225 She was one of many Asian migrant women who work in the $3 billion massage parlor industry in the U.S.226 Prior to her death, Yang Song told her family and a lawyer that a police officer had held a gun to her head and forced her to perform oral sex on him. She later filed a formal complaint with the 109th Precinct, but no further actions were taken.227 Song also went through the HTICs multiple times; her fifth

227 Barry and Singer, “The Case of Jane Doe Ponytail.”
and last mandated counseling session was four days away on the night that she died.\textsuperscript{228} Yang Song’s tragic death illustrates the horrific consequences of the criminalization of sex work. Red Canary, a grassroots organization for migrant Chinese massage parlor workers formed after her death, advocates for the full decriminalization of sex work. One organizer says, “These laws against human trafficking, which use criminal law and policing instead of labor rights and immigrant rights to remedy exploitation, only serve to create more violence… These laws… are literally killing us.”\textsuperscript{229} By emphasizing a human rights-based approach, rather than a punitive law enforcement model, the decriminalization movement connects Yang Song’s death to the law’s proliferation of systemic forms of violence.

The second death occurred on June 7, 2019, when a 27 year-old transgender woman named Layleen Polanco Xtravaganza was found dead in her solitary confinement cell at Rikers Island.\textsuperscript{230} Polanco Xtravaganza’s path to Rikers highlights the grim consequences of the criminalization of sex work. On April 13, 2019, she was arrested for allegedly biting a cab driver because of a fare dispute. Her bail was set to $500 and a few days later a judge ordered her release.\textsuperscript{231} However, she had a prior arrest from 2017, for a prostitution charge and a low-level drug charge.\textsuperscript{232} Layleen’s case had been taken on by the Manhattan HTIC. Because she had missed one of her mandated classes, her bail remained at $500, which she could not pay.\textsuperscript{233}

\textsuperscript{228} Barry and Singer, “The Case of Jane Doe Ponytail.”
\textsuperscript{232} Ibid.
\textsuperscript{233} Ibid.
April 2019, the New York State Legislature passed a bill to end cash bail for most misdemeanor and low-level offenses, such as Polanco Xtravaganza’s, but the law did not go into effect until January 2020. Despite well-intentioned criminal reforms such as the end of cash bail and the HTICs, Layleen was found dead 52 days after first entering Rikers.

Like the tragic story of Yang Song, Layleen Polanco Xtravaganza’s untimely death demonstrates the criminal legal system’s endemic violence against the most marginalized New Yorkers. Polanco Xtravaganza’s inability to pay cash bail ultimately led to her death, highlighting how the criminal legal system has particularly harsh consequences for the poor.

In the wake of her death, trans activists highlighted how her story is representative of the daily violence trans people face. The Legal Aid Society, which represented her, said: “Ms. Polanco’s passing is a tragic reminder of the heightened risk and physical and emotional torture that transgender people -- especially those from communities of color -- face in the criminal legal system, particularly while in custody.” Both Yang Song’s and Layleen Polanco Xtravaganza’s deaths highlight the devastating consequences of statist responses to sex work that further the reach of the legal system into marginalized individuals’ lives. The decriminalization movement rejects a legal narrative that casts the criminal legal system as benevolent or even neutral. Instead, Decrim NY asserts that the state’s social control of sex workers must be dismantled and replaced with new social institutions that respond to what sex workers themselves identify as their needs.

---


235 Conteh, “How Layleen Cubilette-Polanco’s Family, the House of Xtravaganza, and Activists Are Mourning and Organizing a Month After Her Death.”

236 Lennard, “How New York’s Criminal Justice System Killed a Transgender Woman at Rikers Island.”

VI. Next Steps: Imagining a Future Without the Criminalization of Marginalized Communities

As Decrim NY shows, the criminal legal system continues to fail sex workers. Their campaign goes further, not merely advocating for the dismantling of criminalization tactics, but also building new social institutions that genuinely support marginalized New Yorkers. In his discussion of *nomos*, Robert Cover articulates how the law can be a site for radical transformation. As smaller communities create their own legal meaning and commit themselves to living by their own *nomos*, social and political change occurs. Creating legal meaning involves the act of imagining: “Law may be viewed as a system of tension or a bridge linking a concept of a reality to an imagined alternative.”238 One key element of any radical *nomos* is the phenomenon of “alternity”: “the ‘other than the case,’ the counterfactual propositions, images, shapes of will and evasion with which we charge our mental being and by means of which we build the changing, largely fictive milieu for our somatic and our social existence.”239 Cover emphasizes that in order to create new legal meaning, we must all engage in the imagining of a better world. Cover comes to this conclusion by analyzing the rhetorical and legal tactics of the Civil Rights Movement. Decrim NY uses similar liberatory tactics by articulating a possible future in which no one is criminalized for trying to survive.

Fundamentally, Decrim NY mobilizes against procedural reforms that will only make the state carceral apparatus more efficient or more targeted to those “deserving” of punishment. As criminalization and the supposedly more benevolent HTICs show, no amount of legal tinkering can effectively redress the complex and overlapping issues that sex workers face. Any discussion of sex work is fundamentally a discussion of race, class, gender, borders, labor, and capitalism.

---

238 Cover, “Nomos and Narrative,” 101.
239 Ibid.
These are daunting topics with no clear-cut solutions. Nevertheless, when sex workers speak on their own behalf, it is clear that there is a pressing need to address root causes of inequity in many forms, rather than merely passing small-scale liberal reforms. Decriminalization is therefore not merely the end to criminalization. Although Decrim NY rejects the state’s criminalization of sex work and the law’s reach into people’s attempts to survive, decriminalization does not mean the removal of state intervention. Instead, it represents a turn away from carceral, retributive responses and toward the building of new social institutions.

By rejecting the social exclusion and state violence endemic to the carceral system and advocating for the building of a true safety net for all New Yorkers, the decriminalization movement takes up the tradition of the prison abolitionist movement. Angela Davis, one of the movement’s founders, says, “Our approach to abolition involves much more than the abolition of prisons. It also involves the creation of new institutions that will effectively speak to the social problems that lead people to prison.”240 Sex work decriminalization is a prison abolitionist project, as it works to end state violence against marginalized communities while simultaneously creating community-based methods of care and harm reduction.

Decrim NY explicitly identifies as an abolitionist organization dedicated to building new systems of mutual care. Their mission is to: “Destigmatize the sex trade so that sex workers have access to housing, education, employment, health care, and other basic needs without restriction.”241 Decrim NY works in partnership with No New Jails NYC, a grassroots organization advocating for no new jails to be built after Mayor Bill De Blasio shuts down Rikers Island by 2026. The movement pushes for a total of $11 billion to be taken from the NYPD budget, the current cost of keeping Rikers open and the projected budget for building four

---

new jails after Rikers’ closing. This money would go towards repairing public housing and shelters, expanding community-based and culturally-responsive mental health resources, funding harm reduction programs, expanding access to education, and ending criminal court fines, fees, surcharges, and bail. Together, No New Jails NYC and Decrim NY provide a vision for a future world in which sex workers are not policed and jailed “for their own good” and instead have access to state resources that are not tied to punishment.

Ultimately, the decriminalization movement’s most powerful call to action is for all New Yorkers to imagine a future in which no member of their community is criminalized for being poor, of color, trans, queer, or undocumented. This future will require the end to the criminalization of immigrants and LGBTQ+ people and universal access to healthcare, housing, employment, and education. These are big goals. Angela Davis says, “A necessary step in winning greater freedom and greater justice is to imagine the world as we want it to be.” Do we want to live in a world where trans women of color experience routine intimidation and violence from police officers? A world where people must be arrested in order to access therapy? A world where women like Layleen Polanco Xtravaganza and Yang Song die alone in a cage or from falling off a roof because they were trying to make enough money to survive in a capitalist economy? In the face of legal narratives that stigmatize, victimize, and criminalize sex workers, the decriminalization movement awakens our collective imagination to a world in which all members can live with safety and dignity.

---

243 Ibid, 3.
244 Davis, The Meaning of Freedom and Other Difficult Dialogues, 132.
CONCLUSION

As these case studies from the 1990s to the present day have shown, dominant legal responses to sex work in New York City exert social control onto sex workers in order to reinforce identity hierarchies and legitimize the capitalist status quo in the United States. The criminalization of sex work allows the police and the courts to surveil, control, and enact violence against the city’s most marginalized communities. Some criminalization tactics are explicitly based on the assumption that sex workers are dangerous and immoral criminals, as exemplified by quality-of-life policing. Since 2013, New York City’s Human Trafficking Intervention Courts have claimed to intervene in the vicious cycle of arrest and incarceration, but their assertion that all sex workers are victims replicates similar harms.

Perhaps the recent ideological and rhetorical shift from sex workers as criminals to sex workers as victims seems like a step in the right direction. After all, the Human Trafficking Intervention Courts give judges additional tools other than the ability to send sex workers to jail. Many sex workers have expressed gratitude for judges who connected them to therapeutic resources after their arrest. Nonetheless, liberal reliance on the carceral system to provide welfare to sex workers only further normalizes the idea that the criminal legal system is the sole provider of justice in the U.S. Quality-of-life policing and the Human Trafficking Intervention Courts share a reliance on the state which positions the law as the proper tool to redress violence and inequality. They therefore fail to recognize that the law’s systemic violence against sex workers is not an aberration. Instead, legal responses to sex work are doing exactly what they were designed to do: control sex workers and further their stigmatization.

Given the state’s historical and ongoing inability to mitigate sex workers’ marginalization and protect them from violence, decriminalization is the only legal response that prioritizes harm reduction, human rights, and sex workers’ lived experiences. Rather than furthering social control, decriminalization works from the assumption that the primary goal of any legal model should be to make sex workers safer. With this mission in mind, the Decrim NY coalition acknowledges the state’s complicity in violence against sex workers and centers their voices when crafting policy recommendations.

The decriminalization of sex work may seem impossible, by the very fact that it flies in the face of the current status quo. However, recent polling conducted by Data for Progress shows that an outright majority of voters in the U.S. support the decriminalization of sex work.246 Fifty-two percent of voters somewhat or strongly support decriminalization: 64% of Democrats, 55% of Independents, and 37% of Republicans.247 Support for decriminalization is not only concentrated in urban areas. Suburban Independents and suburban Democrats are strongly supportive of decriminalization, showing that there is a broad geographic coalition in support of the movement.248 To put these numbers into context, in a Kaiser Family Foundation poll conducted in November 2019, 53% of respondents said they strongly or somewhat favored Medicare for All.249 Medicare for All has become part of the mainstream political discussion in the U.S., as Senator Bernie Sanders made it his central platform during the 2020 Democratic Party presidential primaries. Former Democratic Presidential candidates Elizabeth Warren and

247 Ibid, 22.
248 Ibid, 23.
Corey Booker have both voiced an openness to considering decriminalization. Yet the decriminalization of sex work, which has a comparable amount of public support, is still relegated to the sidelines of supposedly serious political discussion. Clearly, we need to reconsider what we deem politically possible.

The positions of key progressive leaders on sex work are incredibly important for the success of the national decriminalization movement. Nevertheless, the voices of political “experts” should not be centered at the expense of sex workers themselves. More important than political polls is what sex workers have been saying for years: decriminalization is vital to ensure their safety and dignity. The first step in the right direction is to recognize the law’s power to surveil, control, and attribute value onto certain individuals and behaviors. Only by recognizing the law’s power and the state’s violence against sex workers can we begin to work towards the liberation of sex workers in New York City and beyond.

Now more than ever, the urgent need for destigmatizing and decriminalizing sex work is clear. As I write this conclusion, COVID-19 has transformed into a seemingly relentless pandemic that has far-reaching implications for every person in the world. COVID-19 has disproportionately impacted sex working communities. Sex workers now have to make impossible decisions between protecting their health by obeying state-at-home orders and continuing to conduct in-person work with their clients in order to earn a livable income. Because they are primarily self-employed, sex workers have a high rate of being uninsured, making it difficult to access medical services. In the midst of these concerns, government

---

252 Ibid.
responses have predictably ignored sex workers because they work outside of the formal economy. People without pay stubs or 1099s cannot qualify for unemployment insurance. If they lack recent tax returns, they are not eligible for Economic Impact Payments.\textsuperscript{253} The application for Small Business Administration federal aid for those affected by the coronavirus requires applicants to explicitly state that they do not engage in “live performances of a prurient sexual nature.”\textsuperscript{254} Once again, the state has actively excluded sex workers due to the stigmatization and criminalization of their profession.

As they have done throughout history, sex workers are responding to this crisis through collective organizing and creative community-based interventions. Sex worker organizations across the country have been looking beyond formal government aid by creating COVID-19 mutual aid programs to redistribute emergency funds to other sex workers.\textsuperscript{255} The coronavirus pandemic highlights once again that the current state does not have sex workers’ interests in mind. It also shows the creativity, resilience, and generosity of the sex worker community.

The coronavirus reinforces that decriminalization is an important first step, but it is too simplistic of a “solution” on its own. To assert otherwise would be to fall into a trap similar to framing the carceral system as the solution to sex work. This thesis has shown that there is no one solution to the plethora of challenges that sex workers face. Criminalization and victimization are too simplistic and do not work. Based on this premise, further research is needed, particularly studies with sex workers to assess what services and resources they need to either exit sex work, if they would like to, or engage in sex work in a healthy and safe way. More scholarship is also needed on organizing tactics that sex workers use to combat their

\textsuperscript{253} Herrera, “How Sex Workers Are Using Mutual Aid to Respond to the Coronavirus.”
\textsuperscript{254} Ibid.
\textsuperscript{255} Ibid.
oppression by the state. Mutual aid is just one of many strategies that sex workers employ, and social justice movements throughout the U.S. have much to gain from sex workers’ knowledge about creating social change. The advancement of sex workers’ rights will benefit all women, people of color, queer people, immigrants, people with disabilities, and low-income people. Once we have rejected rigid dichotomies that stigmatize, criminalize, and victimize sex workers, we can begin organizing for building up state support systems that will ultimately benefit us all.
Works Cited

Primary Sources


“Close Rikers Now, We Keep Us Safe: A New Yorker’s Guide to Building Community Care and Safety by Closing Rikers With No New Jails (Version 2.0).” No New Jails NYC. Accessed March 28, 2020,
https://drive.google.com/file/d/1NPW9cNv6AsbKYF_se4d8lHQ5cyHOvOx/view.


Loitering for the purposes of engaging in a prostitution offense, Penal Law 240.37, 1976.


Secondary Sources


