



University of Pennsylvania
ScholarlyCommons

CUREJ - College Undergraduate Research
Electronic Journal

College of Arts and Sciences

5-9-2022

Rescue or Divert: The Politics of Anti-Trafficking, Carceral Reform, and Sex Work

Anjali Mahajan
University of Pennsylvania, anjalimahajan2800@gmail.com

Follow this and additional works at: <https://repository.upenn.edu/curej>

 Part of the American Politics Commons, Civic and Community Engagement Commons, Community-Based Learning Commons, Community-Based Research Commons, Comparative Politics Commons, Criminology Commons, Criminology and Criminal Justice Commons, Gender and Sexuality Commons, Health Policy Commons, Inequality and Stratification Commons, Legal Theory Commons, Policy History, Theory, and Methods Commons, Politics and Social Change Commons, Public Health Commons, Public Policy Commons, Social Justice Commons, Social Policy Commons, Social Welfare Commons, and the Work, Economy and Organizations Commons

Recommended Citation

Mahajan, Anjali, "Rescue or Divert: The Politics of Anti-Trafficking, Carceral Reform, and Sex Work" 09 May 2022. *CUREJ: College Undergraduate Research Electronic Journal*, University of Pennsylvania, <https://repository.upenn.edu/curej/265>.

This paper is posted at ScholarlyCommons. <https://repository.upenn.edu/curej/265>
For more information, please contact repository@pobox.upenn.edu.

Rescue or Divert: The Politics of Anti-Trafficking, Carceral Reform, and Sex Work

Abstract

Calls for criminal justice reform in the United States have multiplied in recent years, yet advocates rarely discuss the role of punitive legislation surrounding the sex industry. Today's anti-trafficking movement is one notorious for conflating human trafficking with consensual sex work, and it has seen striking success in pushing forward a narrative around the need for rescue. Pennsylvania—with the harshest laws governing the purchase and sale of sex in the country—serves as a useful case study for understanding the relationship between the anti-trafficking movement and the movement for sex workers' rights. Through a comprehensive review of legislation and relevant literature, an analysis of the growth of the carceral state in relation to the anti-trafficking movement, and a series of fourteen qualitative interviews, this analysis seeks to understand the barriers to decriminalizing sex work in the state, as a proxy for understanding the barriers to sex workers' rights. Findings are presented in three major sections. First, numerous new pieces of Pennsylvania legislation related to the fear of human trafficking have neither improved conditions for sex workers nor protected victims of trafficking. Second, the anti-trafficking narrative and the push for carceral reform found common ground in problem-solving courts and police-assisted diversion programs, which have further harmed sex workers and victims of trafficking by grafting social services to the criminal legal system. Finally, sex workers' rights organizations have built abundant strategies to counter the power of the anti-trafficking movement; however, they must also contend with a dearth of accessible funding, an ever-shrinking social safety net, and differing priorities in their movement work. This analysis presents unique insights into the political and carceral contexts surrounding sex work. By delineating these barriers, this analysis works to support future sex workers' rights coalition-building in Pennsylvania.

Keywords

sex work, anti-trafficking, coalition building, harm reduction, criminal legal system, carceral state, decriminalization, carceral feminism, carceral protectionism, problem solving courts, police assisted diversion, labor rights, movement building, prosecutorial power, Political Science, Social Sciences, Marie Gottschalk, Gottschalk, Marie

Disciplines

American Politics | Civic and Community Engagement | Community-Based Learning | Community-Based Research | Comparative Politics | Criminology | Criminology and Criminal Justice | Gender and Sexuality | Health Policy | Inequality and Stratification | Legal Studies | Legal Theory | Policy History, Theory, and Methods | Politics and Social Change | Public Health | Public Policy | Social Justice | Social Policy | Social Welfare | Work, Economy and Organizations

Rescue or Divert: The Politics of Anti-Trafficking, Carceral Reform, and Sex Work

by Anjali Mahajan

Thesis Advisor: Professor Marie Gottschalk

Senior Honors Thesis in Political Science

University of Pennsylvania

Spring 2022

Table of Contents

Acknowledgments	4
Abstract	5
Introduction	6
Pennsylvania’s Punitiveness: The Need to Critique Anti-Trafficking Efforts	6
Question and Framing	11
Methodology and Theoretical Relevance	12
Structure of Analysis	15
Background on Decriminalization	17
Chapter 1	21
The Anti-Trafficking Movement: History, Contours, and Legislative Consequences	21
The Modern Anti-Trafficking Movement: Rescue Industry and Victim Ideology	22
A Century of Legislative Foundations: Origins of the Anti-Trafficking Movement	26
Federal Legislation and the Modern Anti-Trafficking Movement	28
The Federal Movement Takes Hold: Uniform Legislation Diffuses to Pennsylvania	30
Pennsylvania’s Punishment: Criminalization of the Sex Trade	32
Anti-Trafficking Legislation in Pennsylvania: Act 105, Safe Harbor, and Buyer Beware	34
Act 105: The Polaris Project, and the Brawn of Anti-Trafficking Lobbyists	34
Safe Harbor: Symbolic Legislation and Carceral Protectionism	37
Buyer Beware: The Anti-Trafficking Movement’s Most Punitive Turn	42
Table 1. 2021 Anti-Trafficking Bill Package	44
Chapter 2	46
The Rescue Industry and the Criminal Legal System: Project Dawn Court	46
The Harms of Diversion and Victimization: Why Sex Workers’ Rights Movements Care	47
“Diverting” Without Questioning: The Ongoing Harms of Criminalization	49
Project Dawn Court’s Creation: Individual Rescuers	51
How it Works: Surveillance, Punishments, and Other Mechanisms	53
The Slow Decline of Project Dawn: Prosecutorial Power in Shifting Away from Diversion	59
Chapter 3	63
Carceral Protectionism, Policing, and Post-Arrest Diversion	63
Developing the PAD: Criminal-Legal-Social Service Alliances and Inaccessibility	64
A Particular Kind of Victims’ Services Provider: The OVC and the Salvation Army	69
The Future of PAD: The Need for Broad Accountability	73

Chapter 4	75
Sex Workers' Movements: Coalition-Building, Allies, and Crisis Control	75
Growth of National Sex Workers' Rights Groups: The Movement's Origins	77
Organizing in Pennsylvania: The Major Players	81
Table 2. Sex Workers' Rights Groups in Pennsylvania	81
Coalition-Building with Other Allies: Labor Unions and Joint-Movement Building	83
Outmaneuvering National Censorship and Platform-Sharing Strategies	85
Support from "Powerful" Places, Gains for Sex Workers' Rights, and Reform	87
Crisis Control and Claims-Making Activities	91
Inter-community Conflict and "Differently Compacted Harm"	96
Conclusion	101
Beyond Rescue and Diversion: Toward Decriminalization	101
Takeaways: Criminalization Shifting Forms	101
Analytical Contributions	105
Table of Interviewees	109
Bibliography	110

Acknowledgments

I could not have completed this thesis without the support of many people.

First, I would like to express my deepest appreciation to my advisor, Professor Marie Gottschalk. I sincerely appreciate your unwavering support, thoughtful feedback, and commitment to pushing me to make this analysis stronger at every turn. Your work inspires me beyond words, and it has been a true honor to learn from and work with you over the past year.

I would also like to extend my deepest gratitude to the sex workers' rights organizers and community leaders who gave me their time and shared their wisdom. Your experiences informed the entirety of this paper, and your commitment to genuine social and political reform will continue to inspire me. I hope that this project does your ongoing work service.

I am extremely grateful to every friend and mentor who read this paper and its various drafts and provided me with incredible feedback and words of encouragement: Dr. Eileen Doherty-Sil, Tamara Wurman, Ria Chinchankar, Sonali Deliwala, Sophie Roling, Rohan Krishnan, Hadriana Lowenkron, Joey Ravenna, and many more who have listened to me speak about the project for the past nine months.

I am also indebted to many mentors (Dr. Stephen Bonett, Dr. Daniel Teixeira da Silva, and Dr. Sarah Wood, in particular) and co-workers (Kristi Petrillo, Cesar Centeno, Rachel Winter, and many more Prevention Point staff) in and outside of academia who taught me what harm reduction looks like in practice and how to integrate community-produced knowledge into any scholarly work. You inspire me to follow your footsteps, shifting the bounds of what the role of research in social change should be.

The completion of this paper would not have been possible without the support of Maryam Elhabashy, who provided me with invaluable feedback and support when I needed it most, or Srinidhi Ramakrishna, who worked—and laughed—along with me throughout the year.

Finally, to my family, thank you for helping me finish this paper. Through all the highs and lows, your consistent support and encouragement carried me to the end.

Abstract

Calls for criminal justice reform in the United States have multiplied in recent years, yet advocates rarely discuss the role of punitive legislation surrounding the sex industry. Today's anti-trafficking movement is one notorious for conflating human trafficking with consensual sex work, and it has seen striking success in pushing forward a narrative around the need for rescue. Pennsylvania—with the harshest laws governing the purchase and sale of sex in the country—serves as a useful case study for understanding the relationship between the anti-trafficking movement and the movement for sex workers' rights. Through a comprehensive review of legislation and relevant literature, an analysis of the growth of the carceral state in relation to the anti-trafficking movement, and a series of fourteen qualitative interviews, this analysis seeks to understand the barriers to decriminalizing sex work in the state, as a proxy for understanding the barriers to sex workers' rights. Findings are presented in three major sections. First, numerous new pieces of Pennsylvania legislation related to the fear of human trafficking have neither improved conditions for sex workers nor protected victims of trafficking. Second, the anti-trafficking narrative and the push for carceral reform found common ground in problem-solving courts and police-assisted diversion programs, which have further harmed sex workers and victims of trafficking by grafting social services to the criminal legal system. Finally, sex workers' rights organizations have built abundant strategies to counter the power of the anti-trafficking movement; however, they must also contend with a dearth of accessible funding, an ever-shrinking social safety net, and differing priorities in their movement work. This analysis presents unique insights into the political and carceral contexts surrounding sex work. By delineating these barriers, this analysis works to support future sex workers' rights coalition-building in Pennsylvania.

Introduction

Pennsylvania’s Punitiveness: The Need to Critique Anti-Trafficking Efforts

“A Montgomery County man forced a woman into sex work at a hotel near the Pennsylvania Turnpike, DA says. Authorities say Cornell Scott-Milbourne forced a woman into prostitution under threats of violence.”¹

“A former Delco child services caseworker got probation for coercing a client into sex work. Candace Talley pleaded guilty to promoting prostitution and human trafficking earlier this month.”²

“Lawsuits say 3 Philly hotels ignored sex slavery on their properties. The legal action was brought on behalf of two young women who were 15 and 16 when they were forced into prostitution.”³

“First of kind lawsuit accuses N.E. Philly hotel [the city’s ‘epicenter of human trafficking’] of accommodating sex trafficking.”⁴

“Leader of Philly prostitution ring gets 37 to 74 years in prison. Prosecutors said John C. Guerra, 41, preyed on drug-addicted teen runaways and women, who were coerced into prostitution at motels in Northeast.”⁵

These Pennsylvania headlines reference an ostensibly common—and increasingly frequent—occurrence of predatory men coercing vulnerable, young women into a life of sexual slavery. With lionizing descriptions of law enforcement officers saving girls from organized

¹ Vinny Vella, “A Montgomery County Man Forced A Woman Into Sex Work at a Hotel Near the Pennsylvania Turnpike, DA says,” *Philadelphia Inquirer*, May 24, 2021,

<https://www.inquirer.com/news/cornell-scott-milbourne-human-trafficking-plymouth-meeting-20210524.html>.

² Vinny Vella “A former Delco child services caseworker got probation for coercing a client into sex work,” *Philadelphia Inquirer*, March 22, 2021, <https://www.inquirer.com/news/candace-talley-delaware-county-children-youth-services-prostitution-20210322.html>.

³ Joseph A. Gambardello, “Lawsuits say 3 Philly hotels ignored sex slavery on their properties,” *Philadelphia Inquirer*, March 27, 2019, <https://www.inquirer.com/news/philadelphia/sex-trafficking-lawsuit-hotels-philadelphia-20190327.html>.

⁴ Joseph A. Slobodzian, “Fist of kind lawsuit accuses NE Philly Hotel of accommodating sex trafficking,” *Philadelphia Inquirer*, March 10, 2017,

<https://www.inquirer.com/philly/news/crime/First-of-kind-lawsuit-accuses-NE-Phila-hotel-of-accomodating-sex-trafficking.htm>.

⁵ Joseph A. Sloodzian, “Leader of Philly prostitution ring gets 37 to 74 years in prison,” *Philadelphia Inquirer*, May 4, 2017, <https://www.inquirer.com/philly/news/crime/Leader-of-Phila-prostitution-ring-sentenced-to-37-to-74-years-in-prison.html>.

lifetime criminals, and prosecutors pursuing symbolically long sentences with tough-on-crime language, the resulting public outrage against these “heinous” crimes seems easily justifiable.

The *Philadelphia Inquirer*, the largest news outlet in Pennsylvania, has almost exclusively published stories that hail the police-led rescue of victims of sexual slavery in all stories related to sex work, prostitution, or trafficking since 2013.⁶ Far fewer stories recognize the complexities of the consensual sex trade. Fewer still situate exploitation within the broader social, economic, and political contexts that shape it. These stories in Pennsylvania conflate the crime of sex trafficking with sex work, and they shore up public disdain for sex work as a driver of trafficking. Details about intricate trafficking stings and successful rescue endeavors reflect the larger implications of the fear of trafficking: a deep entanglement of law enforcement and the carceral state with social service systems.

In the past two decades, public fear around human trafficking in the sex industry has grown to dominate legal and social discussions around sex work and human trafficking across the country. The influence of what is known as the anti-trafficking movement must be analyzed and deeply critiqued both for the harm it levies toward sex workers and its failure to adequately support those who have experienced trafficking. According to the United States Department of Justice, sex trafficking is the use of force, fraud, or coercion to obtain a commercial sex act.⁷ Sex work, on the other hand, refers to the exchange of sexual services for money and resources between consenting adults. This term is not legally defined in the United States, but it is embedded in the histories of social movements for sex workers’ rights. “Prostitution” refers to the crime of selling sex at the legislative and criminal justice levels, and the criminalization of prostitution includes related behaviors of solicitation and loitering. However, “prostitute” is an

⁶ Andrew Mercier, “The top 25 newspapers based in Pennsylvania,” *MuckRack*, December 31, 2019, <https://muckrack.com/blog/2019/12/31/the-top-25-newspapers-based-in-pennsylvania>.

⁷ “Human Trafficking,” *The United States Department of Justice*, accessed January 20, 2022.

outdated and stigmatized term, and “sex worker” more completely encompasses a burgeoning movement for sex workers’ rights as workers’ rights.

The state of Pennsylvania represents the crystallization of the anti-trafficking movement’s multi-level influence. It is an important state to analyze because it has the harshest and most punitive laws governing prostitution in the country, for both buyers and sellers of sex.⁸ With increased sentencing for each conviction, Pennsylvania is one of only three states that incarcerates sex workers for up to five years for multiple offenses. A greater number of states hand out sentences of less than ninety days, and the vast majority of states in the country limit prostitution-related incarceration to one year.⁹ Moreover, the state is one of only six to increase the penalties for prostitution to felony charges if the arrested person is found to be HIV positive.¹⁰

Pennsylvania is one of forty-nine other states to classify prostitution charges as misdemeanors. Nonetheless, the state is an outlier by virtue of its draconian misdemeanor sentences, which become increasingly punitive with each subsequent charge for prostitution.¹¹ People engaged in sex work are regularly incarcerated for prostitution over their lifetimes—sex workers engaged with Pennsylvania harm reduction services have been incarcerated nine times

⁸ “US Federal and State Prostitution Laws and Related Punishments,” *ProCon*, Last updated May 4, 2018, <https://prostitution.procon.org/us-federal-and-state-prostitution-laws-and-related-punishments/>. Florida and Idaho are the only other two states to incarcerate sex workers for five years. Other states including Montana and New Jersey have lowered penalties for sex workers, but penalties for sex buyers have remained (or become more) punitive. These two states incarcerate sex buyers for up to five years, but sex workers for less.

⁹ “US Federal and State Prostitution.”

¹⁰ “HIV Criminalization Laws Map,” Temple University Center for Public Health Law Research, <https://phlr.org/product/hiv-criminalization-laws-map>, accessed February 6, 2022.

¹¹ “Misdemeanor Sentencing Trends,” National Conference of State Legislatures’ Criminal Justice Program and Pew Charitable Trust Public Safety Performance Project, *NCSL*, January 29, 2019, <https://www.ncsl.org/research/civil-and-criminal-justice/misdemeanor-sentencing-trends.aspx>. The average misdemeanor sentence ranges from six month to two years. Pennsylvania is among the most punitive states that prosecutes misdemeanors with incarceration up to five years. Sentences increase with each arrest, up to the fourth or higher (i.e., the first charge is not as heavily punished as the second).

on average, and arrested even more.¹² Broad-scale arrest data for people who have worked in the sex industry is widely unknown. However, community-based organizations have determined that the average street-based sex worker will almost certainly be incarcerated at least four times and face significantly longer prison sentences in Pennsylvania as compared to other states.¹³

Between 1,800 and 2,000 people are arrested annually in Pennsylvania specifically for the crime of prostitution; the state is sixth in the country in prostitution arrests per 10,000 people and fifth in total prostitution arrests.¹⁴ Experts predict this number is far greater when it includes those arrested for any prostitution-related activity or other crimes associated with criminalized sex work including theft, loitering, or criminalized drug use.¹⁵ Moreover, there is no total estimate for the number of people currently incarcerated for prostitution or related charges at the state, county, or municipal levels. An unpublished report from the American Civil Liberties Union (ACLU) of Pennsylvania underscored that arrest and incarceration experiences for sex workers vary, and prostitution and legally-defined “related” charges do not encompass the depth of criminalization and arrest sex workers face.¹⁶

Even further, all revisions to the legislation surrounding prostitution in Pennsylvania have been exclusively related to the increasingly salient fear of human trafficking, not the exceptional

¹² Raani Begum and Sultana Bibi, “Destigmatize, Decriminalize, Decarcerate: On Sex Work and Harm Reduction,” (webinar, Project SAFE and Philadelphia Red Umbrella Alliance, Zoom, September 21, 2022).

¹³ Begum and Bibi, “Destigmatize, Decriminalize, Decarcerate.”

¹⁴ “US and State Prostitution Arrests,” ProCon, May 5, 2018,

<https://prostitution.procon.org/us-and-state-prostitution-arrests/>. This number is averaged based on available arrest statistics over the past decade as reported by the Pennsylvania Department of Corrections, the Pittsburgh DA’s Office, and the Philadelphia DA’s Office. ProCon also shows that only California and Texas surpass Pennsylvania in relation to both total numbers or arrests and arrests per 10,000.

¹⁵ Elise White, Rachel Swaner, Emily Genetta, Suvi Hynynen Lambson, Janell Johnson Dash, Isaac Sederbaum, and Ariel Wolf, “Navigating Force and Choice: Experiences in the New York City Sex Trade and the Criminal Justice System’s Response,” Center for Court Innovation, December 2017,

<https://www.courtinnovation.org/publications/NYC-sex-trade>. Only a quarter of study participants had been arrested for prostitution. They were most often arrested for other things such as drugs, shoplifting, jumping a subway turnstile, and trespassing.

¹⁶ Naiymah Sanchez (Trans Rights Organizer, American Civil Liberties Union), interview with author, online, February 2022.

punitiveness of these policies. A unique byproduct of the anti-trafficking movement's lobbying power, ratcheted-up sentences for the buyers of sex and apparent human traffickers characterize Pennsylvania's state-sanctioned approach to sex work. Moreover, a renewed commitment to diversion programs—programs using law enforcement to encourage “exit” from the sex industry—has dominated discussion of reform. Despite a striking swath of sex workers' rights actors calling for the opposite, the state has implemented a series of laws further criminalizing the sex trade and continued to support problem-solving courts and police-assisted diversion programs.

Movements for sex workers' rights and leading criminal legal reform groups including the ACLU advocate for the complete decriminalization of, or removal of all criminal penalties from, the sex trade. Sex workers' movements bring forward not only public policy solutions, but also broader calls to ameliorate a broken social safety net, to remove morality and deservingness as requirements for social mobility, and to include the most marginalized in the decision-making sphere. These groups assert that a personal-responsibility, moralized stance on prostitution as work is irrelevant; jailing sex workers for their work and removing their rights to health care, food, clothing, and shelter are indefensible.

Partial criminalization—criminalizing buyers, but not sellers of sex—is designed to “end demand” for sex work. This model has gained popularity with the anti-trafficking movement. However, sex workers assert that with any form of criminalization, they bear the brunt of carceral abuse, are left subject to violence from police and buyers alike, and remain excluded from an already shredded social safety net.¹⁷ The decriminalization approach, on the other hand, recognizes that “systemic factors, such as poverty, the dearth of affordable housing and

¹⁷ Chi Adanna Mgbako, “The Mainstreaming of Sex Workers' Rights as Human Rights,” *Harvard Journal of Law and Gender* 43, no. 92 (2020): 93-136, https://ir.lawnet.fordham.edu/faculty_scholarship/1092.

living-wage jobs, and global inequality” shape workers’ choices to engage in sex work. In a “world that is overwhelmingly capitalist and patriarchal,” sex work is often “a better choice than other forms of exploitative, low-wage labor” and provides “autonomy and flexibility.”¹⁸ More broadly, the model of complete decriminalization upholds that the reasons for choosing to engage in sex work are of little importance compared to the need for social and legal protections for those who are involved in the industry. While not the be-all-end-all goal for realizing sex workers’ rights, decriminalization is a necessary step to ending the harm currently levied under Pennsylvania’s carceral model. For this reason, decriminalization of sex work is used as a proxy for progress toward sex workers’ rights at the state level.

Question and Framing

Despite a grassroots base calling for the decriminalization of sex work as a strategy of harm reduction and health and social justice, many powerful individuals in Pennsylvania’s criminal legal system have a “core sense that sex work is a problem that needs to be ‘diverted,’” reflecting the narrative pushed forward by the anti-trafficking movement.¹⁹ What role, then, does the anti-trafficking movement play in relation to sex workers’ rights? How does its extension of the carceral state, couched in rescue-oriented language, impact sex workers’ fight for decriminalization? How do sex workers’ movements resist? More simply, what are the politics of decriminalizing sex work in the state of Pennsylvania?

There has not been a comprehensive academic analysis connecting the lobbying power of the anti-trafficking movement with the growth of prostitution diversion programs (PDPs) in

¹⁸ Katie Hail-Jares, Corey S. Shdaimah, and Chrysanthi S. Leon, “Introduction,” in *Challenging Perspectives on Street-Based Sex Work* (Philadelphia, PA: Temple University Press, 2017), p. 9.

¹⁹ Raani Begum and Sultana Bibi (co-organizers, Project SAFE and Philadelphia Red Umbrella Alliance), interview with author, online, March 2022.

Pennsylvania. There has been no previous analysis of sex workers' rights movements in Pennsylvania, nor has there been critique of the complex context within which sex workers' rights movements work. This paper will uniquely underscore the political context built by the anti-trafficking movement and so-called reforms to the criminal legal system in the form of diversion programs, and the ways in which movements for sex workers' rights respond to this context. It will show that the anti-trafficking movement—while supposedly supporting victims of exploitation—has instead further harmed sex workers and victims of trafficking alike by extending the role of the carceral state in its wake.

Methodology and Theoretical Relevance

To answer these questions, this paper draws upon a comprehensive review of existing legislation and literature surrounding the broader anti-trafficking movement; data collection on Philadelphia's problem-solving court for prostitution and police-assisted diversion programming to highlight the broader impact diversion programs have on sex workers; and a series of qualitative interviews with key stakeholders and specifically grassroots organizers for sex workers' rights. Fourteen interviews were conducted with key stakeholders between January and March of 2022. A full list of people interviewed can be found in the Appendix 1. Interview guides were designed to gather the perspectives of multiple stakeholders to capture data based on participant role. The broad categories of interviewees were sex workers' rights organizer, anti-trafficking activist, legislative official or policy maker, and diversion program frontline staff or administrator. Interview analysis employed rapid qualitative analysis.²⁰ This method is used to

²⁰ Mark S. Bauer et. al. "An introduction to implementation science for the non-specialist," *BMC Psychology* 3, no. 1:32, September 16, 2015, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4573926/>; This method was developed in relation to the field of implementation science aiming to promote the systematic uptake of evidence-based practices into health and social services.

broaden the understanding of key mechanisms, salient descriptors, and facilitators and barriers of programs, interventions, or policies, and it is important for including stakeholder viewpoints to ensure research relevance.²¹

The findings from this research show that political barriers to sex workers' rights present themselves along three primary theoretical perspectives in the field of criminal legal politics: *carceral feminism*, *carceral protectionism*, and critiques of *therapeutic jurisprudence*. These theories are explained briefly here and will be more completely developed in the body of the analysis.

Carceral feminism is the development of punitive penal policy under the guise of women's rights. The term was coined in 2007 by sociologist Elizabeth Bernstein, who is known for her academic work on the sociology of the body, sex, and gender. In relation to the modern anti-trafficking movement, Bernstein discusses "a feminist approach to contemporary social issues that relies on the carceral state—police, prisons, and prosecutions—as the primary method for realizing feminist goals."²² Following a decades-long tradition of women's movements allying with conservative and punishment-oriented groups, the anti-trafficking movement should be understood as a new iteration of carceral feminism bolstering harsh punishments for offenders rather than addressing the conditions that create inequity. Scholars including Marie Gottschalk, Aya Gruber, and Emily Thuma have also demonstrated in great detail how increasing punishment

²¹ Allison A. Lewinski et. al., *Medical Care* 58: S242-251, June, 2021, https://journals.lww.com/lww-medicalcare/Fulltext/2021/06001/Applied_Rapid_Qualitative_Analysis_to_Develop_a_4.aspx.

²² Michelle A. McKinley, "Cultural Culprits," *Berkeley Journal of Gender, Law & Justice* 24, no.2: 91–165, 2009, <https://cslc.law.columbia.edu/sites/default/files/content/docs/McKinley-paper-and-abstract.pdf>; Elizabeth Bernstein, "Carceral politics as gender justice? The "traffic in women" and neoliberal circuits of crime, sex, and rights," *Theory and Society* 41, no. 3 (2012): 233-59, <https://www.jstor.org/stable/41475719>; Elizabeth Bernstein, *Brokered Subjects: Sex, Trafficking, and the Politics of Freedom*, (Chicago: University of Chicago Press, 2018).

for offenders at the expense of feeding a starving welfare state has both contributed to mass incarceration and been ineffective in reducing gender-based violence.²³

Gender and women’s studies scholar Jennifer Musto first explained carceral protectionism in 2016 as “collaboratively focused, victim-centered anti-trafficking interventions” that do not mark any meaningful departure from “the more punitive methods of the past.”²⁴ In a system that is punitive by design, carceral protectionist attitudes place carceraly-focused interventions—like problem-solving courts or police-assisted diversion programs—in protective roles which treat those it seeks to protect in the same way as those it seeks to criminalize. In Pennsylvania, law enforcement officials and anti-trafficking, legislative lobbying groups hold that victims of trafficking and sex workers can be protected through imprisonment or connection to the criminal legal system. Project Dawn Court and the Philadelphia police-assisted diversion program demonstrate the damaging consequences of carceral protectionism in practice.

Also related to diversion programs, therapeutic jurisprudence is a “multidisciplinary school of legal theory and practice that examines the therapeutic and anti-therapeutic properties of law, policy, and legal institutions,” described by scholars since the late 1990s.²⁵ Once thought to represent a softer arm of the carceral state that included treatment for trauma, addiction, or mental health disorders, scholars today posit that problem-solving courts espousing therapeutic jurisprudence are more accurately “therapy at gunpoint.”²⁶ Theoretical critiques of diversion also

²³ Marie Gottschalk, *The Prison and the Gallows: The Politics of Mass Incarceration in America*, (Cambridge: Cambridge University Press, 2006); Aya Gruber, *The Feminist War on Crime: The Unexpected Role of Women's Liberation in Mass Incarceration*, (Oakland: University of California Press, 2020); Emily Thuma, *All Our Trials: Prisons, Policing, and the Feminist Fight to End Violence*, (Champaign: University of Illinois Press, 2019).

²⁴ Jennifer Musto, *Control and Protect: Collaboration, Carceral Protection, and Domestic Sex Trafficking in the United States*, (Oakland: University of California Press, 2016), xiii-xvi.

²⁵ David C. Yamaha, “Therapeutic Jurisprudence: Foundations, Expansion, and Assessment,” *University of Miami Law Review* 75, no. 3 (June 4, 2021): 3,

<https://repository.law.miami.edu/cgi/viewcontent.cgi?article=4636&context=umlr>.

²⁶ Jake Blumgart, “Therapy at Gunpoint: Can This Controversial Philly Program Put an End to Sex Work?,” *Talking Points Memo*, February 24, 2015,

<https://talkingpointsmemo.com/theslice/can-dawn-court-solve-a-problem-like-prostitution>; Kerwin Kaye, *Enforcing*

follow work from the Drug Policy Alliance, a leading U.S. policy organization in the field of drug policy and harm reduction, which has repeatedly demonstrated that these programs provide little benefit compared to the “incarceration model on which they seek to improve.”²⁷

These theories serve well to analyze how the state continues to tinker at the margins of the criminality of sex work while absolving an analysis of broader structural or social reform.

Structure of Analysis

The following three phenomena—the main findings of this analysis—characterize the political context surrounding sex work in Pennsylvania and provide a useful analytical framework to connect state-level specifics to broader theories and trends in criminal legal policy.

First, the economic and ideological power of the anti-trafficking movement enables its legislative authority for punitive policy. The anti-trafficking movement has created a discourse of victimization that privileges law-enforcement solutions to ending the demand for sex work over materially supporting those already involved in the industry as workers. The control this anti-trafficking work has exercised in Pennsylvania is seen in revitalized historic narratives of sexual slavery, trends of national lobbying in state legislatures, and the influence of misleading narratives on the passage of new, though largely symbolic, legislation. Detailing the dominance of evangelical Christian-promoted anti-trafficking advocacy in Pennsylvania reveals that this narrative has the sheer historical, financial, and political power needed to push forward punishing legislation. This legislation is poorly constructed and ignores the economic precarity of many sex workers, following trends of punitive carceral feminism.

Freedom: Drug Courts, Therapeutic Communities, and the Intimacies of the State, (New York: Columbia University Press, 2019).

²⁷ “Drug Courts Are Not the Answer: Toward a Health-Centered Approach to Drug Use,” The Drug Policy Alliance, accessed March 7, 2022, https://drugpolicy.org/sites/default/files/Drug%20Courts%20Are%20Not%20the%20Answer_Final2.pdf.

Second, this rescue-oriented narrative has extended to the local level by fusing with purportedly less punitive reforms to the criminal legal system, as seen in Philadelphia's Project Dawn Court and police-assisted diversion program. Funding routed to victims' services programs and diversion programs impacts sex workers' daily lives through increased surveillance. Diversion programs run through the criminal legal system moreover seek to change the behavior of sex workers without meeting their material needs for housing, health care, job trainings, or transportation. The top-down push for diversion, while ostensibly nonpartisan, has invigorated law enforcement through the development of pre- and post-arrest diversion programs that focus on behavioral over structural change. Programs in Philadelphia are used as case studies to provide key insights into the ways the anti-trafficking movement stalls broader criminal legal reform. These programs pathologize involvement in sex work as the result of abuse to be treated through therapy, rather than understanding it as a form of livelihood. They position the carceral state as a legitimate social service provider, ineffectively and punitively seek to force abstinence from sex work, and fail to meet the needs sex workers identify for themselves.

Finally, despite the anti-trafficking movement's political power, sex workers' organizations have made significant political gains in countering its narrative at the local level. Organizing around sex workers' rights necessarily includes markers of success much more intangible than legislative change alone, providing a powerful view of the current and future sex workers' movement in Pennsylvania. Amid a political culture largely unsupportive of sex work, Pennsylvania's state legislature has seen a bill to define sex work as legitimate labor, Philadelphia's District Attorney has stopped prosecuting prostitution, and the ACLU of Pennsylvania has published support for decriminalizing sex work. These are the beginning germs

of a significant group that can support a sex worker-led opposition to the anti-trafficking movement's dominance in legislation and diversion. Yet, larger political strides are hindered because sex workers' rights organizations provide necessary, immediate relief and damage control services to their clients. The need for crisis control at the local level has shifted their work away from political advocacy at the state level. Moreover, the needed statewide coalition-building faces fragmentation based on different priorities, geographical separation, and conflict among grassroots organizers.

This analysis reveals that the main actors in Pennsylvania's criminal legal system continue to misguidedly direct the state away from the needed reforms that would protect sex workers' rights. Understanding the rescue-oriented political context around sex work serves to advance the work of sex workers' rights groups who are making significant gains in the state.

Background on Decriminalization

Because this paper uses progress toward decriminalization as a marker for bolstering sex workers' rights, it must establish decriminalization as the relevant political goal.

Decriminalization as a framework for sex workers' rights has its history in the very origins of the sex workers' movement, dating back to the calls for autonomy put forth in 1973 by Call Off Your Tired Old Ethics, the first for-and-by-sex workers organization in the country, and the 1985 World Charter for Prostitutes' Rights. Existing global and national approaches to the legal governance of sex work today fall along four major legislative pathways: complete criminalization, partial decriminalization, "quasi" legalization, and complete decriminalization.

Historically, complete criminalization of the sex trade has commanded American attitudes toward sex work. Criminalization currently defines Pennsylvania's laws, as discussed

extensively in the chapter to follow. The criminalization of sex work exposes and subjects workers to violence from police and buyers. The oppressive mark of a criminal record leaves many excluded from an already shredded social safety net and limited market for living-wage jobs. A 2018 Johns Hopkins Bloomberg School of Health meta-analysis of 130 studies from a 30-year period conclusively found that laws criminalizing sex work in any form are specifically related to violence, exploitation, and poor health among sex workers around the world. Moreover, policing of sex workers, their clients, and venues disrupts sex workers' support networks, workplace safety, and risk reduction strategies.²⁸

The second legislative pathway, partial criminalization, is designed to “end demand” for sex work. Typically, cisgender women involved in the industry are deemed victims of violent men and traffickers. In this view, consensual adult sex work cannot exist, because all forms of sex work are seen as violence against women; all sex workers—ostensibly all female—in this view, are victims. Frequently called the “Nordic model” or the “equality model,” this pathway has also taken hold in the modern anti-trafficking movement, which uses a persistent and widespread fear of sexual slavery and individual men who force young girls into a life of prostitution to push forward punitive penal policy for offenders.²⁹

²⁸ “Decriminalize Sex Work for Public Health,” *Decriminalize Sex Work: End Human Trafficking. Promote Health and Safety*, January 8, 2021, <https://decriminalizesexwork.org/why-decriminalization/briefing-papers/decriminalize-sex-work-for-public-health/>; Anna Forbes and Sarah Elspeth Patterson, “The Evidence is in: Decriminalizing Sex Work is Critical to Public Health,” *HIV Law & Policy*, August 13, 2014, <https://www.hivlawandpolicy.org/resources/evidence-decriminalizing-sex-work-critical-public-health-anna-forbes-and-sarah-elspeth>.

²⁹ Heather LaRocca and Susan Jones (Director and Assistant Director, A New Day to Stop Human Trafficking, Salvation Army), interview with author, February 2022. Amber Goltz (Anti-trafficking advocate, Women Organized Against Rape), interview with author, online, January 2022; DeFusco, interview; Sanders, interview. The “equality model” is supported by these individuals and not by their organizations.

Proponents of the end-demand model frequently co-opt the language of decriminalization in their discussion of “prostituted persons who have no other choice.”³⁰ It identifies sex buyers as driving all sex work, and does not recognize that many people choose sex work in a world that is “overwhelmingly capitalist and patriarchal” with labor options that are already largely exploitative and low-wage.³¹ End-demand models further criminalize buyers while removing criminal penalties for workers. Sex workers argue that this pathway increases harm directed toward them by seriously limiting opportunities for safe sex work, pushing exchanges further “underground,” increasing stigma around consensual sex work, and giving way to more violent client interactions from rushed and limited screenings.³²

The third view of sex work comes in the form of complete, or full, decriminalization. The distinction between “full” and “partial” decriminalization involves removing criminal penalties associated with the purchase of sex in addition to the sale. Full decriminalization removes criminality for “sex workers, clients, third parties, families, partners, and friends.”³³ More broadly, the model of complete decriminalization upholds that the reasons for choosing to engage in sex work are inconsequential in relation to the need for robust social and labor protections.

Furthermore, full decriminalization has reduced exploitation where it has been implemented. New Zealand’s Prostitution Reform Act of 2003, which removed all criminal penalties from the consensual sex trade, showed evidence of reduced violence and improved relationships with police and social service providers and no evidence of human trafficking.

³⁰ Michael Shively, Kristina Kliorys, Kristin Wheeler, and Dana Hunt, *A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts, Final Report*, prepared for the U.S. Department of Justice, no. 238796 (June 2012), <https://www.ojp.gov/pdffiles1/nij/grants/238796.pdf>.

³¹ Hail-Jares, “Introduction,” in *Challenging Perspectives*, 9.

³² Carisa R. Showden and Samantha Majic, eds., *Negotiating Sex Work: Unintended Consequences of Policy and Activism*, (Minneapolis: University of Minnesota Press, 2014); Teela Jones, Maggie O’Neill, and Jane Pitcher, *Prostitution: Sex Work, Policy & Politics*, (London: SAGE Publications, 2009); Hail-Jares, Shdaimah, and Leon (eds.), *Challenging Perspectives*.

³³ “NSWP Consensus Statement on Sex Work, Human Rights, and the Law, Global Network of Sex Work Projects, accessed January 4, 2022, https://www.nswp.org/sites/nswp.org/files/consensus_statement_with_artwork_final.pdf.

Rhode Island's inadvertent decriminalization of indoor sex work promoted a 31% decrease in the number of rapes and a 39% decrease in the statewide incidence of gonorrhea.³⁴ Importantly, these health and safety benefits are not observed under the partial criminalization or the end-demand model. Above all, the full decriminalization of sex work recognizes that by dissociating sex work from the criminal justice system, the state can work to build harm reduction-based services addressing needs for housing, mental health services, destigmatizing health initiatives, and protecting workers from harassment.

Legalization as it exists today takes the form only of “quasi-legalization.” This calls for creating red-light districts, where the sale of sex is legal within preset bounds and regulated by government and state entities. Places that have “legalized” sex work define intense stipulations and restrictions for workers that geographically constrain their movement and strictly regulate legal sex work in ways different from other forms of labor.³⁵ Scholars and sex workers' rights advocates have asserted that confinement to red-light districts constructs sex work as a “social problem” to push out of sight, gives control to the state and the employer, and impedes protection of sex workers' rights, privacy, and security.³⁶ Sex workers' groups calling for decriminalization want most simply to “ensure that anyone who does any sex work is never criminalized or penalized for their work.”³⁷

³⁴ Jack Walker, “R.I. sex workers seek legislative change,” *The Brown Daily Herald*, March 7, 2021, <https://www.browndailyherald.com/article/2021/03/r-i-sex-workers-seek-legislative-change>; Rhode Island's law had a “loophole” until 2009 making indoor sex work legal in certain venues. In changing prostitution from a felony to a misdemeanor, the law only specified street-based solicitation and related acts as against the law, leaving online and indoor sex work as “defacto decriminalized.”

³⁵ In the United States, this form of legalization exists only in some places in Nevada.

³⁶ Cheryl Auger, “Criminalized and Licensed,” in *Negotiating Sex Work*, 102-103. The Pivot Legal Society is a Vancouver-based organization that works in partnership with communities impacted by poverty and social exclusion in policy areas of accountability, drug policy, homelessness, and sex workers' rights. They reported as early as 2006 that sex workers in red-light districts that described of the “quasi-legal nature of their work combined with restrictive licensing.” Dominant sex workers' rights groups in the United States push for “anti-criminalization measures” over legalization because of the potential for increased policing and regulation that legalization brings.

³⁷ Begum and Bibi, interview. They also note that undocumented sex workers and other criminalized groups would still face penalties under legalization because of the state's involvement.

The consensus among sex workers' rights group is centered on decriminalization as an immediate necessity for reducing harm as opposed to restrictive legalization.³⁸ Raani Begum and Sultana Bibi, co-organizers with Philadelphia-based sex workers' rights groups Project SAFE and Philadelphia Red Umbrella Alliance (RUA), have written of this quasi-legalization, "no legal entity should be in control of anyone's body," and no "governing body [should] wield the power to decide who gets to work, how and where." The autonomous lives sex workers desire and deserve, they assert, will not come through criminalizing—or any other form of severely regulating—the sex trade. Instead, eliminating barriers to housing and health care and increasing wages across the board should be the state's role in sex work.³⁹

Chapter 1

The Anti-Trafficking Movement: History, Contours, and Legislative Consequences

The legislative approach to ending human trafficking in the sex industry follows a long and unforgiving history of criminal regulation around sex. Despite opposition from sex workers' rights movements, a century of anti-prostitution sentiment has laid the groundwork for the rapid national expansion of anti-trafficking advocacy and service organizations. The anti-trafficking movement's federal political power has especially influenced the creation of state-level legislation that conflates sex work with sex trafficking. In Pennsylvania, a series of bills have

³⁸ All national organizations discussed throughout this paper have specific platforms supporting the decriminalization of sex work in all forms as a policy position; Project SAFE, Philadelphia RUA, Decrim PA, Serenity House, Stiletto's Inc, and SWOP Pittsburgh also take this stance. It should be noted that Naiymah Sanchez supports complete legalization of sex work in the long run, where sex work is treated as any other form of work. Because legalization as it exists has gone so far in the other direction, decriminalization is the strategy to reduce the harms of criminalization.

³⁹ Raani Begum and Sultana Bibi, "Destigmatize, Decriminalize, Decarcerate: A Racial Justice Lens on Sex Worker Rights and Harm Reduction," Philadelphia Red Umbrella Alliance, July 22, 2021, <https://www.phillyruea.com/blog/destigmatize-decriminalize-decarcerate-a-racial-justice-lens-on-sex-worker-rights-and-harm-reduction>.

passed since 2014, levying outsized harms toward sex workers while failing to have any real effect on human trafficking. Discussing the history and proliferation of both state and federal anti-trafficking legislation is necessary to understand the relationships between legislation, anti-trafficking lobbying groups, and the on-the-ground impact of this movement. This section traces the history, expansion, and impact of the anti-trafficking movement's successful moral and saviorist appeal through legislation. Presenting each of Pennsylvania's major pieces of legislation around sex work in turn provides unique insight into the way the political force of anti-trafficking narratives has manifested in the law.

The Modern Anti-Trafficking Movement: Rescue Industry and Victim Ideology

According to Chi Adanna Mgbako, human rights expert and Fordham University professor of law, “no contemporary rescue narrative related to sex work has been as powerful—or as harmful—as the discourse surrounding the ‘traffic in women.’”⁴⁰ Human trafficking has “climbed the political agenda at an unprecedented rate,” dominating discourse as *the* human rights issue of the century and the “world’s fastest growing crime.”⁴¹ Sex trafficking, like no other form of human trafficking, has commanded huge levels of moral outrage held by “an ever increasing miscellany of actors” sharing a desire to rescue ostensibly helpless victims of trafficking.⁴²

While the Department of Justice definition of trafficking is intended to cover all forms of human trafficking, it distinguishes sex trafficking from labor trafficking as though they are distinct, and as though sex trafficking is uniquely worse, because sex work is not considered

⁴⁰ Mgbako, “Mainstreaming.”

⁴¹ Laura Connelly, “The ‘Rescue Industry’: The blurred line between help and hindrance,” *Graduate Journal of Social Science* 11, no. 2 (February 2015): 154-160.

⁴² Connelly, “‘Rescue Industry.’”

legitimate labor by the United States government. Estimates around global sex trafficking are widely unknown; even the U.S. State Department acknowledges that “there are a limited number of reliable statistics related to human trafficking.”⁴³ Labor trafficking often receives less attention in comparison to the morally charged, victim-centered discussion of sex trafficking, despite the fact that sex, farm, domestic, day, and other often exploited labor forms all have huge physical impacts on workers’ bodies.⁴⁴ Migrant workers in every sector are at the highest risk of human trafficking, yet federal efforts to stem this are largely raid-and-rescue actions. Sex workers’ rights advocates assert that these actions “destabilize sex worker communities and drive sex workers underground, increasing vulnerability and risk for all sex workers.”⁴⁵ That is, state-sponsored efforts to stop human trafficking—at national, state, and local levels—are couched in inflated statistics about poorly-understood data and marred by ineffective and punitive responses.

Moreover, the same intersections of race, gender, class and other forms of marginalization and criminalization put all workers at risk of harassment and abuse.⁴⁶ Yet, most anti-trafficking efforts focus primarily on female victims, sex work, and sex trafficking.⁴⁷ Over the past two decades, these efforts have promoted a powerful ideological narrative which almost exclusively embodies the standpoint of nominal prostitution “abolitionists,” who hold that

⁴³ “Senior Policy Operating Group Public Awareness and Outreach Committee Guide for Public Awareness Materials (non-binding),” *U.S. Department of State*, accessed March 20, 2022, <https://www.state.gov/senior-policy-operating-group-public-awareness-and-outreach-committee-guide-for-public-awareness-materials-non-binding/>.

⁴⁴ Raani Begum and Sultana Bibi, “Intersecting Conversations and Joint Movement Building,” (webinar, Project SAFE and Philadelphia Red Umbrella Alliance, Zoom, September 28, 2021).

⁴⁵ Richard Steen et al., “Trafficking, sex work, and HIV: efforts to resolve conflicts,” *The Lancet* 385, no. 9963 (July 2014): 94-96. Agustín also argues that the efforts of this modern anti-trafficking rescue industry have failed in providing protections to sex workers or people who have been trafficked. These efforts have enabled more abuses “in the form of detention, police surveillance, and deportation” for migrants, sex workers, and others ostensibly being rescued.

⁴⁶ Steen, “Trafficking.”

⁴⁷ McKinley, “Cultural Culprits.” The U.S. Department of Justice specifically defines human trafficking “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”

prostitution is morally wrong. In every form, they assert, sex work invites sexual exploitation; all women working in the sex industry, thus, “both require and desire rescue.”⁴⁸ Because the anti-trafficking movement has so indelibly linked sex work to sex trafficking, its role must be discussed in political fight for sex workers’ rights.

Laura Agustín first coined the term “rescue industry” in 2007 to describe this ostensibly benevolent desire to save women from sex slavery and the “perceived terrors they endure at the hands of their ‘trafficker(s).’”⁴⁹ These ideologies exclude women who do not neatly fit into their understanding of victims—transgender women, women who use drugs, and women of color. Male and nonbinary sex workers are rarely considered in the anti-trafficking and victimization discourse. Feminist scholar Aya Gruber has noted the way modern sex work abolitionists and anti-trafficking advocates not only characterize sex workers as accomplices to sexually abusive men, but also reject arguments from sex workers and feminists of color that poverty, discrimination, and lack of opportunity can lead marginalized women into the commercial sex world.⁵⁰ These nominal abolitionists used, and continue to use, a consistent and “eroticized version of the female ‘sex slave’ to justify and garner public support for anti-trafficking legislation.”⁵¹

Today’s anti-trafficking movement extends carceral approaches to sex trafficking and sex work alike. Like carceral feminist approaches of the past, this movement purported to protect victims’ rights has become tangled up with conservative penal policies.⁵² The anti-trafficking

⁴⁸ Connelly, “‘Rescue Industry,’” 155.

⁴⁹ Laura Agustín, “Becoming Aware of Awareness-Raising as Anti-trafficking Tactic,” *The Naked Anthropologist*, accessed 25 March 2022, <https://www.lauraagustin.com/becoming-aware-of-awareness-raising-as-anti-trafficking-tactic>.

⁵⁰ Agustín, “Become Aware.”

⁵¹ Gruber, *The Feminist War on Crime*, 118.

⁵² Mary Twis and Regina Praetorius, “A qualitative interpretive meta-synthesis of evangelical Christian sex trafficking narratives,” *Journal of Religion & Spirituality in Social Work: Social Thought* 40, no. 2 (2021): 189-215, doi.10.1080/15426432.2020.1871153; Bernstein, “Carceral politics as gender justice?”

movement skillfully pushes forward a “liberal legal imaginary” that views criminals and victims as discrete populations.”⁵³ This straightforward view confines the cause of harm to the offender; an individual suffering from “sexism, economic unfairness, racism, sex negativity, and xenophobia” now faces a “subtle but powerful redirection away from structural, social, and institutional accounts of harm.”⁵⁴ As the so-called war on trafficking embraces the end of sex work, discourse makes structural conditions invisible in favor of the individual victim and the “evil” exploiter.

Victimhood, in this sense, necessitates a political judgment; the victim label is influenced by perception of social class, nationality, and race.⁵⁵ It moreover holds an individual criminal as the bearer of all blame for human trafficking. Experts aligned with criminal legal reform who study the global anti-trafficking movement—legal aid scholars, sociologists and political scientists seeking the end of the carceral state, and advocates studying economic exploitation—have heavily critiqued this widespread, simplified view of trafficking. These scholars have observed that efforts tied to a dysfunctional criminal legal system are “antithetical to principles of human and civil rights” because they ignore the reality that many trafficking survivors confront and redirect discussion away from important critiques of complex labor and migration issues.⁵⁶ Nevertheless, the simplified, individualized anti-trafficking narrative has spread throughout federal policy and funding for victims’ services. Simultaneously, it has crowded out demands for services that do not require abstinence from sex work for access, better

⁵³ Thuma, *All Our Trials*, 80.

⁵⁴ Gruber, *The Feminist War on Crime*, 97

⁵⁵ Connelly, ““Rescue Industry.””

⁵⁶ Abigail Swenstein and Kate Mogulescu, “Resisting the Carceral: The need to align anti-trafficking efforts with movements for criminal justice reform,” *Anti-Trafficking Review* (2016): 118-122; Robert Heynen and Emily van der Meulen, “Anti-trafficking saviors: Celebrity, Slavery, and Branded Activism,” *Crime Media Culture* (2021): 1-23. Robert Heynen and Emily van der Meulen, academics known for their joint work in surveillance studies, highlight an “anti-sex work framework that focuses on sex trafficking rather than other forms of labor exploitation” as the driving force of this anti-trafficking movement.

protections for all workers within licit and illicit labor markets, and the decriminalization of sex work.

The victim ideology and rescue industry that characterize the modern anti-trafficking movement are deeply related to a federal history of criminalizing prostitution. This movement reinvigorates century-old victim tropes without questioning their origins. It follows the punitive penal policy patterns of the past, ratcheting up sentences for offenders of trafficking instead of materially supporting those it considers victims. Above all, the anti-trafficking movement at the federal level has pushed forward similar legislation at the state and local levels, allowing rescue-oriented, anti-sex work groups to steer the political, social, and legal contexts governing sex work.

A Century of Legislative Foundations: Origins of the Anti-Trafficking Movement

Fears of young, white, and cisgender female victims exploited through “modern-day slavery” that are characteristic of the modern anti-trafficking movement are also reminiscent of a social panic that created the Mann Act, or the White-Slave Traffic Act of 1910.⁵⁷ While this slavery narrative is considered by historians to be more of a “particular constellation of white, middle-class social fears than it was an actual social reality,” anti-prostitution crusaders used the Mann Act as a stepping stone for a host of additional causes, including to monitor and punish those with sexual behaviors outside the “proper and moral.”⁵⁸ No longer seen as “criminal

⁵⁷ “Mann Act,” Wex Definitions Team, Legal Information Institute, last modified July, 2020, https://www.law.cornell.edu/wex/mann_act. The morally-purist Mann act was the first anti-trafficking legislation, passed during what is known today as the moral hygiene era. It was used to criminalize the transportation of “any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose.” Immorality under this act was broadly used for prosecuting unlawful “premarital, extramarital, and interracial relationships.”

⁵⁸ Twis and Praetorius, “A qualitative interpretive meta-synthesis.”

prostitutes,” white women were understood to be “innocent victims” forced into slavery against their wills by racial minority groups in the aftermath of the Mann Act.⁵⁹

Inspired by this act, criminal sanctions prohibiting prostitution were enacted across the country between 1900 and 1920. In fourteen states, prostitution was a statutory offense, and in twenty-eight, it was a form of vagrancy.⁶⁰ By 1971, every state in the nation had passed a law criminalizing the acts of selling and buying sex, except for some counties in Nevada.⁶¹ At the same time the criminality of prostitution became entrenched in state law, awareness surrounding sexual violence and movements against pornography pushed forward the “sex wars” of the late 1970s and early 1980s. These sex wars resulted in ideological fissures on the nature and definition of sex work, sex trafficking, pornography, polygamy, and more.⁶² Debates about nature of sex reinvigorated the Mann Act’s “slavery” trope, and the 1910 legislation was used in the narrative against sex trafficking until its replacement by modern anti-trafficking laws.⁶³

By the 1980s, feminist movements organizing against domestic violence and rape were co-opted by what Elizabeth Bernstein terms carceral feminists. Comprising prostitution-abolitionist feminists, evangelical Christian groups, and conservative and liberal government officials, coalitions unified around carceral feminism prioritized raising punishments for offenders over interrogating the roots and systems creating gendered inequality and violence.

⁵⁹ Twis and Praetorius, “A qualitative interpretive meta-synthesis;” Sarah S. Bertozzi, “Vicious Geography: The Spatial Organization of Prostitution in Twentieth Century Philadelphia,” *College Undergraduate Research Electronic Journal* (December 20, 2005), <https://repository.upenn.edu/curej/15/>. Bertozzi shows that these anti-prostitution crusaders were also successful in spurring the passage of a series of red light abatement acts at the state level, bringing the commercialized prostitution that had characterized urban centers like Philadelphia in the late nineteenth century to a close. Prior, these de facto red light districts were common in cities across the Northeast in the Civil War-era.

⁶⁰ Bertozzi, “Vicious Geography.” All but three states passed legislation to criminalize prostitution by 1920 that generally authorized individual action against brothels without requiring police or district attorney involvement.

⁶¹ Some counties in Nevada have legalized prostitution in “red-light districts” where sex workers are geographically confined to regulated parts of the city to work.

⁶² Lisa Duggan, “Sex wars,” in *Encyclopedia of Lesbian, Gay, bisexual and transgendered history in America*, ed. Marc Stein, (New York: Charles Scribner’s Sons, 2004), 100–103. These sex wars brought “spectacular narratives of perverse sex and victim suffering” that represented an existential threat to women back to the forefront.

⁶³ Aya Gruber, *The Feminist War on Crime*, 117.

By allying themselves with law-and-order groups, carceral feminists built “unsavory coalitions and compromises” that ultimately bolstered tough-on-crime agendas.⁶⁴ Focusing on reforming the law enforcement arm of the state took precedence over ensuring the state could meet the material needs of those it sought to protect.⁶⁵

The United States’ deeply rooted history of criminalizing sex work and its preference to punish offenders played a key role in building the thicket of anti-trafficking legislation that came forth in the decades to follow.

Federal Legislation and the Modern Anti-Trafficking Movement

In the early and mid-1990s, manifold injustices affecting sex workers as a result of their criminalization—including police violence, absent labor regulations in illicit and legal commercial sex sectors, and the threat of deportation looming over undocumented workers—became prominent pieces of the framework of sex workers’ rights.⁶⁶ These groups opposed the growing national sentiment that the response to violence required heavier criminal penalties and an expanded carceral system.

By the early 2000s, however, this framework had been effectively “undercut by a bevy of federal- and state-level anti-trafficking laws.”⁶⁷ By equating all prostitution with the crime of human trafficking, sex workers’ rights organizations were ultimately cut out of federal- and state-level policy spheres by the compelling anti-trafficking narrative that rhetorically captured

⁶⁴ Gottschalk, *The Prison and the Gallows*, 131; Elizabeth Bernstein, “Militarized Humanitarianism Meets Carceral Feminism: The Politics of Sex, Rights, and Freedom in Contemporary Anti-Trafficking Campaigns,” *Journal of Women in Culture and Society* 36, no. 11 (2010): 45-71.

⁶⁵ Gottschalk, *The Prison and the Gallows*, 163.

⁶⁶ Jones, *Prostitution*, 133. Such work built upon civil-rights era social movements of the 1960s and 1970s for racial justice, queer rights, and broader economic and labor reform.

⁶⁷ Elizabeth Bernstein, Janet R. Jakobsen, and Jacqueline Heinen, “Sex, Secularism and Religious Influence in US Politics,” *Cahiers du Genre* 3, no. 3 (2012): 183-201.

both trafficking and sex work under the rubric of modern slavery.⁶⁸ The 2000 Victims of Trafficking and Violence Protection Act (TVPA) is the crystallization of the movement's impact at the national level. In fact, the first few sentences of the 2000 TVPA assert that “the explosion of the sex industry during the preceding years was an important impetus for the law,” underscoring the unique fear sex trafficking inspired in legislators as compared to other forms of labor trafficking.⁶⁹ This act and its subsequent reauthorizations (Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, 2005, 2008, 2013, and 2017) frame sex trafficking as a primary channel of modern slavery.⁷⁰

The TVPA was first signed by President Bill Clinton and later reauthorized by Presidents George W. Bush, Barack Obama, and Donald Trump; the fight against human trafficking has been federally bipartisan, and this wide political commitment to anti-trafficking legislation is mirrored on the state level. While subsequent reauthorizations of the TVPA have updated the framing of trafficking to prioritize all forms of labor, many state laws, policymakers, and direct service providers continue to promote a definition of human trafficking that considers sex work and sex trafficking as one and the same.⁷¹ By misstating and frequently exaggerating the issue of sex trafficking, the narrative of the so-called “war on trafficking” has been used to “bolster anti-prostitution arguments, inflame public opinion, and justify repressive and counterproductive

⁶⁸ Elizabeth Bernstein, “Trafficking,” in *The Routledge History of American Sexuality* eds. Kevin P. Murphy, Jason Ruiz and David Serlin (Abingdon: Routledge, March 2, 2020), accessed March 25 2022, Routledge Handbooks Online.

⁶⁹ Pub. L. No. 106-386; Bernstein, *Brokered Subjects*. The law states: “As the 21st century begins, the degrading institution of slavery continues throughout the world, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked...”

⁷⁰ Twis, “A qualitative interpretive meta-synthesis.” According to Samantha Majic, author of *Sex Work Politics*, the 2003 reauthorization “required all applicants for funding to state that they do not promote or support prostitution” and it further extended funding for law enforcement. Sex workers’ rights activists were vocally opposed to this act. However, they “lacked powerful advocates” in Congress and elsewhere and the legislation was enacted. The Supreme Court has since declared this provision unconstitutional. However, international agencies are still required to take this stance, and this is considered constitutional since those groups are not guaranteed free speech outside of the United States.

⁷¹ McKinley, “Cultural Culprits.”

police action” against sex workers while failing to invite analysis into the scale of labor trafficking or even the efficacy of current laws.⁷²

The anti-trafficking movement, then, is one built upon the mounting salience of the victim narrative, the outpouring of federal support for the anti-trafficking movement, and the histories of women’s movements allying with law enforcement. It is a phenomenon not unique to the twenty-first century but precisely in line with the criminalizing, punishing, and ineffective trajectories of the past.

The Federal Movement Takes Hold: Uniform Legislation Diffuses to Pennsylvania

In the fifteen years that followed the TVPA, all fifty states enacted a basic legal framework around human trafficking. The first anti-trafficking laws came from Washington and Texas in 2003. By 2004, the Polaris Project—the self-proclaimed largest defender of anti-trafficking work in the United States—released model anti-trafficking legislation for the states, as did the U.S. Department of Justice, the Freedom Network, and the Center for Women’s Policy Studies. In 2013, the Uniform Law Commission, a national group seeking to standardize criminal penalties, consolidated existing proposals into one standardized model for anti-trafficking legislation. Called the Uniform Act on the Prevention and Remedies for Human Trafficking, both the American Bar Association and the Polaris Project endorsed this state-level model.⁷³ However, legal scholars have critiqued this legislation for its “gaps and ambiguities” that deprioritized labor trafficking cases with its disparate focus on sex trafficking.⁷⁴ All of these

⁷² Steen, “Trafficking.”

⁷³ “A Look Back: Building a Human Trafficking Legal Framework,” The Polaris Project, September 2019, accessed March 15, 2022, <https://polarisproject.org/wp-content/uploads/2019/09/2014-Look-Back.pdf>.

⁷⁴ Erin N. Kauffman, “The Uniform Act on Prevention of and Remedies for Human Trafficking: State Law and The National Response to Labor Trafficking,” *Journal of Legislation* 41, no. 2 (July 29, 2015): 291-328, <https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1644&context=jleg>.

model legislations were similar in their language spotlighting sex trafficking as opposed to other forms of human trafficking, which is well-illustrated in the state laws that used them.⁷⁵

Along with thirteen other states, Pennsylvania passed its first statute against human trafficking in 2006.⁷⁶ This statute accurately defined trafficking of persons as criminally coercing another into forced labor or services.⁷⁷ However, since 2014, the Pennsylvania state legislature has revised this definition with a host of bills drawing upon the lurid notions of sexual servitude in line with the efforts of anti-trafficking groups across the nation.

Pennsylvania has an extensive history of criminalizing prostitution, which is important to highlight because the criminal legal discussion of sex work and trafficking has obstinately connected the two. This history—along with the influence of evangelical, anti-trafficking lobbyists—explains the origins of the state’s anti-trafficking legislation and its connection to an anti-sex work stance. The state’s legislation is inadequate by its own measures defined to protect victims of trafficking, with few prosecutions and no funding for victims’ services. Yet, in the past two years, more legislative proposals have come forth than ever before to continue increasing punishments for offenders of trafficking and expanding the definition of trafficking itself. None of Pennsylvania’s proposed or enacted legislation recognizes the harm it imposes on sex workers or provides any meaningful steps to substantially support those it sees as victims.

Analyzing this legislation provides insight into the nationwide patterns of lobbying by anti-trafficking groups, and this analysis demonstrates just how deeply entrenched the anti-trafficking politics of rescue are among Pennsylvania policymakers. The following discussion details examples of carceral feminism in the continuing punitive sentences levied by

⁷⁵ “A Look Back.”

⁷⁶ 18 Pa. Cons. Stat. § 3002 (2006), <https://www.legis.state.pa.us/WU01/LI/LI/US/HTM/2006/0/0139.HTM>.

⁷⁷ Ibid. Specifically, criminal coercion involves physical abuse or threat of abuse and abuse of legal processes or immigration documents. “Traffics” means “recruits, entices, harbors, transports, or provides or obtains by any means” that results in an individual subjugated to forced labor or services. Both of these are second degree felonies. If the person who is trafficked suffers bodily harm or is under eighteen, these become first-degree felonies.

Pennsylvania, the role of anti-trafficking groups that pushed them forward, and the historical and institutional factors they are derived from. This discussion points to the historical and institutional mechanisms around which legislative change for sex workers' rights must maneuver.

Pennsylvania's Punishment: Criminalization of the Sex Trade

Pennsylvania has had legislation governing prostitution since the early 1900s, which classified prostitution as an immoral act similar to gambling or excessive drinking.⁷⁸ By 1939, the penal code contained myriad sections criminalizing the act of prostitution, the transportation of someone for the purpose of prostitution, and the act of assignation (scheduling an appointment for prostitution).⁷⁹ These laws paralleled the language used in the Mann Act and included provisions to jail anyone who forced a woman into prostitution by threat or violence.⁸⁰

These sections governed the criminalization of sex work until their replacement with Title 18: Section 5902, which was created as part of the Crime Codes of 1972 and governs carceral punishment for prostitution to date. Since its creation, Title 18:5902 has been amended several times to intensify criminalization for people living with HIV, increase maximum

⁷⁸ Bertozzi, "Vicious Geography;" Alysa Castro, "Better in Theory: The Road to Prostitution Reform in Pennsylvania," *Rutgers Journal of Law & Public Policy* 9, no. 1 (2012): 37-71.

⁷⁹ The Penal Code of 1939 contains a number of sections dealing with prostitution. Section 508 (18 P.S. § 4508) penalizes prostitution of a female under sixteen; Section 509 (18 P.S. § 4509) penalizes parents and guardians who permit a child under sixteen to be in or remain in a house of prostitution; Section 512 (18 P.S. § 4512) penalizes prostitution and assignation; Section 513 (18 P.S. § 4513) deals with pandering; Section 514 (18 P.S. § 4514) relates to forcing wife into house of prostitution; Section 515 (18 P.S. § 4515) penalizes acceptance of bawd money; Section 516 (18 P.S. § 4516) covers detention of prostitute for debt; Section 517 (18 P.S. § 4517) prohibits the transportation of females for the purpose of prostitution; and Section 518 (18 P.S. § 4518) prohibits loitering about a bawdy house and receiving money from prostitutes. "Assignation" and "Prostitution" are defined in Section 103 of The Penal Code of 1939 (18 P.S. § 4103). It was also criminalized know that one's building is being used for prostitution, to aid and abet prostitution, and to "direct, take, or transport any person to any building, or place, with knowledge that the purpose of such directing, taking or transporting is prostitution or assignation."

⁸⁰ Specifically, the Penal Code of 1939 criminalized "procuring a female inmate for a house of prostitution by promise, threat, violence, or by any device or scheme, causes, induces, persuades, encourages, takes, places, harbors, inveigles, or entices a female person to become an inmate of a house of prostitution or assignation place." Historic legislation around prostitution did not recognize that sex workers are diverse in gender.

sentences for people arrested multiple times for buying or selling sex, and introduce anti-trafficking measures specifically related to prostitution. Despite Pennsylvania's exceptionally long sentences for the crime of prostitution, the development of its codes was indeed "quite typical" of the larger trends of legislating around prostitution and trafficking across states.⁸¹

In 1995, Pennsylvania's legislature approved a grading to the already harsh penalty for both buyers and sellers of sex. If either party was living with HIV, the penalty increased from a misdemeanor of the second degree to a felony of the third degree. The Center for HIV Law and Policy reports that 34 states, two territories, and the federal government enacted legislation between 1986 and 2017 specifically criminalizing people living with HIV who engaged in a variety of behaviors, including sex work.⁸² However, Pennsylvania remains one of only six states to continue criminalizing sex workers who have HIV to a higher degree than other sex workers.⁸³

The codes were again revised in 2000 with graded offenses to punish repeat offenders more severely than first time offenders. Penalties for so-called "recidivists" grew largely in line with national support for "three-strikes-and-you're-out laws," which have since been critiqued for their inefficacy and role in mass incarceration.⁸⁴ In part due to graded offenses for all kinds of crimes, the 282 offenses and sub-offenses defined in 1972 Crime Codes encompassed 1,648 by

⁸¹ Paul H. Robinson et al. "The modern irrationalities of American criminal codes: an empirical study of offense grading." *Journal of Criminal Law and Criminology* 100, no. 3 (2010): 709-725, link.gale.com/apps/doc/A247971639/AONE?u=upenn_main&sid=summon&xid=ea40016a.

⁸² Deanna Cann, Sayward E. Harrison, and Shan Qiao, "Historical and Current Trends in HIV Criminalization in South Carolina: Implications for the Southern HIV Epidemic," *AIDS and Behavior* 23, no. 3 (October 2019): 233-241, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7182101/#R12>.

⁸³"HIV Criminalization Laws Map." The criminalization of HIV-related behavior is known to undermine prevention efforts, create further stigma, and facilitate the continued spread of HIV.

⁸⁴ John Clark, Patricia Hardyman, and Henry D. Alan, "The Impact of 'Three Strikes and You're Out,'" *Punishment and Society* 1, no. 2 (October 1999): 131-162, [10.1177/1462474992227757](https://doi.org/10.1177/1462474992227757). Note that "out" has varying meanings, and in this context refers to harsher sentences after a given number of prior offenses.

2010. This system “marked by duplication and by irrational and contradictory grading differences” is well-reflected in the changes to Title 18:5902.⁸⁵

Pennsylvania is one of 28 other states to continue punishing prostitution-related offenses on a graded scale, but one of only three to define such severe prison sentences for sex workers.⁸⁶ Despite a striking series of amendments to this section of the crime codes over the decades, none have reduced sentences for sex workers or buyers. The contours of this punitive legislation began to shift only in response to the anti-trafficking movement’s growing influence.

Anti-Trafficking Legislation in Pennsylvania: Act 105, Safe Harbor, and Buyer Beware

New legislation and rapidly expanding public fears around sex trafficking created the conditions for bipartisan legislation to counter the “evils” of traffickers, pimps, and men who purchase sex from “prostituted people.” Major legislation was passed in 2014 defining the crime of sex trafficking; 2018 creating a victims’ services and limited amnesty for child victims of trafficking; and 2019 intensifying punishments for buyers of sex. Each of these bills should be analyzed both for who their major champions were and how they have worked in practice. Detailed description of this legislation, key stakeholders, and the context of their passing are important to understanding the nuance behind legislative change related to sex work as well as the power of lobbyists who massively contributed to pushing these bills forward.

⁸⁵ Robinson, “The Modern Irrationalities.”

⁸⁶ “US Federal and State Prostitution Laws.”

Act 105: The Polaris Project, and the Brawn of Anti-Trafficking Lobbyists

In 2014, Pennsylvania state revised its 2006 law defining human trafficking, rewriting the definition into Title 18:5902 with what is frequently called “Act 105.”⁸⁷ This act is responsible for the explicit connection of trafficking to sex work at the legislative level, defining “sexual servitude” as a particularly important form of human trafficking—a definition remarkably close to that laid out by the Uniform Law Commission.⁸⁸ The act was moreover built on the 3 P’s of anti-trafficking—prosecution of traffickers for this “terrible evil,” protection for victims from being treated as perpetrators, and prevention of trafficking through public education. The so-called three P’s are characteristics of anti-trafficking legislation in almost every state and are included in the Department of Justice’s definition of trafficking.⁸⁹

Act 105 unanimously passed both the House and Senate, with every voting member in both bodies voting in the bill’s favor.⁹⁰ The punitive nature of this bill gained notable bipartisan support because it melded punishment into rescue and victim narratives. State Senator Stewart J. Greenleaf (R-Montgomery) and State Senator Andrew E. Dinniman (D-Montgomery) were the original sponsors of Act 105, each presenting misleading information on the nature of trafficking. Greenleaf characterized human trafficking as a “billion-dollar industry” that keeps “millions and

⁸⁷ This bill was passed by the Senate and the House on June 20, 2014, and approved by the governor July 2, 2014. The Act maintained the 2006 punishment that forcing someone into involuntary servitude or benefiting materially from that servitude would be classified as second-degree felonies, and it more extensively defined means of coercion.

⁸⁸ 18 Pa. Cons. Stat. § 3001, 3011-3025, 3031-3032, 3051-3055, 3071-3072 (2014), https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?txtType=HTM&yr=2014&sessInd=0&act=0105.&chpt=000.&subchpt=000.&sctn=003.&subsctn=000.&mobile_choice=suppress.

⁸⁹ “Act 105: Pennsylvania’s First Comprehensive Anti Trafficking Law on the Books,” The Institute to Address Commercial Sexual Exploitation, Villanova University, accessed March 24, 2022, <http://cseinstitute.org/wp-content/uploads/2016/12/Act-105-Law-on-the-Books.pdf>; 18 Pa. Cons. Stat. § 3001 (2014), <https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2014&sessInd=0&act=105>. The language used was: if an individual “recruits, entices, solicits, harbors, transports, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to involuntary servitude” or knowingly benefits financially or receives anything of value from any act facilitating any of these activities.

⁹⁰ “Details for House RCS No. 1487,” House of Representatives Session of 2013-2014 Regular Session, House Roll Calls, Senate Bill 75 PN 2188, Wednesday June 25, 2014, https://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2013&sess_ind=0&rc_body=H&rc_nbr=1487. All 50 Senators voted yes, and all 203 House Representatives voted yes.

millions of individuals” in what Dinniman called “a situation of virtual slavery.”⁹¹ These calls to action came largely from the evangelical human trafficking discourse at the national level, led by groups including the Polaris Project. When the bill passed, Greenleaf thanked Julie Janovsky, former head of the Polaris Project. Until she spoke with him, he claims he “did not fully understand the ramifications and the magnitude of this issue.”⁹² The power of the Polaris Project’s lobbying should not be underestimated, especially given the downstream harms anti-trafficking legislation has had on sex workers.

Founded in 2002, the Polaris Project reports itself to be the largest anti-trafficking organization in the country, using data from its hotline to provide the nation’s most prominent dataset on the magnitude of human trafficking. The national-only organization purports a commitment to changing the conditions surrounding trafficking—the “failed systems that allow it to thrive”—poverty, gender discrimination, lack of worker protections, and failed social safety nets and child welfare systems. Moreover, they have presented a renewed interest in labor trafficking and protecting migrant workers from exploitative labor regulations. However, their allies at the state level are largely conservative policy makers who focus on sex trafficking; the group has contributed millions of dollars to funding bills like Act 105 since its founding.⁹³ In 2013, the Polaris Project reported involvement in successfully enacting over 100 bills across the nation, as it did in Pennsylvania, in support of these punishment-oriented anti-trafficking

⁹¹ Session 56 of the Pennsylvania General Assembly, 198th of the General Assembly (October 14, 2014) (statement of Steward Greenleaf, Rep. Montgomery County), <https://www.legis.state.pa.us/WU01/LI/SJ/2014/0/Sj20141014.pdf>.

Dinniman later asserted after a discussion of recognizing Juneteenth as a national holiday, “150 years after the Civil War...we still have the existence of slavery in the form of human trafficking.”Moreover, in his advocacy for Act 105, Greenleaf argued that the greatest support for the comes from the “faith community...as they have led the fight on slavery, they now lead the fight on human trafficking.” While it is true that the “faith community” of often Evangelical Christian groups is leading the anti-trafficking movement, these groups did not lead the fight for the abolition of slavery in the 1860 Civil War era nor have they been leaders in civil, social, racial, or economic justice since.

⁹² Ibid.

⁹³ Brad Myles, “Form 990 Polaris Project, 2018 Calendar Year,” Return of Organization Exempt from Income Tax, 2018, <https://polarisproject.org/wp-content/uploads/2020/01/Polaris-2018-990.pdf>.

measures. The results of their political campaigns fall short of anything beyond increasing punishments for traffickers and keeping policies off the table that might address the exploitative systems they describe.

In addition to working with Sen. Greenleaf, the Polaris Project approached the Pennsylvania District Attorneys Association (PDAA) as early as 2011 with a model bill around trafficking. The PDAA is a lobbying group that ostensibly represents a statewide consensus of prosecutorial opinions, and it is known for its extraordinarily powerful support of punitive legislation in the state legislature. Greg Rowe, current Executive Director of the PDAA, explained that when the organization initially worked with the Polaris Project, it presented sex trafficking as a phenomenon of unique importance, explaining why the initial bill (Act 105) focused more on defining sexual servitude and sex trafficking than labor trafficking.⁹⁴ Today, the PDAA continues to use its stature to support increasing punishments for sex buyers and to position the criminal legal system as a legitimate protector of victims of trafficking.

Safe Harbor: Symbolic Legislation and Carceral Protectionism

Since the passage of Act 105 driven by the Polaris Project, Pennsylvania-focused advocacy organizations have gained similar lobbying power in Pennsylvania. Chief among them is the Villanova Law Institute to Address Commercial Sexual Exploitation (the CSE Institute), founded by former Philadelphia Assistant District Attorney Shea Rhodes and a \$450,000 grant from the NoVo Foundation.⁹⁵ The term “commercial sexual exploitation” signals a saviorist

⁹⁴ Greg Rowe (Executive Director, Pennsylvania District Attorney’s Association), interview with author, online, March 2022.

⁹⁵ Dan Norton, “Villanova launches institute aimed at commercial sexual exploitation law,” *Philadelphia Business Journal*, September 9, 2015, <https://www.bizjournals.com/philadelphia/news/2015/09/09/villanova-launches-institute-aimed-at-commercial.html>. The NoVo Foundation has committed hundreds of millions of dollars to female empowerment and anti-violence initiatives since its founding in 2003, shifting from working in female education to ending child marriage in other countries, to a focus on ending commercial sexual exploitation.

belief that any form of sex work is inherently exploitative. Moreover, the CSE Institute invests significant amounts of its resources into campaigns combatting what it calls “dangerous narratives” on sex work. In addition to citing religious motivations for its work, the group’s language of “prostituted persons” reflects a belief that sex workers “rarely have a choice,” while sex buyers “always have a choice.”⁹⁶ This organization, among others including the Philadelphia Anti-Trafficking Coalition (PATC), the Women’s Law Project, and the Salvation Army, has been a major player in passing Pennsylvania legislation related to sex trafficking since 2014.⁹⁷ Today, the CSE Institute has taken its place as a self-proclaimed Pennsylvania leader in crafting and supporting legislation to end “commercial sexual exploitation.”

In 2018, Pennsylvania enacted another major piece of legislation related to sex trafficking, Senate Bill 554, or the Safe Harbor Bill. Shea Rhodes and the CSE Institute wrote and introduced this bill, and like Act 105, it was sponsored by Senators Greenleaf and Dinniman.⁹⁸ The Safe Harbor Bill created immunity for victims of human trafficking, required trauma-oriented training for law enforcement, and established the Safe Harbor for Sexually Exploited Children Fund to support victims’ services and education campaigns.⁹⁹

⁹⁶ “Report on Commercial Sexual Exploitation in Pennsylvania, Spring 2021,” The Institute to Address Commercial Sexual Exploitation, Villanova University, May, 2021, <http://cseinstitute.org/wp-content/uploads/2021/05/Spring-2021-Report-FINAL-pages-1.pdf>. The CSE Institute does recognize structural underliers of inequity. However, they take the stance that this is far less important than prosecuting and punishing buyers of sex.

⁹⁷ 18 Pa. Cons. Stat. § 2810, 3001, 3026, 3053, 3056, 3061-3065 (2018). Shea Rhodes works on the board of PATC, and many of the individuals in these organizations take on multiple roles in multiple of these groups. Notably, the 2017 director of the Philadelphia New Day program, Jamie Manirakiza, also serves on the board of the CSE Institute.

⁹⁸ “Human Trafficking Expert and The Institute to Address Commercial Sexual Exploitation Co-Founder, Shea M. Rhodes, Esq. announced as the Recipient of Women Organized Against Rape’s 2018 Bridge Of Courage Award,” Women Organized Against Rape, February 23, 2018, <https://www.woar.org/human-trafficking-expert-institute-address-commercial-sexual-exploitation-co-founder-shea-m-rhodes-esq-announced-recipient-women-organized-rapes-2018-bridge-courag/>. The Safe Harbor bill was first introduced in 2015, but was not voted upon until 2018.

⁹⁹ “New Safe Harbor Law Will Protect Child Victims of Human Trafficking.” Governor Tom Wolf, November 13, 2018. <https://www.governor.pa.gov/newsroom/new-safe-harbor-law-will-protect-child-victims-human-trafficking/>.

This legislation had strong bipartisan support, backed by a large and varied mixture of organizations including the Pennsylvania State Police, the PDAA, the Pennsylvania Coalitions Against Rape and Domestic Violence, and the Pennsylvania ACLU.¹⁰⁰ The Safe Harbor Bill again passed unanimously through the Senate and the House because it was perceived as a laudable victory by a diversity of political actors for its focus on protecting and supporting child victims of human trafficking. However, the institutional mechanisms it built routed funding through law enforcement and carceral apparatuses, which not only excused growth in the carceral state, but also failed to protect those it set out to.

The original Safe Harbor Bill included a blanket amnesty, or safe harbor, from prosecution for any “delinquent act” committed by a child victim of trafficking.¹⁰¹ The PDAA, however, opposed this “blanket safe harbor” because it would impair the criminal legal system’s ability to break what the PDAA saw as a “cycle of victimization.” The organization upheld the police as necessary connectors to social services and protectors of trafficked youth, and it reinforced detention as a protective solution.¹⁰² While children who experience sexual or physical abuse have a “child-friendly” route for forensic evaluation or reporting, law enforcement engages with child victims of trafficking in police settings.¹⁰³

¹⁰⁰ “Bill Information (history) - senate Bill 1381; Regular Session 2013-2014,” accessed December 12, 2021, <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2021&sInd=0&body=S&type=B&bn=554>; “CSE Institute Attends Ceremonial Signing of Safe Harbor Law,” The Institute to Address Commercial Sexual Exploitation, Villanova University, November 13, 2018, <https://cseinstitute.org/cse-institute-attends-ceremonial-signing-of-safe-harbor-law/>. The CSE Institute calls the bill a true bipartisan effort. Sex workers’ rights organizations have not formally taken a stance on any of these bills, but they do generally assert that all of these bills are harmful, whether through upholding a harmful narrative or providing more avenues for regulation.

¹⁰¹ 18 Pa. Cons. Stat. § 3001, 3026, 3056, 3061-3065 (2018); 42 Pa. Cons. Stat. § 6328 (2018), <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2015&sessInd=0&billBody=S&billTyp=B&billNbr=0851&pn=0965>. The original language excludes only murder, aggravated assault, rape, robbery of a motor vehicle, kidnapping, and conspiracy to murder from the amnesty.

¹⁰² “Testimony of the Honorable Jack Whelan, District Attorney, Delaware County, Before the Senate Judiciary Committee Regarding Senate Bill 851,” Pennsylvania District Attorneys Association, September 30, 2015, <https://www.pdaa.org/testimony-of-the-honorable-jack-whelan-district-attorney-delaware-county-before-the-senate-judiciary-committee-regarding-senate-bill-851/>.

¹⁰³ Anish Raj, (Founder, Adolescent Protection Collaborative, Children’s Hospital of Pennsylvania), interview with author, online, February, 2022. Raj was motivated to create this victims’ protection group to counter the need for law

Jennifer Musto has explained the on-the-ground impacts of carceral protectionist attitudes like those the PDAA imposed upon the Safe Harbor Bill. Carceral protectionism defines a framework that pushes all trafficking victims or potential victims through the “carceral enforcement apparatus in order to be officially recognized by the state” whether they are formally charged with prostitution or not.¹⁰⁴ Musto details the ways in which punitive criminal justice tools are ineffective in implicating systems of wage exploitation, surveillance, police violence, racism, and poverty harming youth who are victims of trafficking. These Safe Harbor provisions treat youth as offenders through detainment, police questioning, and removal of agency; they lose the “ability to refuse to participate in a criminal justice process that does not serve their broader interests and needs.”¹⁰⁵ The phenomenon of carceral protectionism, then, is not only an unintended consequence of perhaps well-intended legislation, but an active creation by Pennsylvania’s legislature.

When the bill was passed, the CSE Institute praised the “thoughtful contributions” proposed by the PDAA, despite the organization’s purported commitment to reducing involvement with law enforcement for victims of trafficking. The compromise needed to pass the bill was found in removing amnesty, reflecting the inability—or unwillingness—of the anti-trafficking movement to resist carceral expansion. Preying on public fears of trafficked and exploited children, this compromise removed a discussion about whether the criminal legal system played a helpful or harmful role in the lives of these children, and ultimately solidified it as the primary route for victims of trafficking at large.

enforcement as a protector; he additionally discussed prosecutorial discretion, who has the choice to use the bill for what few crimes can receive amnesty. However, “invoking Safe Harbor” is largely at the discretion of an individual prosecutor’s ability to see the crime as the result of trafficking or not and has not happened to date in his knowledge.

¹⁰⁴ Musto, *Control and Protect*, 23.

¹⁰⁵ Musto, *Control and Protect*, 67.

Moreover, the Safe Harbor Fund encoded in the bill set aside funding for victims' services providers and public awareness campaigns on the harms of human trafficking. Victims' services providers who work with youth who have experienced trafficking have highlighted that there is no functioning mechanism to obtain fines from those convicted of trafficking.¹⁰⁶ The Philadelphia chapter of the Salvation Army's A New Day to Stop Human Trafficking stressed that "to date, nothing has been done with that fund." Anish Raj, the founder of the Adolescent Protection Collaborative (APC) for trafficked youth at the Children's Hospital of Philadelphia (CHOP), explained that Safe Harbor funding has not "trickled down to the medical or clinical side... no one that I know or am aware of knows where that money is or where it goes."¹⁰⁷

The Safe Harbor Fund as it stands, then, seems to exist only on paper. In 2021, the CSE Institute reported that three years after the creation of the fund, fines were not being levied against people convicted of trafficking because of a disorganized and unclear set of policies for prosecuting trafficking. However, the lack of financing has also resulted from its design requiring fines from offenders—the more people who are prosecuted for trafficking, the more people who will pay fines to the fund. Because so few individuals have been convicted of child sex trafficking in Pennsylvania, the Safe Harbor Fund has few resources. Between 2014 and 2021, only three individuals were convicted of patronizing a victim of sexual servitude under Pennsylvania law. Over the same seven years, only sixty individuals were convicted either as traffickers or third-party facilitators who profited from trafficking.¹⁰⁸

¹⁰⁶ Gottschalk, *Prison and the Gallows*. Like the 1994 Violence Against Women Act, most of the money through the Safe Harbor Fund was "earmarked for programs aimed at prevention, punishment, or provision of temporary services" to victims, not increasing "the means to leave abusive situations." Even if the fund was well-resourced, it would not provide substantial gains to expand the welfare state.

¹⁰⁷ Raj, interview; LaRocca and Jones, interview. Anish Raj and Heather LaRocca interviews

¹⁰⁸ John L. Micek, "Report: Pa. ranks 4th nationwide in human trafficking prosecutions," *Pennsylvania Capital Star*, September 22, 2020, <https://www.penncapital-star.com/commentary/a-new-report-offers-a-vivid-look-at-the-state-of-human-trafficking-in-pa-tuesday-morning-coffee/>; "Report on Commercial Sexual Exploitation in Pennsylvania, Spring 2021," The Institute to Address Commercial Sexual Exploitation, Villanova University, May, 2021,

In practice, Safe Harbor continues to push forward a highly individualist view of crime. By its own measures, it has neither “caught” the “traffickers” it set out to, nor has it provided any funding to victims’ services. It fails to include or address broader conditions of exploitation, poverty, stigmatization, and other factors that would make a minor vulnerable to trafficking in the first place. Raj powerfully explains the failures of the ultimately inadequate role of Safe Harbor in addressing exploitation. Being identified as being trafficked “doesn’t mean that much changes...the core issues that contribute to abuse and exploitation are, for the most part, still there...even if a few extra services are sometimes offered.”¹⁰⁹

The shortcomings of legislation reveal barriers to sex workers’ rights at large. The discussion of children involved in the sex trade as victims of trafficking has been far more compassionate compared that of consensual buyers and sellers of sex. However, there is a large gap in services when a child ages out of the politically defined category of “minor.” In the words of Eileen Corcoran, a longtime organizer with the Sex Workers Outreach Project (SWOP) in Seattle and former street-based sex worker, “sixteen turns twenty-six quick.”¹¹⁰ There is an intense political focus on young girls being exploited—a real and important social issue that deserves attention. Yet, this focus is negated because it allows for the dismissal of adults “working in the streets,” who are often the same individuals met with political compassion when they were teenagers.¹¹¹ As the Safe Harbor Bill demonstrates, however, limited amnesty provisions and funding for victims’ services contingent on prosecution are ineffective pathways to eliminating structural exploitation for anyone, even if stemming from compassion.

<http://cseinstitute.org/wp-content/uploads/2021/05/Spring-2021-Report-FINAL-pages-1.pdf>, 5. There have been 37 convictions in PA using the TVPA (2019), and 60 convictions under Act 105. Data reported from Gabrielle Monroe reveals how most of these convictions are not from human trafficking as it is described in the law, but rather convictions of hotel owners or “pimps.”

¹⁰⁹ Raj, interview.

¹¹⁰ Hail-Jares, *Challenging Perspectives*, 183

¹¹¹ Hail-Jares, *Challenging Perspectives*, 183.

Buyer Beware: The Anti-Trafficking Movement's Most Punitive Turn

The Buyer Beware Act, passed on November 18, 2019, is a bill exactly aligned with Pennsylvania's anti-trafficking trend of carceral feminism. The bill, like the anti-trafficking movement, is premised on punishment. It was proposed by Senator Seth Grove (R-York), and Senator Kristin Phillips-Hill (R-York) for "further providing for the offense of trafficking in individuals and for the offense of patronizing a victim of sexual servitude."¹¹² Both Shea Rhodes of the CSE Institute and Jennifer Storm, the State Victim Advocate, worked alongside Senators Grove and Phillips-Hill to create the Buyer Beware Act. The bill specifically connects the act of prostitution with human trafficking in its language, and it represents an ongoing, and unrelenting, conflation of sex work with sex trafficking.

Not only do the punitive, carceral feminist trends of the past reappear in relation to human trafficking, but advocates for victims of trafficking continually align themselves with punitive policies for offenders. Like Act 105 did to the state's 2006 definition of trafficking, the Buyer Beware Act builds upon Act 105 and the Safe Harbor Bill by expanding the definition of actions constituting trafficking. It doubled the maximum incarceration sentence an individual can serve for trafficking by upgrading the penalty to a first-degree felony, and it built graduated sentences for repeat offenders.¹¹³ It classifies the involvement of any individual "who knowingly benefits from or receives anything of value from any act that facilitates any activity" related to

¹¹² "Act 1 (2020): Pennsylvania's Buyer Beware Act," The Institute to Address Commercial Sexual Exploitation, Villanova University, March 2020, <https://cseinstitute.org/wp-content/uploads/2020/03/Act-1-2020-3.20.pdf>; "Buyer Beware Act," PA State Rep. Seth Grove, accessed March 8, 2022, <http://www.repgrove.com/buyerbeware>.

¹¹³ Jessica Barnett, "Buyer Beware Act: Penalizing Patrons of Trafficking," *Greenlight Operation*, September 17, 2019, <https://www.greenlightoperation.org/blog/2019-9-15-buyer-beware-act-penalizing-patrons-of-trafficking/>. Act 105 considered this a felony of the second degree.

sexual servitude—including landlords, non-dependent family members, or car drivers—as a felony of the first degree.¹¹⁴ The maximum penalty for this grading is twenty years in prison.¹¹⁵

Senator Grove explained that “the Buyer Beware Act will ensure those who are convicted of crimes related to human trafficking will feel the full force of our justice system while providing justice to helpless victims.”¹¹⁶ This seeks to “end-demand” for the sex industry. Yet, sex workers consistently assert that end-demand models ultimately create more harm for sex workers by forcing less safe client interactions, further criminalizing the industry, and permitting more exploitation. Moreover, while the bill certainly transitions a public conversation away from the criminality of sex workers, it neither recognizes the legitimacy of sex work nor does it seek to remove existing criminal penalties from sex workers. Since its enactment, only five people have been convicted of trafficking under this law.¹¹⁷

On June 30, 2021, five more bills were passed related to trafficking, several of which were originally part of an eight-bill package passed through the house in June of 2021. Those that have been enacted are detailed in the table below.¹¹⁸ Bills that were not passed included HB 161 from Rep. Jozwiak (R-Berks) to make trafficking in infants a first-degree felony and HB

¹¹⁴ 18 Pa. Cons. Stat. § 3011- 3013, 3021. “Dependents” here means anyone who depends on sex work for money. Children of sex workers are not included based on other parts of the code 18 Pa. Cons. Stat. § 5902, but the small number of prosecuted cases means that this distinction is likely unimportant in practice, despite its disquieting potential effects.

¹¹⁵ “Overview: Mandatory Minimum Sentences,” American Civil Liberties Union of Pennsylvania, accessed March 25, 2022, https://aclupa.org/sites/default/files/field_documents/background_information_on_mandatory_minimums.pdf. Pennsylvania no longer has mandatory minimum sentences.

¹¹⁶ 18 Pa. Cons. Stat. § 3011- 3013, 3021, 42 Pa. Cons. Stat. § 5892; “Buyer Beware Act,” PA State Rep. Seth Grove.

¹¹⁷ Monroe, interview. Gabrielle Monroe has found that only 5 people were convicted of trafficking under the Buyers Beware Act. None were for child sexual exploitation.

¹¹⁸ NCPA Staff, “Pa. House approves bill package to protect human trafficking victims,” *North Central PA*, June 8, 2021, https://www.northcentralpa.com/news/pa-house-approves-bill-package-to-protect-human-trafficking-victims/article_ca1f7ce8-c765-11eb-9831-ffc34d0d0276.html; “Governor Wolf Signs Five Anti-Trafficking Bills,” The Institute to Address Commercial Sexual Exploitation, Villanova University, July 9, 2021, <https://cseinstitute.org/governor-wolf-signs-five-anti-trafficking-bills/>.

2176 from Rep. Mustello (R-Butler) to define more offenses that constitute unlawful sexual contact.¹¹⁹

Table 1. 2021 Anti-Trafficking Bill Package

Bill; Sponsor	Purpose
HB 156, Amend the Tender Years Hearsay Act; Rep. Clint Owlett (R-Tioga)	Allow testimony from children 16 years or younger to include hearsay statements so that victims of trafficking do not have to testify in an open courtroom
HB 246; Rep. Natalie Mihalek (R-Allegheny)	Bans defendants in trafficking cases from using a victim's past sexual victimization or allegations as evidence
SB 81; Sen. Wayne Langerholc Jr. (R-Bedford)	Experts may testify about the dynamics of sexual servitude and other child sexual abuse offenses in court
HB 843; Rep. David Rowe (R-Union)	Human trafficking offenses will join the list of convictions that influence child custody determination
HB 1147; Rep. Valerie Gaydos (R-Allegheny)	Those convicted of human trafficking involving sexual servitude or sexual abuse of a minor will require Department of Corrections counseling or therapy

These bills are part of a thickening coalition of sex work criminalization coming from the legislature that works more to increase public fears of trafficking in the sex industry than to generate any meaningful progress toward ending human trafficking or protecting people consensually involved in the sex industry. The so-called war on trafficking is neither effective nor warranted in its narrow focus on prosecuting offenders only in the sex industry, and as spurious claims of the exploitation of “millions of children” in a “billion-dollar industry” persist, so too does criminalization around sex work.

¹¹⁹ Representatives Meghan Schroeder, Natalie Mihalek, Marci Mustello, Valerie S. Gaydos, and David Rowe, “Human Trafficking Package,” House Co-Sponsorship Memoranda, December 19, 2019, <https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20190&cosponId=30817>.

The anti-trafficking movement's political power has become conspicuously entrenched in Pennsylvania legislation. However, its impacts have been minimal both for the small number of offenders who are prosecuted and for victims of trafficking who see little material gain. Instead, the growth of carceral protectionism—where involvement with the criminal justice system is deemed necessary for those the system sees as victims—has characterized the impacts of this legislation. The growth in these largely symbolic pieces of legislation is the function of the compelling anti-trafficking narrative, and it shows the entrenched political power that the narrative holds. It also represents the anti-trafficking movement's largest self-declared advances. But, the narrative has had much more disquieting consequences for sex workers and victims of trafficking alike through its extension to—and reinforcement by—prosecutorial practices, problem-solving courts, and police-assisted diversion programs across the state.

Chapter 2

The Rescue Industry and the Criminal Legal System: Project Dawn Court

“Distinctions between rehabilitation and criminalization collapse when people are refused real choice in the matter.”
— Annie Hill

Prosecutions following Pennsylvania's insistence on enacting punitive anti-trafficking legislation have been few, and meaningful access to social services has been even rarer. Yet, the rescue industry and victim narratives have had substantially harmful consequences at the local level. Based in Philadelphia, Project Dawn Court is an instructive example of the inadequacy of a prostitution diversion problem-solving court. Built upon the narrative of the anti-trafficking movement, it claims to “divert” people from sex work with counseling and treatment. However, sex workers' rights organizers and sociologists have specifically criticized Project Dawn for

extending control and surveillance over participants with minimal accountability and reducing all sex work to “commercial sexual exploitation.” The court was built with little state or federal oversight on the notions of high-level state attorneys and judges who placed themselves in the “protector” role for women they viewed as otherwise helpless to continued sexual exploitation. The requirements it set out to divert sex workers and victims of trafficking (often seen as one and the same) away from the sex industry into treatment proved ineffective for meeting the diverse needs of the swaths of people the court intended to support. The election of Philadelphia’s progressive prosecutor—staunchly committed to not prosecuting people arrested for prostitution—was the catalyst for shutting down Project Dawn. When the program was posed as an alternative to freedom, rather than an alternative to incarceration, no one chose to enter. Project Dawn’s fall, then, also provides key insights into the power that prosecutors hold in ending the carceral violence of diversion courts.

The analysis of Project Dawn is built upon interviews with Lesha Sanders, the eleven-year court administrator; Mary DeFusco, the court’s founder; and members of the Philadelphia District Attorney’s Office. Additionally, direct field observation of the court’s process, a theoretical analysis of problem-solving courts at large, and interviews with various sex workers’ rights activists inform this chapter.

The Harms of Diversion and Victimization: Why Sex Workers’ Rights Movements Care

Amid a political culture recognizing the human and fiscal cost of a frighteningly extensive carceral state, diversion programs are hailed as “justice” oriented solutions by liberals and cost-saving mechanisms by conservatives. Initially considered a silver-bullet solution to ending incarceration for drug use, these courts have been extended to sex work in the past

decade. However, they rely on the threat of incarceration to coerce participants into a predetermined, ineffective path of “recovery,” conferring harsher sentences to participants who do not complete the program than if they had chosen to go to prison from the outset. They require participants to access services that are embedded in the criminal legal system, and they claim to be an alternative offer to “persons facing arrest, conviction, or detention” for certain eligible offenses.¹²⁰ In reality, these courts do not fundamentally challenge the harms of criminalization or incarceration and disrupt larger initiatives to detangle the criminal legal system from the provision of social services.

The anti-trafficking movement’s rescue narrative and a growing movement to build softer alternatives to carceral punishment uniquely found common ground in prostitution diversion programs (PDPs). Yet, the problem-solving courts related to prostitution diversion are more of a response to the anti-trafficking movement’s classic example of a victim or survivor of trafficking than a progressive shift in reducing or removing criminal penalties from sex work. Within the context of a rescue-oriented and carceral framework, these programs aim to divert those convicted of non-violent and non-serious crimes from the prison system. Individuals participating are purportedly able to access housing and employment services. However, making service provision contingent upon abstinence from sex work, drug use, and arrests for other criminalized activities, significantly reduces their accessibility.

Pennsylvania has two dominant forms of PDPs: problem-solving courts for people already convicted of prostitution, and police-assisted diversion for people arrested for prostitution. Notably, nearly all of the law-enforced diversion programs are concentrated in the state’s two largest cities, Philadelphia and Pittsburgh. These two large cities have larger vice squads—special squads of law enforcement that target crimes of vice including drug use,

¹²⁰ Kaye, *Enforcing Freedom*, 8.

prostitution, and gambling—and thus more police to arrest people for prostitution.¹²¹ While there are other court-based diversion programs in Pennsylvania, including Positive Recovery Intensive Diversion Experience (PRIDE) Court in Allegheny County, these courts are neither well-understood nor well-studied and have seen underwhelming numbers of participation. Future research should prioritize illuminating their functions.

“Diverting” Without Questioning: The Ongoing Harms of Criminalization

Project Dawn is modeled closely after a specialized drug court, the Philadelphia Treatment Court.¹²² These courts grew in popularity as an alternative to the punitive law-and-order, tough-on-crime sentiment of the decades before.¹²³ While problem-solving courts and enforced-treatment programs are presented as the direct opposite of a punitive drug war, sociologist Kerwin Kaye has pointed out that funding for treatment programs has “generally expanded together with the overall budget for the drug war.” He shows how softer rehabilitative approaches remained relevant even when the “tough-on-crime policies were at their most dominant.” President Bill Clinton’s Violent Crime Control and Law Enforcement Act, for

¹²¹ “Police Consolidation in Pennsylvania,” Legislative Budget and Finance Committee, Pennsylvania General Assembly,” September, 2014, <http://lbfc.legis.state.pa.us/resources/documents/reports/497.pdf>. Only four PA municipalities had over 20 part-time officers in 2013. Philadelphia city had 911 officers, Bethel Park of Allegheny County (Pittsburgh) had 29, and Olyphant of Lackawanna County and Bethel Township of Delaware County each had 21 part-time officers. However, all officers enforce human trafficking laws because trafficking is considered a more serious crime. In this way, the growth in anti-trafficking legislation has also seemingly extended law enforcement’s broad ability to arrest people suspected of prostitution in relation to trafficking. The extensive conflation of sex work and sex trafficking allows law enforcement to target sex workers more widely through the framing of sex workers as victims or perpetrators of human trafficking. This is true according to interviews with New Day, PDAA, and the DA’s office, however, there have been no studies around this type arrest, so it may be true on paper but not in practice. According to Evan Anderson’s independent evaluation of the PAD program, police officers in Philadelphia reportedly dislike arresting sex workers and may not be responsive to enforcement of human trafficking because of this.

¹²² “Philadelphia Treatment Court,” *PHMC Forensic Services Philadelphia*, accessed March 25, 2022, <https://forensicservices.phmc.org/programs/philadelphia-treatment-court>.

¹²³ “Drug Courts,” *U.S. Department of Justice*, Office of Justice Programs, August, 2021, <https://www.ojp.gov/pdffiles1/nij/238527.pdf>. Drug treatment courts generally have grown exponentially in number since the first courts were created in the 1990s. Today, there are over 3,500 drug courts in operation.

example, included \$9.7 billion for prisons and \$6.7 billion for crime prevention programs, including drug courts.¹²⁴

Diversion courts today, then, do not mark any significant shift away from the existing punishment model. The question of “diversion or prison” fails to include a critical analysis of whether these programs truly represent a simple split between punishment and treatment when the same systems dole out both. While progressive at face value, these programs introduce new logics to deploy a more extensive and intimate range of surveillance techniques that make continuing to rely on criminal legal solutions more palatable.¹²⁵ They require guilty pleas as a precondition to participation, raising concerns of coercion because the courts serve as gateways to needed services.¹²⁶ The national Sex Workers Project (SWP) of the Urban Justice Center describes prostitution diversion programs as ultimately lacking in evidence and public accountability mechanisms. This group, along with many sex workers’ rights organizations, distrust claims that PDPs can do good in the lives of people selling sex. They assert:

PDPs simultaneously position the sellers of sex as “victims,” but in fact embed their treatment in the criminal justice systems, thus seamlessly collapsing all sex work into a sorely misguided trafficking frame while retaining coercive control of people in the sex sector. At the same time, the PDP approach avoids the harder and more important inquiries into why buying and selling sex ought to be criminal at all (absent other crimes), and why and if courts are appropriate bodies for assessing service needs and compelling therapeutic treatments.¹²⁷

Project Dawn seeks to end its participants’ involvement with “the Life” of sex work, which as Kaye explains for drug courts, serves to “medicalize” poverty. Demands of abstinence from sex work not only make structural conditions invisible, they “pathologize survival-based

¹²⁴ Kaye, *Enforcing Freedom*, 9

¹²⁵ Kaye, *Enforcing Freedom*, 10

¹²⁶ Corey S. Shdaimah, “Prostitution Diversion Programs,” *Encyclopedia of Women and Crime*, (2019): 4.

¹²⁷ Anna Sarnak, Shaylen Foley, and Alice M. Miller, “Diversion from Justice: A Rights-Based Analysis of Local ‘Prostitution Diversion Programs’ and their Impacts on People in the Sex Sector in the United States,” Global Health Justice Partnership of the Yale Law School and Yale School of Public Health and The Sex Workers Project of the Urban Justice Center, September 2018, https://nswp.org/sites/default/files/diversion_from_justice_ghjp_-_2018.pdf, 7.

responses to social and economic marginalization.”¹²⁸ Project SAFE and the Philadelphia Red Umbrella Alliance (RUA), sex workers’ rights organizations in Philadelphia, have also heavily critiqued Project Dawn Court. Grassroots organizers from these groups maintain that tying behavioral health intake and recovery-centered health interventions to arrest for sex work or drug use further stigmatizes these activities.¹²⁹ More simply, both drug and prostitution courts assert that “the problem all along” was drugs or sex work, rather than an unmet need for housing and medical care or the criminalization of drug use or sex work in the first place.

Project Dawn Court’s Creation: Individual Rescuers

Project Dawn Court was founded in 2010 primarily under the direction of Mary DeFusco, a Philadelphia Public Defender, member of the advisory board for the CSE Institute at Villanova, and co-founder of the Philadelphia Treatment Court.¹³⁰ DeFusco explained that the creation of Project Dawn was the direct result of her belief that involvement in sex work was an “issue of childhood sexual abuse” or other trauma; “neuroses” resulting from this abuse were the only logical motivator for choosing sex work.¹³¹ The decision to assign all sex work to unresolved sexual trauma effectively removed the potential for Project Dawn to prioritize the more basic needs of their participants—affordable housing, transportation, free medical care, and consistent and safe work—in favor of treatment and counseling. Moreover, DeFusco relied on a discourse

¹²⁸ Kaye, *Enforcing Freedom*, 22. Project SAFE and the Philadelphia Red Umbrella Alliance have also heavily critiqued Project Dawn Court. Grassroots organizers from these groups maintain that tying behavioral health intake and recovery-centered health interventions to arrest for sex work or drug use further stigmatizes these activities.

¹²⁹ Raani Begum and Sultana Bibi, “Destigmatize, Decriminalize, Decarcerate: On Sex Work and Harm Reduction,” (webinar, Project SAFE and Philadelphia Red Umbrella Alliance, Zoom, September 21, 2022).

¹³⁰ Mary DeFusco (Project Dawn Court Founder, Philadelphia Public Defender), interview with author, online, January 2022.

¹³¹ DeFusco, interview

narrowly positioning sex work as the result of traumatic life experiences, instead of “the broader gendered socioeconomic realities that frame [sex workers’] lives.”¹³²

In 2006, DeFusco attended an event alongside Catholic Social Services (CSS) of Philadelphia, which provides social services rooted in the Catholic faith, and the Philadelphia Coalition to End Human Trafficking, a group loosely affiliated with many anti-trafficking groups but headed by Covenant House, another religiously affiliated social service provider. The Polaris Project, the national anti-trafficking organization that lobbied for the implementation of Pennsylvania’s early anti-trafficking legislation, presented on domestic human trafficking at this event. Presentations like these used progressively deteriorating images of a young girl’s first prostitution arrest to her ninth or tenth, to employ sensationalized and fear-inducing visuals around “what prostitution does,” rather than indicting systematic criminalization or chronic poverty.¹³³ DeFusco recalled a statement from the Polaris Project’s presentation, which asserted that trafficking seemed uncommon at the local level, because it was called “prostitution when it happened in Philadelphia.”¹³⁴ These anti-trafficking-oriented beliefs that present all sex work as inherently harmful and all sex workers as experiencing a form of exploitation were pervasive throughout the creation and implementation of Project Dawn Court, which began in 2010.

The team for Project Dawn constituted providers from CSS who created Dawn’s Place to provide free housing to about twenty victims of trafficking at a time; Donna Sabella, creator and director of Project Phoenix, an outreach program providing support for “trafficked and prostituted women” in Philadelphia as well as counseling treatment in jails; Judge Charlie Ehrlich, at the time Chief of the District Attorney’s Municipal Court Unit; and Jeanette Palmer, a

¹³² Susan Dewey and Tonia St. Germain, *Women of the Street: How the Criminal Justice-Social Services Alliance Fails Women in Prostitution*, (New York: NYU Press, 2017), 4.

¹³³ Dana Bazelon (Senior Policy Advisor, Office of the Philadelphia District Attorney), interview with author, online, February 2022; Oren Gur (Director of Research, District Attorney’s Transparency Analytics Lab), interview with author, online, February 2022.

¹³⁴ DeFusco, interview.

probation officer who was responsible for a small caseload of females charged with sex offenses and a large caseload of low-level prostitution misdemeanor cases.¹³⁵ With Ehrlich's approval, Sabella hand-picked three women from the Riverside Correctional Facility—Philadelphia's main jail for women in 2010—for early release to live in Dawn's Place, marking the first collaboration that would eventually lead to Project Dawn. "Cherry-picking" participants to live in Dawn's Place characterized the highly discretionary process of ultimate involvement with Project Dawn.¹³⁶

In building up Project Dawn, DeFusco rightfully recognized that the majority of women arrested for sex work in Philadelphia were street-based workers who also frequently engaged in chaotic substance use. Her clients typically prioritized treatment for substance use over treatment for sexual trauma.¹³⁷ In her view, these women needed to "address their underlying sexual trauma" to end the cycle of incarceration related to street-based sex work. She sought what she understood as the best pathway—dual therapy for sexual trauma and drug use.¹³⁸ However, only one type of behavioral health service could be funded at one time through Medicaid; her clients would be unable to receive federal funding for treating both their "neuroses" of sexual trauma and their substance use disorder. The same year the first three women were released from jail to live at Dawn's Place, the Assessment & Treatment Alternative (ATA), a forensic mental health services clinic for Philadelphia that frequently provides forensic evaluations for the criminal

¹³⁵ DeFusco, interview.

¹³⁶ Begum and Bibi, "Destigmatize, Decriminalize, Decarcerate." Scholars have also described this phenomenon as criminal legal system officials exercising the ability to assign status; failing to complete the program would make women criminals, while successfully completing it would make them victims. Moreover, Project Dawn had the power to punish and rescind victim status if sex workers did not change their behavior.

¹³⁷ Maya Doe-Simkins and Alice Bell, "Opioid overdose prevention and related trauma: incorporating overdose prevention, response, and experience into substance use disorder treatment," Illinois Co-Occurring Center for Excellence, Heartland Health Outreach, 2014, <http://prescribetoprevent.org/wp2015/wp-content/uploads/Incorporating-OD-into-SUD-Tx-12.141.pdf>.

Chaotic substance use refers to drug use for people in active addiction, where drug use becomes so heavy that a person cannot control it; one's life is controlled by or revolves around using that drug.

¹³⁸ DeFusco, interview.

legal system, reportedly discovered a “work-around” to receive Medicaid funding for both sexual trauma recovery therapy and drug or alcohol treatment services. Without the federal restrictions that previously categorized this as “double dipping,” Project Dawn’s model of enforced therapy was thus equipped to accept its first participants through a mixture of support from criminal legal officials, federal programs, and an overarching political climate connecting the anti-trafficking movement to reforms to the criminal legal system.

How it Works: Surveillance, Punishments, and Other Mechanisms

After two years of running as a pilot program through the Public Defender’s Office, Project Dawn officially established itself as a court program with a 2012 federal grant for hiring Lesha Sanders, the court administrator who has worked with the program to date.¹³⁹ On a quasi-volunteer basis, staff of Project Dawn choose to participate, and their respective offices use their budgets to support their salaries. Project Dawn operates with minimal additional funding; it uses existing budgets and relies on current staff to donate their time.¹⁴⁰ Case managers from Project Dawn are sourced from and assessed by Forensic Services, which has provided case managers for clients in the Philadelphia justice systems for years. This agency is accountable to the city’s Department of Behavioral Health, their primary funder.

Eligibility criteria for Project Dawn, mandated that all participants to be cisgender, adult women with an open prostitution-related case against them and at least two prior prostitution charges or convictions. Unlike most other courts, women are only eligible for Project Dawn on

¹³⁹ DeFusco, interview; Lesha Sanders (Court Administrative Officer, Common Pleas Court, City of Philadelphia), interview with author, Philadelphia, Pennsylvania, February 2022. The federal grant only lasted for two years, however, the Philadelphia Court System now funds Sanders, who works with multiple diversion programs.

¹⁴⁰ Sarnak “Diversion from Justice.”

the third offense, when faced with harsher punishments under Pennsylvania state law.¹⁴¹ Women must plead guilty to the charge in order to join the program, and if they are terminated from or fail to complete the entire process, their pleas are entered, and they are sentenced. If they remain abstinent from drug use and sex work—or at least avoid arrest for one full year after participation—the charge is expunged. All previous charges, which were required for participation eligibility, remained intact.¹⁴²

From the program's formalization in 2012 to its stop in new referrals in 2022, 145 women chose to participate in the program rather than go to prison. Of these, 87 successfully completed the program; 8 died during the program; 6 were discharged for new offenses; 8 were unsuccessful for reasons of noncompliance; and 1 person voluntarily withdrew to go to prison. Six cases were closed by administration for failure to meet the required benchmarks, and 27 cases remain open to date. In 2015, at the height of the court's work, over 800 people were arrested for selling sex in Philadelphia, and on average between 45 and 60 women actively participated in the program each year. Even if this diversion court could be considered a viable alternative to incarceration, "between the small number of programs in existence and their eligibility requirements," as well as the criminal legal system's discretion in choosing participants, access was incredibly limited.¹⁴³

Participants in the program are required to complete four phases of 30 days, 90 days, 120 days, and 125 days. All phases required participation in treatment and counseling services for sexual trauma recovery and drug and alcohol treatment. According to attorney and project

¹⁴¹ DeFusco, interview; Sanders, interview. Unlike other treatment courts, Project Dawn only accepts women with three prior arrests for prostitution, who are often on probation for multiple different cases sometimes in front of multiple judges. Project Dawn terminates all open cases for their participants when they join the program.

¹⁴² Linda Muresku, "Just to Be There: A Probation Officer's Reflection on Project Dawn Court," in *Challenging Perspectives*, 42.

¹⁴³ Becca Kendis, "Human Trafficking and Prostitution Courts: Problem Solving or Problematic?" *Case Western Reserve Law Review* 69, no. 3 (2019): 805-841, 839.

coordinator Mira Baylson who works with Project Dawn, women were expected to “recover from addiction, to reenter the workforce, to pay their fines and costs, and above all, to end their involvement in prostitution.” Critical of the limits of the criminal legal system to address the complexities of participants’ needs, Baylson explained that Project Dawn’s requirements proved difficult for women who participated to meet in the one-year time period.¹⁴⁴

If a participant had a positive drug screening or missed an appointment for therapy during their tenure at Project Dawn, they would be required to re-start that phase. In 2020, all participants in Project Dawn reported opioid substance use. In 2019, this figure was 92%, and in 2018, it was 93%. The percentage of participants who used opioids was at or above 90% from the program’s creation.¹⁴⁵ That the vast majority of participants were engaged with chaotic substance use meant that the court forced abstinence and recovery in a way that not only increased the harms of addiction by making its services contingent on abstinence, but also by mandating recovery on a court-determined, rather than individually-determined, path.¹⁴⁶

Participants were eligible for all forms of medication assisted treatment (MAT) in their counseling; however, most opioid drug users use MAT to reduce their illicit substance use over time, not completely abstain.¹⁴⁷ Additionally, most participants in Project Dawn engaged in sex work to meet their financial and material needs. Even Project Dawn staff recognized the housing and health care shortage for these women and the huge barriers to stable, living-wage, legal employment that a criminal record posed. Case managers could do little to meet these broad,

¹⁴⁴ Mira Baylson, “Victim or Criminal? Street-Level Prostitutes and the Criminal Justice System,” in *Challenging Perspectives*, 149. While Baylson is critical of the criminal legal system and its involvement in the lives of her clients, she praises Project Dawn as a new path that sees women in sex work as both victims and criminals (under the law).

¹⁴⁵ Sanders, interview. Despite increased punishments for fentanyl coming from the state, substance use has not barred participation from Project Dawn and is almost expected given the initial set up for women to need funding for two types of behavioral health treatment.

¹⁴⁶ Sanders, interview. Court staff absolutely recognize that this is an ineffective form of recovery. It is the structure of Project Dawn that defines this; one cannot participate in the court and concurrently use illicit drugs.

¹⁴⁷ Sanders, interview. Among providers of MAT in harm reduction settings, this is common knowledge.

structural needs. Indeed, because so many participants missed appointments, failed drug screening tests, or picked up new arrests for sex work, the expected year-long program became an average of two-and-a-half years, according to estimates of the court's administrator Lesha Sanders. DeFusco reported that some participants were under the surveillance of the court for upwards of five years. The court did not record the actual length of involvement for each participant.

Seth Williams, Philadelphia District Attorney from 2010 to 2017 who famously supported diversion courts, also criticized Project Dawn's "limbo," where participants were neither graduating nor being dismissed from the program. Participants simply remained under the surveillance of the court until its presiding judge, Judge Martha Neifield, felt they were ready to graduate. Alongside other officials in the court, she believed that the intense, intrusive, and prolonged surveillance remained necessary and effective in changing the behavior of the women she supervised.¹⁴⁸ In her eleven-year tenure presiding over the court, Neifield terminated only a handful participants from the program. For those who were terminated, officials in Philadelphia's criminal legal system reported that Neifield would pursue the highest charges possible.¹⁴⁹ Those unable to complete the program received no form of credit for their time supervised for the court and faced terms in significantly longer than they would have had they not participated in the court-supervised treatment in the first place.¹⁵⁰

¹⁴⁸ DeFusco, interview; Muresku, "Just to Be There" in *Challenging Perspectives on Street-Based Sex Work*, 43. According to Hail-Jares et al., Linda Muresku—Project Dawn's sole probation officer—said in an interview, "I truly believe that they need somebody with law enforcement telling them what to do." Including those from Project Dawn, Muresku had nearly 180 people on her caseload, and she consistently wielded the threat of incarceration—and often carried it through—via sanctions like "flash jailing."

¹⁴⁹ Bazelon, interview; Kaye, *Enforcing Freedom*, 10. Members of the DA's office with experience in prosecuting reported that the most common punishment for people arrested for prostitution was closer to eleven months in Philadelphia while Neifield would pursue charges for 2-5 years.

¹⁵⁰ Kaye, *Enforcing Freedom*, 10.

According to Mary DeFusco, Judge Neifield took the stance that the “very, very damaged population” in the court, a population with “a lot of trauma, buckets and buckets of trauma,” needed the court’s life-changing and necessary treatment. In a note to a graduating participant, for example, Neifield congratulated her on “a renewed commitment to a new way of life.”¹⁵¹ Shifting away from behaviors the court deemed undesirable, however, was not sufficient for addressing Philadelphia’s dearth of affordable housing available for these women, especially those using MAT. This “new way of life,” even with the entirety of Project Dawn staff “pitching in” with job referrals, did not always amount to sustainable, living-wage employment in the licit sector. Low-wage employment that participants were able to find did not provide enough hours or wages for participants to support living expenses for the required one year to remain abstinent from sex work, which was a form of labor that did meet their material needs. Above all, this “new way of life” did not change the fact that the two prior charges required for eligibility in Project Dawn left the mark of “criminal” on women who did complete the program, a mark that posed insurmountable barriers to stable housing, employment, and medical care—the services its participants most needed.¹⁵²

The founders of the court endeavored to build a strong and supportive community that was safe for women who had experienced intense carceral, sexual, and physical violence.¹⁵³

Court officials viewed themselves as a touchpoint for women who would already be routed

¹⁵¹ Project Dawn Court (Philadelphia Municipal Court Room 1103), direct observation by author, February 8, 2022.

¹⁵² DeFusco, interview; Sanders, interview; Begum and Bibi, “Destigmatize, Decriminalize, Decarcerate.” Prior arrests remain intact unless the participant can apply for “vacatur,” which allows people who state in court that they are victims of human trafficking to be “declared innocent” of crimes they may have committed related to their trafficking. Pennsylvania, however, is one of only two in the nation where the original prosecutor has to sign off on this “vacatur,” in addition to a judge. Project Dawn does not have data on how many women have had their charges vacated, because this application comes on a case-by-case basis and requires intensive legal support. It is estimated that only a handful of participants have been able to have all of their past charges vacated. Project SAFE conducted a qualitative study in 2019 with people who used its services to understand their participants’ experiences with the criminal legal system in Pennsylvania. Of 89 people who were interviewed, only five were admitted to Project Dawn. Their evaluation showed that while participants found the counseling treatment from the court to be helpful, needs for housing, transportation, and job training were unmet, which were the services their clients most needed.

¹⁵³ Project Dawn Court, direct observation.

through the criminal legal system, and they have described a handful of inspiring success stories from Project Dawn graduates. However, for all of those who participate, diversion courts do not entirely eliminate the harmful aspects of involvement in the criminal legal system.¹⁵⁴ As Kaye describes for drug courts, Project Dawn takes women whose personhood is “damaged” in the eyes of the courts and ultimately subjects them to even more corrective violence.¹⁵⁵ The “safe space” the court sought to build was undermined by the presence of police officers and other representatives of the carceral state at the building’s entrance. The court imposed criminalizing—yet “arbitrary, inconsistent, and morally fraught”—distinctions on behaviors deemed licit or illicit, and it did not question why the exchange of sex, as opposed to criminalization of sex work, was seen as the ultimate harm.¹⁵⁶ Under the guise of addressing needs, the court held the same threats for participants as the broader prison system, and it failed to include any meaningful processes for accountability or tools for preventing future harms.¹⁵⁷

In line with James Kilgore’s carceral humanism and critiques from Project SAFE and Philadelphia RUA, these trends toward “supposedly humane” criminal justice alternatives inevitably become more controlling when they create a “politics of pity” over a “politics of justice.”¹⁵⁸ When the courts use the threat of incarceration to coerce arrested persons into treatment, despite the perhaps noble aims of their founders, they ultimately remove agency of persons believed to need the strong arm of the carceral state to force their engagement with barely adequate and woefully inaccessible social services.

¹⁵⁴ Kendis, “Human Trafficking and Prostitution Courts,” 840.

¹⁵⁵ Kaye, *Enforcing Freedom*, 25.

¹⁵⁶ Kimberly Sue, *Getting Wrecked: Women, Incarceration, and the American Opioid Crisis*, (Oakland: University of California Press, 2019), 133.

¹⁵⁷ “Reformist reforms vs. abolitionist steps in policing,” *Critical Resistance*, August 2020, http://criticalresistance.org/wp-content/uploads/2021/02/CR_abolitioniststeps_antiexpansion_2021_eng.pdf.

¹⁵⁸ Kaye, *Enforcing Freedom*, 32

The Slow Decline of Project Dawn: Prosecutorial Power in Shifting Away from Diversion

It was the election of Philadelphia DA Larry Krasner that began to promote the decrease in prostitution-related prosecution in Philadelphia. The United States' legal system functions under the control of the prosecutors, whose choice of who to prosecute and the severity of pursued punishment determines the intensity of punishment.¹⁵⁹ Krasner has been hailed as the nation's model progressive prosecutor for pushing his office to stop the "imprisonment of the poor in the United States for the so-called crime of poverty."¹⁶⁰ His unequivocal commitment to "not prosecuting sex workers for first or second offenses" has certainly slowed unfair criminal legal practices in the city. Since Krasner's election in 2018, his office has distinctly lowered the number of prostitution-related charges levied against sex workers in Philadelphia County. In 2020, Philadelphia charged 24 people with selling and 43 for patronizing sex, compared to 839 arrests for selling and 157 for buying in 2015, when the push to view all sex workers as victims was strong in the state's legislature.¹⁶¹ Today, new referrals to Project Dawn have dwindled to none, and when the last of the 27 remaining women graduate, the program will see its official end.

From Project Dawn's inception, the Philadelphia District Attorney's office has acted as the gatekeeper for participation, carrying the discretion to offer an eligible participant entry to Project Dawn or to work with other court officials to choose "someone the program would work for."¹⁶² DA Seth Williams was an avid supporter of Project Dawn for its specialized position as a

¹⁵⁹ Alec Karakatsanis, *Usual Cruelty: The Complicity of Lawyers in the Criminal Injustice System*, (New York: The New Press, 2019).

¹⁶⁰ Jennifer Gonnerman, "Kalief Browder, 1993-2015," *The New Yorker*, June 7, 2015, <http://www.newyorker.com/news/news-desk/kalief-browder-1993-2015>; Larry Krasner et. al, "New Policies Announced February 15, 2018," Office of the Philadelphia District Attorney, February 15, 2018, <https://s3.documentcloud.org/documents/4415817/Philadelphia-DA-Larry-Krasner-s-Revolutionary-Memo.pdf>.

¹⁶¹ Public Data Dashboard: Charges," Philadelphia District Attorney's Office, accessed March 29, 2022, <https://data.philadao.com/index.html>.

¹⁶² Begum and Bibi, interview; DeFusco, interview.

“reform” to the criminal legal system, though the program did little to reduce criminalization. Williams, like others in the criminal legal system, touted it as a caretaker for victims of exploitation despite Project Dawn’s ultimate inability to meet the needs of its participants. He consistently endorsed the “proven success” of the city’s diversion programs. Yet, Project SAFE and Philadelphia RUA conducted an evaluation of the court that showed that despite participants’ appreciation for counseling, their needs for housing, transportation, job training, employment, and child care remained unmet.¹⁶³ Under DA Williams, choices for women determined to be the right fit for Project Dawn were “go to Project Dawn or we will prosecute you,”¹⁶⁴ because his office, like the anti-trafficking movement necessitates, adopted Project Dawn and the criminal legal system as a necessary protector.

However, DA Krasner’s office was not prepared to prosecute people even for three or more prostitution arrests. When the time came, the choices became, “go to Project Dawn, but if you don’t want to, we will still drop your case.”¹⁶⁵ The halt in referrals to Project Dawn—and the overall reduction in referrals to all diversion programs—demonstrated a powerful shift away from the otherwise pervasive belief that diversion programs could be gentler forms of criminal legal involvement.¹⁶⁶ Members of the DA’s office and other court officials speculate that poor success rates in the program, prolonged supervision, and the insular group of court personnel

¹⁶³ D.A. Williams also favored increasing funding for diversion programs by reinvesting savings from a reduced jail population, representing the flaws of justice reinvestment enumerated by Marie Gottschalk and detailed in the next chapter.

¹⁶⁴ Bazelon, interview; Gur, interview.

¹⁶⁵ Bazelon, interview; Gur, interview.

¹⁶⁶ Larry Platt, “Is Larry Krasner *Really* A Reformer?” *The Philadelphia Citizen*, April 29, 2021, <https://thephiladelphiacitizen.org/krasner-really-reformer/>. Platt reports an 80.4% decrease in all new entries, however, Bazelon and Gur attribute the decrease in referrals to the closure of other diversion programs, like the Accelerated Misdemeanor Program, and an overall decrease in charges for nonviolent crime leading to fewer referrals.

involved with the program invited broader suspicion that also contributed to the end of new referrals.¹⁶⁷

The differences between DA Williams and DA Krasner show what Alec Karakatsanis calls the nearly “unlimited” authority of prosecutors.¹⁶⁸ Prosecutors confronted with the illegality of prostitution make decisions tied to particular political preferences. They assign political judgments of worthiness to those they profess to “help” or unworthiness to those they criminalize—judgments influenced by the over-simplified victim and rescue narrative that the anti-trafficking movement champions. Williams made a commitment to route ostensible victims of “sexual slavery” through Project Dawn, while Krasner sought to remove the criminal legal system from sex workers’ lives.¹⁶⁹ While diversion programs embody the harmful linkage of a need for reform with the anti-trafficking need for rescue, prosecutorial choice can separate them.

The close of Project Dawn represents the nuanced political interactions between prosecutorial power, the push for criminal legal reform, and the anti-trafficking movement’s carceral protectionist undertones. Since the stop in new participation, advocates of the court have criticized Krasner’s choice, asking versions of questions like: “How can we help these women now?” “Without the court, how can we get people off drugs?” “What if these women are instead arrested for a more serious or violent charge without Project Dawn getting to them first?” Such questions, however, fail to question the basic premise of the legitimacy of the criminal legal system as an adequate provider of social services, and they assume Project Dawn was successful even by its own metrics. Moreover, sex workers’ rights organizations argue that the drought of services outside of Project Dawn—and even within Project Dawn—cannot be improved with

¹⁶⁷ Bazelon, interview.

¹⁶⁸ Karakatsanis, *Usual Cruelty*, 40.

¹⁶⁹ Bazelon, interview.

continued investment into diversion programs.¹⁷⁰ According to legal scholar Becca Kendis, diversion courts are not the better of two options. These courts are not capable of ameliorating the vast and substantial harms of the carceral state. To frame diversion as the needed reform to the carceral state is to obscure the urgent need for systemic change and hide the ways it increases surveillance.¹⁷¹

Project Dawn showed a fundamental dismissal of the needs highlighted by sex workers' movements. It should be seen as a major barrier to decriminalizing sex work, when the language of harm reduction is used to force abstinence upon participants while leaving structural questions of inequity unasked and unaddressed. Such courts represent elite-driven decision-making on behalf of people they view as victims, building avenues for alternatives without seeking or including the perspectives of sex workers' rights organizations. This shift in attention to diversion does not question the premise of the criminality of sex work. Rather it ensures that carceral protectionism is a viable and sought-after philosophy of criminal justice and efforts for reform. By keeping participants engaged with prolonged periods of surveillance, Project Dawn Court, while a different form of supervision, was criminal supervision, nonetheless.

Chapter 3

Carceral Protectionism, Policing, and Post-Arrest Diversion

“Cops are not social workers. They aren’t housing, doctors, or nurses. Cops are not providers. But, housing services, health care, and resources, those are what we need.”

— *Raani Begum*

Like Philadelphia’s Project Dawn Court, the city’s Police-Assisted Diversion (PAD) program is a compelling example of carceral protectionism in Pennsylvania. Just as parts of the

¹⁷⁰ Begum and Bibi, interview.

¹⁷¹ Kendis, “Human Trafficking and Prostitution Courts.”

criminal legal system frame Project Dawn as a more compassionate alternative to carceral punishment, proponents of the PAD argue it is a “health-centered approach to law enforcement.” In practice, the PAD is widely inaccessible and creates more harm for the communities it services by continuing to stigmatize and criminalize sex work. Rather than making over-extended social services more accessible, the PAD further entrenches police as viable service providers. This law-enforced diversion program for sex work functions more under carceral protectionism than harm reduction; it increases carceral surveillance without meeting other needs or increasing safety. An analysis of the PAD’s creation highlights how it represents reinvestment into the criminal legal system rather than new financial or social investment into grassroots community work. New Day, the social service provider associated with the PAD, is dominant in the anti-trafficking movement, and it has allied with law enforcement for years to receive funding from the federal government with little accountability for its services. The PAD receives few critiques from the criminal legal system either for the increased surveillance it imposes or its allyship with the anti-trafficking movement’s rescue industry. By continuing to view sex work instead of its criminalization as the ultimate harm, the PAD poses a unique barrier to achieving sex workers’ rights.

Interviews with Evan Anderson, independent third-party evaluator of the PAD; Heather LaRocca and Susan Jones, Director and Assistant Director of the Salvation Army’s A New Day to Stop Human Trafficking in Philadelphia; Amber Goltz, anti-trafficking and sex worker-advocate with Women Organized Against Rape; and webinars led by and interviews with sex workers’ rights groups inform this analysis.

Developing the PAD: Criminal-Legal-Social Service Alliances and Inaccessibility

Sociologist Susan Dewey and women's studies professor Tonia St. Germain have previously described criminal justice-social service alliances like the Philadelphia PAD as “punitive-therapeutic confederations” of law enforcement and nonprofit or social services agencies. These confederations understand sex work as the inherently harmful results of experiences with “violent, grief-generating, or otherwise traumatic events” instead of a livelihood to meet economic needs. They take the carceral protectionist stance that sex workers require criminal legal interventions through arrest, incarceration, or court-mandated therapy, regardless of their own wishes. Characteristic of the PAD, these premises establish the individual sex worker and their decision making as the problem and the solution; they do not consider the constrained structural contexts in which those decisions are made.¹⁷² Dewey and St. Germain assert that these programs, thus, “cannot endorse, or engage in, harm reduction or other peer-to-peer approaches” that view sex workers as equal partners.¹⁷³ Premised upon misleading and ineffective anti-trafficking beliefs, the PAD program is more accurately a threatening intersection of a criminal legal reform desire to reduce incarceration and an anti-trafficking desire to save sex workers using law enforcement, without meeting their social, financial, or other needs.

Philadelphia's police-assisted diversion program is one of Mayor Jim Kenney's largest initiatives for public safety and community well-being. Launched in 2017, this program targets the Kensington and Strawberry Mansion neighborhoods, two of the poorest communities in a city with the highest rates of incarceration, poverty, and fatal overdoses among large cities in the

¹⁷² Dewey and St. Germain, *Women of the Street*, 4-7

¹⁷³ Dewey and St. Germain, *Women of the Street*, 6

United States.¹⁷⁴ The Strawberry Mansion (North District) program area covers about 90,000 residents, who are primarily Black and experiencing the highest and most concentrated rates of deep poverty in the country. The Kensington (East District) area has about 240,000 residents and “one of the largest open air drug markets in the country.”¹⁷⁵

The PAD program is designed to provide post-arrest and pre-booking “diversion” to social services for low-level and non-violent drug, prostitution, and retail offenses in these two districts. The PAD is funded in large part by the MacArthur Foundation, which gave the city \$275 million in 2018 as a jurisdiction in the foundation’s Safety and Justice Challenge. The PAD program is one of nineteen city initiatives funded by the MacArthur Foundation grant. In order to reimagine and rebuild local criminal justice systems and reduce incarceration in local jails across the country, the MacArthur Foundation invests in diversion programs, bail reform, drug treatment programs, and other interventions for non-violent and non-serious offenses. While certainly an inspiring financial commitment to ending over-incarceration, this investment should be understood as a form of justice reinvestment. Instead of redirecting funds to schools, health care, or social services, this funding more accurately shifts money around within the penal system to avoid future prison costs.¹⁷⁶

The MacArthur Foundation endeavors to reduce the size of and inequities within the carceral state through what criminal legal scholar Marie Gottschalk describes as an “ostensibly non-partisan and politically bloodless” top-down political campaign.¹⁷⁷ Yet, community organizations have widely criticized the PAD program for co-opting the language of harm reduction while prolonging the surveillance of already overpoliced communities. Project SAFE

¹⁷⁴ Evan Anderson, Ruth Shefner, Rebecca Koppel et. al., “Experiences with the Philadelphia police-assisted diversion program: A qualitative Study,” *International Journal of Drug Policy* 100 (2022).

¹⁷⁵ Anderson, “Experiences with Philadelphia.”

¹⁷⁶ Marie Gottschalk, *Caught: The Prison State and the Lockdown of American Politics* (Princeton: Princeton University Press, 2016), 100.

¹⁷⁷ Gottschalk, *Caught*, 101.

and Philadelphia RUA assert that the PAD ultimately increases the risk of harassment through further entrenchment of police in the community. By allying itself with New Day, the PAD becomes complicit in an uncritical, indiscriminate acceptance of the anti-trafficking movement's political authority.¹⁷⁸ Moreover, Project SAFE and Philadelphia RUA stress, New Day refers its clients to sex worker-based organizations without critiquing the criminality of the sex trade. The PAD's structure, then, must be scrutinized for its fundamental inaccessibility, connection to the anti-trafficking movement, and overall increased surveillance in communities.

The PAD has two avenues for connection: stop referrals and social referrals. "Stop referrals" involve an officer arresting someone for a crime eligible for diversion. If a person is arrested for prostitution within the PAD pilot zone and during PAD operating hours, they are given the option for a "warm hand-off," in which the PAD officer brings them to the appropriate service program.¹⁷⁹ If that person decides not to be connected to services, there are ostensibly no penalties, and they are allowed to walk out.¹⁸⁰ However, if someone has been arrested three times and refuses services the third time, they will be booked and face incarceration. "Social referrals" involve any walk-ins to the PAD locations or encounters with police that do not involve arrest, and they could also lead to a warm hand-off to social service providers in real time. Walk-ins for social referrals require people to request services during limited operating hours and leave reliable contact information with law enforcement, making these so-called low-barrier services widely inaccessible to those they seek to help.¹⁸¹

¹⁷⁸ Sanchez, interview.

¹⁷⁹ "Police-Assisted Diversion of Philadelphia," Philadelphia Police Department, accessed February 12, 2022, <https://www.phillypolice.com/programs-services/pad/>.

¹⁸⁰ Begum and Bibi, "Destigmatize, Decriminalize, Decarcerate." While there are no criminal penalties for denying the first or second referral, that person is displaced from where they were and has to re-enter their community where they could be seen as an informant for police. Additionally, if that person has any sort of open case, parole violation, or warrant in another county, they are booked.

¹⁸¹ "Police-Assisted Diversion."

Since the program's beginnings, there have been 1192 reported stop referrals and 822 reported social referrals. Of the stop referrals, 73% involved drug possession or purchase, 13% involved prostitution, and 14% involved retail theft.¹⁸² Notably, based on findings from the PAD's evaluation, the program removed eligibility restrictions that would exclude a person with any prior criminal convictions in January 2020, which increased eligibility for the program compared to when it started in 2017. Despite this increase, New Day reported that from June 2019 to September 2021, the PAD screened 260 people for prostitution-diversion eligibility, of which only 158 were "successfully diverted," or engaged with New Day's services. Eighteen of 158 successful diversions were diverted for the second time, and 122 were diverted for the first time. However, 102 individuals, or 40% percent of all people screened, were "ineligible" for diversion. The PAD program does not make the reasons for ineligibility either publicly available or available to New Day.

Evan Anderson, University of Pennsylvania School of Nursing researcher funded by the Pennsylvania Commission on Crime and Delinquency and the independent third-party evaluator of the PAD, explained in an interview that part of the arrest process involves "running someone through the system" for any outstanding warrants. If an individual has an outstanding warrant for a minor parole violation or an open case for failure to appear in court in Philadelphia or its surrounding counties, they are ineligible for PAD and subsequently booked—the arrest is processed and they are brought into the criminal legal system.¹⁸³ Officials in the criminal legal system have explained that many people who do street-based sex work are "constantly on probation for multiple different cases sometimes in front of multiple judges."¹⁸⁴ Arrests and stop referrals from the PAD violate these parole conditions, displace people from their communities,

¹⁸² Anderson, "Experiences with Philadelphia."

¹⁸³ Anderson, interview.

¹⁸⁴ DeFusco, interview.

and increase the risk of police harassment.¹⁸⁵ People who are unable to consent to participation because of intoxication or who have open wounds are also ineligible for diversion.¹⁸⁶ Moreover, the PAD program is available only between the hours of 8 AM and 12 AM between Monday and Friday. People arrested for low-level offenses outside of the operating hours are not eligible for diversion, despite many arrests for prostitution-related related crimes happening very late at night or over the weekend.¹⁸⁷

Raani Begum, sex workers' rights organizer, explains that in the PAD jurisdictions, "it's really easy to find a cop." It is far more difficult to find a doctor, accessible housing, or social worker. Sex workers' rights groups fundamentally disagree with the Department of Public Health's view that the PAD is the best way to get resources into the community.¹⁸⁸ Many police officers take a carceral protectionist stance, believing that by arresting someone for prostitution—with or without that arrest being followed by diversion—they "help" them, by getting them off the street.¹⁸⁹ In either case, those seen as victims or offenders of non-violent and non-serious crime are treated as criminals through the intake process; the physical action of a stop referral is still that of arrest.¹⁹⁰ It represents more of an "incremental approach to unwinding counterproductive systems of punishment" than a response to sex workers' demands to remove criminality from their work. Despite its progressive framing, the PAD, like Project Dawn, embeds inadequate social services within the criminal legal system, specifically through its

¹⁸⁵ Begum and Bibi, "Destigmatize, Decriminalize, Decarcerate."

¹⁸⁶ Courtenay Harris Bond, "Health Department hiring two new specialists as 'tranq' infiltrates nearly all street drugs in Philadelphia," *BillyPenn*, February 2, 2022, <https://billypenn.com/2022/02/02/tranq-philadelphia-wound-care-opioid-crisis-health-department-hiring/>. Open wounds may be a large factor in ineligibility. Xylazine, or horse tranquilizer, has recently contaminated Philadelphia's supply, and is responsible for chronic, necrotic skin infections that take months, and sometimes years to heal. These wounds are characteristic of people who use drugs in the areas of the PAD.

¹⁸⁷ Begum and Bibi, "Destigmatize, Decriminalize, Decarcerate."

¹⁸⁸ Begum and Bibi, interview.

¹⁸⁹ LaRocca and Jones, interview; Goltz, interview.

¹⁹⁰ LaRocca and Jones, interview.

connection to an anti-trafficking, evangelical social provider: the Salvation Army's A New Day to Stop Human Trafficking. Owed to the increase in federal funding for victims' services related to the national anti-trafficking movement, New Day is a prominent provider for victims' services in Philadelphia. Its association with the PAD gives the Salvation Army's mission political legitimacy in relation to carceral reform.

A Particular Kind of Victims' Services Provider: The OVC and the Salvation Army

While prioritizing sex trafficking at the federal level inspired similar laws at the state level, federal legislation also set aside funding for services for victims of trafficking.¹⁹¹ Gottschalk has underscored the role of a "particular kind of victims' movement" that came with the development of the Law Enforcement Assistance Administration (LEAA) under the Omnibus Crime Control and Safe Streets Act of 1968. This movement "viewed the rights of victims as a zero-sum game predicated on tougher penalties for offenders."¹⁹² Reforms designed to support and protect victims of sexual assault instead bolstered a more punitive climate, in some part because funding for victims' services relied on fines paid by convicted offenders.¹⁹³ In the same vein, federal funding for service providers to combat human trafficking today comes from the Crime Victims Fund through the Office for Victims of Crime (OVC), a fund made mainly of criminal fines and penalties.¹⁹⁴

¹⁹¹ *Victims of Trafficking and Violence Protection Act of 2000*, Public Law 106-386, *U.S. Statutes at Large* 114 (2000): 1464-1548, <https://www.govinfo.gov/content/pkg/PLAW-106publ386/pdf/PLAW-106publ386.pdf>; "Programs To Combat Human Trafficking," Office for Victims of Crime, accessed 25 March 2022, https://www.ncjrs.gov/ovc_archives/reporttonation2015/programs-to-combat-human-trafficking.html.

¹⁹² Gottschalk, *The Prison and the Gallows*, 139.

¹⁹³ Gottschalk, *The Prison and the Gallows*, 139.

¹⁹⁴ "FY 2007 – FY 2022 Crime Victims Fund Annual Receipts (\$ millions)," Office for Victims of Crime, last updated 28 February 2022, <https://ovc.ojp.gov/about/crime-victims-fund/fy-2007-2022-cvf-annual-receipts.pdf>. The fund also comprises gifts, donations, and bequests from private parties.

The number of anti-trafficking victims' service providers and non-profit agencies dedicated to the goals of the anti-trafficking movement grew rapidly in the wake of the 2000 TVPA, with the help of hundreds of millions in federal dollars. Since 2016, human trafficking victims' services providers have received more than \$528 million in grant funding, representing over 30% of all victims' services funding. In 2020, only 301 people were arrested for human trafficking involving commercial sex acts, with even fewer prosecutions.¹⁹⁵ The first OVC grant for victims of trafficking was given in 1998, and the OVC has since vastly increased its yearly funding for anti-trafficking groups from \$6.5 million in 2013 to over \$100 million in 2020.¹⁹⁶ The first anti-trafficking task force in the U.S. was founded in Los Angeles, California in 1999, just months before the passage of the TVPA.¹⁹⁷ One anti-trafficking group today reports a network of over 500 U.S. anti-trafficking groups providing services specifically to victims of trafficking.¹⁹⁸ The Villanova CSE Institute lists over 140 organizations in Pennsylvania aligned with their anti-trafficking fight. At the same time legislation around trafficking came to dominate the state, and as Project Dawn took its place as a so-called viable alternative to carceral punishment, the number of anti-trafficking victims' services groups also ballooned in Pennsylvania.

One of state's major organizations in the anti-trafficking fight is the Salvation Army, which has reportedly "declared war on human trafficking." The Salvation Army has 46 anti-trafficking programs across the nation, many of which are funded by the OVC.¹⁹⁹ In

¹⁹⁵ Amy D. Lauger and Matthew R. Durose, "Human Trafficking Data Collection Activities, 2021," *Human Trafficking Data Collection Archives*, (October 2021).

¹⁹⁶ "FY 2007 – FY 2022 Crime Victims Fund Annual Receipts (\$ millions)."

¹⁹⁷ "CAST," Coalition to Abolish Slavery and Trafficking, accessed 25 March 2022, <https://www.castla.org/about/services/>.

¹⁹⁸ There is no good estimate of the number of anti-trafficking organizations there are, however most anti-trafficking groups list between 500 and 600 unique organizations in their network directly providing services. The number of organizations with a general "anti-trafficking" stance is greater.

¹⁹⁹ "Anti-Human Trafficking Initiatives: Programs that move victims of trafficking to God-centered self-reliance," Salvation Army, accessed March 20, 2022, <https://www.salvationarmyusa.org/usn/fight-human-trafficking/>.

Pennsylvania, the Salvation Army has one center in Philadelphia and one in Pittsburgh, both called A New Day to Stop Human Trafficking (New Day). Together, these two programs and a mobile Salvation Army anti-trafficking unit for western Pennsylvania have received upwards of \$4 million from the OVC since 2014, or 45% of all federal funding directed toward anti-trafficking services in the state.²⁰⁰ Sex workers' rights groups have heavily critiqued the Salvation Army's evangelical approach to directing women out of the sex trade without addressing broader needs for housing, health care, or other services. Organizers for LGBTQ+ rights have illuminated the intensely harmful exclusion of transgender individuals from their services; in Philadelphia, the New Day program has historically refused to include transgender women in its housing programs.²⁰¹

Harmful because of its victim-centered approach conflating sex work with trafficking, New Day is a leading anti-trafficking service provider in the city with a relatively long history of working with law enforcement. In 2015, New Day partnered with the Special Victims Unit in the police department after receiving a federal grant of \$600,000 to enhance collaboration with law enforcement in the anti-trafficking fight.²⁰² With this grant, New Day worked within the SVU to provide a "nonprofit presence in the room" for potential victims of trafficking. New Day reported that at the time, the police department was not receptive to seeing sex workers as victims of trafficking instead of as "criminals." Further, because the grant money was not appropriately used by the police department, they were unable to apply for the same grant the following year.²⁰³

²⁰⁰ "Awards List," Office for Victims of Crime, accessed March 20, 2022, https://ovc.ojp.gov/funding/awards/list?awardee=salvation%20army&city=&combine_awards=&field_award_status_value=All&field_funding_type_value=All&field_geographical_areas_served_value=&fiscal_year=&order=field_awardee_address_administrative_area&sort=asc&state=All&state_served=All&topic=All&page=1#awards-block-3-z2n1bar4-mc8dqkj.

²⁰¹ Sanchez, interview.

²⁰² "Awards List."

²⁰³ LaRocca and Jones, interview.

In 2018, New Day again approached Philadelphia's vice unit, which had continued arresting people for the crime of prostitution despite DA Krasner's infamous memo to stop all prostitution-related arrests. "Because we knew that they were arresting people," current New Day director Heather LaRocca explained, "we would rather have the opportunity to offer services than nothing at all."²⁰⁴ Around the same time, the PAD program was expanding to include prostitution-related charges, the city approached New Day because of its long history working within the criminal legal system as an anti-trafficking, social services provider to whom participants could be diverted. Leadership at the New Day program hold personal stances against the arrest of sex workers, and staff in the organization even aided in street outreach with the PAD program to minimize all possible police involvement. Yet, this alliance of social services with law enforcement still represents the tenets of the criminal-legal-social service confederation that Dewey and St. Germain describe.

Despite their support of not criminalizing sex workers, New Day's leadership personally supports the criminalization of the sex industry as a whole and harsh punishments for buyers. Their support for the end-demand model and view of all sex workers as victims of trafficking legitimates the anti-trafficking movement's view of all sex work being exploitative at the municipal level. State approval of anti-trafficking measures in the legislation discussed earlier filters into the daily lives of sex workers in the form of the PAD. Both New Day and PAD officers alike work more to "get people off drugs" or to "exit sex work" than to prioritize broader social investment into the resources sex workers have identified for themselves. There is no follow through from the PAD to make sure that the quality of life for someone diverted is actually improving based on "the goals that they set for themselves" versus "something someone

²⁰⁴ LaRocca and Jones, interview.

is forced to engage in.”²⁰⁵ The formerly incarcerated women’s working group, which is part of the ACLU and the Gender Justice Fund, is skeptical of the PAD’s referrals to New Day because the quality of those referral services is not evaluated.²⁰⁶ Even further, despite the staff’s described commitment to supporting individuals however they identify, the broader Salvation Army’s evangelical mission still imparts a harmful overarching governance structure, and the lack of accountability means sex workers are unable to voice their concerns.

Moreover, by stressing law-enforced, criminal legal solutions at the expense of the deeper social and political critiques developed by sex workers’ rights groups, diversion programs like the Philadelphia PAD have “helped dull the edge of skepticism toward law enforcement.”²⁰⁷ As law enforcement becomes the hero in stopping the “evils” of trafficking, the general understanding of the PAD as a progressive reform hides the traditional penalties still levied against sex workers who persist after “being caught and cautioned.”²⁰⁸ Associating the PAD with the anti-trafficking movement obscures the system’s more punitive flourishes—continuing to incarcerate people who are not eligible for diversion, failing to question the role of a criminal record, and entrenching surveillance in already highly policed areas. Diversion by the PAD does not stop an individual’s entry into the criminal legal system. Where it does engage people in the sex trade is with organizations that uphold the harmful anti-trafficking narrative with considerable financial power and are largely unable to meet people’s needs.

²⁰⁵ Sanchez, interview.

²⁰⁶ Sanchez, interview.

²⁰⁷ Gottschalk, *The Prison and the Gallows*, 126.

²⁰⁸ Annie Hill, “Demanding Victims: The Sympathetic Shift in British Prostitution Policy,” in *Negotiating Sex Work*, 94.

The Future of PAD: The Need for Broad Accountability

The anti-trafficking movement at every level is thrusting funding into the hands of the police and the courts and moving away from the critical analysis of lack of living-wage labor and failing labor protections that do permit exploitation. The PAD funnels money into nationally-funded, elite-driven views of behavioral change, rather than placing it in the hands of community-led entities that drive what visionary justice could be—“where it’s not just about stopping sex work.”²⁰⁹ The PAD program does not question why health care is primarily accessible through law enforcement or why existing drug treatment programming is so poorly constructed that jail can be considered a viable option by social workers. It perpetuates moralized stances on behavior that do not question structures of capitalism or gendered and racialized discrimination. Above all, the PAD represents the criminal legal reform trend of consistently barreling toward reforming the carceral system without looking at the patterns and distributions of harm these reforms create and without seeking the carceral state’s ultimate overhaul.²¹⁰ Like Project Dawn, it accepts that social problems must be dealt with through punishment apparatuses without questioning why such problems were deemed problems in the first place or how power and control are retained by the same actors and institutions that created mass human caging.

Project SAFE and Philadelphia RUA stress that five years ago, before DA Krasner was in office, people who engaged in street-based sex work “wanted access to diversion programs” because arrest was so common, and a criminal record posed such an intense barrier to any services. However, sex workers’ experiences with diversion programs have established that neither arrests for sex workers nor carceral involvement have stopped, and those who do engage with services find these programs unable to meet their needs. Sex workers’ rights groups have

²⁰⁹ Sanchez, interview.

²¹⁰ Karakatsanis, *Usual Cruelty*.

since maintained the need for complete abolition of diversion programs.²¹¹ Moreover, the PAD's alliance with New Day disrupts work for sex workers' rights by furthering the anti-trafficking narrative's influence in its so-called criminal legal reform efforts without an understanding of its harms.

The discussions of justice reinvestment and the "reformability" of the criminal justice system through small, piecemeal concessions and changes pose unique barriers to removing criminal penalties from sex work. Both the PAD and Project Dawn Court highlight the entanglement of the anti-trafficking movement with the salience of criminal legal reform. These culminate in a form of carceral protectionism that does not allow for full decriminalization because it asserts that the carceral state plays a role both in protecting victims from "themselves" and in further penalizing who it sees as offenders. Diversion in this form simultaneously places the interests of sex workers as subordinate to the interests of the carceral state and spreads a narrative infused with reductive rescue narratives. The dually complex and compelling narratives around anti-trafficking and carceral protection form the social, political, and legal context in which sex workers' rights movements must work. Just as the legislation at the state level requires publicly critical focus, the harms inflicted onto sex workers by ostensibly toothless programs like the PAD must also be brought out of the shadows.

Chapter 4

Sex Workers' Movements: Coalition-Building, Allies, and Crisis Control

Despite the growth in the anti-trafficking movement's influence on Pennsylvania and the rescue narrative's diffusion into the criminal legal system, sex workers' groups have become a

²¹¹ Begum and Bibi, interview.

much more visible and powerful force to be reckoned with in discussions of reform. Sex workers' organizations are making political gains in the face of new and punitive anti-trafficking legislation and the persistent presence of diversion programs. To be sure, the disproportionate power of the anti-trafficking lobby in Pennsylvania and nationally and the gripping historical narrative about victimhood pose large challenges to sex workers' groups. However, this chapter discusses the both the significant wins sex workers' groups have had in posing oppositional challenges to the anti-trafficking movement as well as other existing barriers to coalition building.

The chapter first describes the origins of the sex workers' rights movement, the nuances within it, and frameworks upon which organizers continue to construct their platforms. It highlights the gains sex workers' organizations have made specifically in forming coalitions with non-sex work sectors and in outmaneuvering federally-sanctioned online censorship. Though they have not had visible legislative victories like the anti-trafficking movement, groups for sex workers' rights have succeeded in delegitimizing the savior and protector narratives and driving local political education campaigns. Prominent groups including the ACLU have taken up what has previously been a marginalized issue. In the past year, Representative Summer Lee (D-Allegheny) proposed the state's first ever bill to explicitly recognize sex workers under the law. This step toward the complete decriminalization of sex work—a sole proposal among dozens around human trafficking—should be seen as a powerful step forward by sex workers' rights groups.

Fragmentation among organizations, however, has prevented a statewide coalition from emerging in support of this bill or for sex workers' rights more generally. Largely due to differing priorities, inter-community conflict, and limited capacity to dedicate to statewide

organizing, the successes of sex workers rights' organizations are localized in constrained geographical space. In a severely under-resourced pool of accessible funding for sex workers' groups, organizers use claims-making activities—challenges to dominant policies and the sociomoral order they reflect—to counter city-specific prosecutorial and police harms.²¹² Indeed, some of the most discerning, organized voices are at the local level, drawing attention to the exceptional harms of the rescue narrative and the enormous shortcomings of so-called reforms, like Project Dawn Court and the police-assisted diversion program. While powerful forces within fragmented spaces, sex workers' rights groups must work across these lines to curtail the control of the anti-trafficking movement. This chapter will discuss each of these nuances in turn to analyze the political context that sex workers' movements navigate in Pennsylvania and the barriers they face in reaching decriminalization.

This section draws heavily upon interviews with co-organizers with Project SAFE and Philadelphia RUA Sultana Bibi and Raani Begum, Almanac Dance Circus Theatre performer and writer Mae West, Sex Workers Outreach Project of Pittsburgh volunteer Maggie Oates, Decrim PA founder and co-author of the Sex Workers' Amnesty Bill Gabrielle Monroe, ACLU Trans Rights Organizer Naiymah Sanchez, and Representative Summer Lee's office. Webinars attended from September 2021 to March 2022 and texts and platforms created by sex workers' groups including the Best Practices Policy Project, Project SAFE, Philadelphia RUA, Lysistrata, and the Desiree Alliance also inform this analysis.

²¹² Samantha Majic, *Sex Work Politics: From Protest to Service Provision*, (Philadelphia: University of Pennsylvania Press, 2014), 19.

Growth of National Sex Workers' Rights Groups: The Movement's Origins

The development of the international sex workers' movement—today reverberating in Pennsylvania—is important to consider in relation to state-level organizing. Larger national organizations for sex workers' rights offer financial support to regional chapters and essential connections across state lines. Their histories have laid the groundwork for current organizing in opposition to predominant criminal legal approaches to sex work.

Considered its fiery and forgotten beginnings, the work of transgender sex workers in the United States' queer liberation movement in the 1960s and 1970s are some of the foundational pieces of the contemporary sex workers' movement.²¹³ By the 1980s, the globalization of the HIV/AIDS crisis pushed forward a harm reduction framework for sex workers related to public health and human rights. In 1985, sex workers' rights activists gathered in Amsterdam to build the World Charter for Prostitutes' Rights calling for decriminalization of sex work, protective working conditions, health services, and destigmatization of the industry. Across the United States, organizations like Call Off Your Tired Old Ethics (COYOTE), the AIDS Coalition to Unleash Power (ACT UP), the California Prostitutes Education Project (CAL-PEP)—and dozens more that developed through the 1980s and 1990s—combined non-judgmental health services with grassroots organizing to transform sex workers' activism and direct action. In the 1990s, as the neoliberal economy and globalized trade grew, sex workers rallied around working conditions in the commercial sex industry.²¹⁴ Since then, a consensus of fighting for sex workers' rights as human rights has emerged in direct response to sex workers' rights advocacy, and organizations including UNAIDS, the ACLU, Open Society Foundations, and Amnesty International have declared their support for complete decriminalization of the sex trade.

²¹³ Mgbako, "Mainstreaming."

²¹⁴ Melinda Chateauvert, *Sex Workers Unite: A History of the Movement from Stonewall to SlutWalk*, (Boston: Beacon Press, 2014), 10-44.

In the United States, large organizations supporting sex workers grew for a variety of reasons, nearly all of which revolved around addressing the state's exclusion of sex workers in relation to public health services, harm reduction, or other social movements. Major national organizations include the Sex Workers Outreach Project founded in 2003, the Best Practices Policy Project founded in 2005, and the Desiree Alliance founded in 2006.²¹⁵ These organizations broadly work to support local organizers through mutual aid funding and sex worker support networks. They have built multifaceted political campaigns, engaged in direct action, lobbied legislators and public officials, levied lawsuits, organized unions, provided health care, and served as resources for sex workers facing criminalization, marginalization, and economic distress.²¹⁶ Other major nationally-focused organizations include the Red Umbrella Fund founded in 2012, the Outlaw Project founded in 2016, and the Black Sex Worker Collective founded in 2018. These national organizations all support the full decriminalization of sex work and dedicate resources to sex workers' groups mitigating the harms of criminalization.

Sex workers' rights movements across the board should be understood as a consensus of "anti-carceral approaches." They reject all forms of sex work criminalization and related legal repressions as "non-negotiable preconditions for the realization of sex workers' human rights."²¹⁷ Partial decriminalization is still criminalization: "regardless of who nominal targets of police power are, sex workers continue to bear the brunt of carceral abuse" through the criminal legal system's extension as a protector.²¹⁸ Sex workers' groups organize to actively combat whorephobia, the stigmatization that reduces "'hookers,' 'prostitutes,' 'whores,' and 'hustlers' to

²¹⁵ Crystal A. Jackson, "'Sex Workers Unite!': U.S. Sex Worker Support Networks in an Era of Criminalization," *Women's Studies Quarterly* 47, no. 3/4 (2019): 169–88. <https://www.jstor.org/stable/26803272>.

²¹⁶ Jackson, "Sex Workers Unite! U.S. Sex Worker Support Networks."

²¹⁷ Mgbako, "Mainstreaming."

²¹⁸ Mgbako, "Mainstreaming."

people who aren't worthy of concern."²¹⁹ These groups equally reject the politics of rescue—under which sex workers are passive victims in need of saving—found in dominant anti-trafficking legislation. Coalitions for sex workers' rights are organized and politically active forces capable of making choices under the exacting weight of the social and economic forces that may constrain them.²²⁰

Sex work is broadly the exchange of sex for money, goods, or services; people of all gender identities are involved in the sex trade and work in vastly different settings, provide different services and use different modes of client communication. The universal experience of sex work in the United States lies within its profound stigmatization and damaging criminalization. Hierarchies based on class and race exist in the sex trade as they do in other forms of labor. In sex work, marginalized people experience varying harms if they work online, in clubs, hotels, brothels, or outdoors. Street-based or outdoor sex workers, transgender or gender-nonconforming people, people of color, and especially Black sex workers “consistently bear a particularly heavy burden of law enforcement abuse and harassment, institutional discrimination, and violence.”²²¹ Street-based or outdoor workers more commonly experience profiling, arrest, and routing through diversion programs. Indoor workers based in massage parlors or clubs endure targeted raids by vice squads, and online sex workers face threats of violence and censorship but experience less explicit violence at the hands of police than their

²¹⁹ “Human Rights for Sex Workers: An Interview with Melinda Chateauvert,” Beacon Broadside, December 10, 2013, <https://www.beaconbroadside.com/broadside/2013/12/human-rights-for-sex-workers.html>.

²²⁰ Hail-Jares, *Challenging Perspectives*.

²²¹ “Input from the Black Sex Worker Collective, Best Practices Policy Project, the Outlaw Project, Desiree Alliance and New Jersey Red Umbrella Alliance for the preparation of the report of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council resolution 43/1 on the “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers,” *UN Human Rights Office*, December 4, 2020, https://www.ohchr.org/sites/default/files/Documents/Issues/Racism/RES_43_1/NGOsAndOthers/black-sex-worker-collective-new-jersey-red-umbrella-alliance.pdf

counterparts.²²² While most academic research and diversion programs have focused primarily on street-based sex workers, Katie Hail-Jares and Sharon S. Oselin found in a Washington D.C. study that “the majority of street-based sex workers engaged in both web-based and street-based solicitation.”²²³ Sex workers, then, face differently “compacted harm that depends on what area of the industry they are in,” and understanding the ostensible strata among sex workers as exists in all labor forms is important to characterizing fragmentation within the movement.²²⁴

Organizing in Pennsylvania: The Major Players

Like the major state-sponsored prostitution diversion efforts, sex workers’ rights groups in Pennsylvania are concentrated in Pittsburgh and Philadelphia. The table below, constructed through interviews with volunteers and organizers, social media, and a series of news articles and other published materials from their websites, outlines major features from the histories and missions of these organizations. Notably, Project SAFE and Philadelphia RUA are sister organizations, with many of the same co-organizers and volunteers. Most events they hold, they hold together, and their organizing bodies are effectively one and the same. Project SAFE is Philadelphia RUA’s fiscal sponsor. Sultana Bibi, who organizes with both Project SAFE and Philadelphia RUA, also founded a sex workers’ collective called Nightshade in 2016 with funding from the Philadelphia Area Cooperative Alliance.²²⁵

²²² Hail-Jares, “Introduction,” in *Challenging Perspectives*, 3-7.

²²³ “Input.” *UN Human Rights Office*; Signy Toquinto, “Pregnancy Obscured: Street-Based Sex Work and the Experience of Pregnancy,” in *Challenging Perspectives*, 38; Moses moon, “Symposium Introduction: Sex Workers’ Rights, Advocacy, and Organizing,” *Columbia Human Rights Law Review* 52, no. 3 (2021): 1062-1083, <http://hrlr.law.columbia.edu/hrlr/introduction-sex-workers-rights-advocacy-and-organizing/>; Jocelyn Elmes et. al, “Effect of police enforcement and extreme social inequalities on violence and mental health among women who sell sex: findings from a cohort study in London, UK,” *Journal of Sexually Transmitted Infections* 2021, (October 26, 2021), <https://sti.bmj.com/content/sextrans/early/2021/10/26/sextrans-2021-055088.full.pdf>.

²²⁴ West, interview.

²²⁵ Begum and Bibi, interview.

Table 2. Sex Workers' Rights Groups in Pennsylvania

Organization	History
Project SAFE	<ul style="list-style-type: none"> • Based in Philadelphia, founded in 2004 by former Prevention Point case managers. • Second oldest harm reduction and mutual aid organization in Philadelphia; provides safer use supplies to people who use drugs and other social services. • First Pennsylvania service provider specifically for sex workers that did not mandate abstinence from the sex trade. • Fiscal sponsors are Point Defiance AIDS Project (PDAP)/North American Syringe Exchange Network (NASEN).
Philadelphia Red Umbrella Alliance (RUA)	<ul style="list-style-type: none"> • Based in Philadelphia, founded in 2006, and provides advocacy and services to sex workers. • Formerly Sex Workers Outreach Project (SWOP) Philadelphia, but in 2015, it dissociated from the national organization and was renamed the Philadelphia Red Umbrella Alliance. • Sister organization is New Jersey Red Umbrella Alliance and has other connections to the Best Practices Policy Project and the Outlaw Project. • Fiscal sponsor is Project SAFE.
Serenity House	<ul style="list-style-type: none"> • Based in Philadelphia, founded in 2017 to provide harm reduction services to reduce the harms of criminalizing the sex trade, drug use, and homelessness. • Originally part of Project SAFE, but split off in 2020 as an independent entity.²²⁶ • Fiscal sponsor is SWOP USA.
Stiletto's Inc.	<ul style="list-style-type: none"> • Based in Philadelphia, founded in 2020 to support, liberate, and educate BIPOC strippers and sex workers. • Shares relevant information, collects mutual aid for strippers and sex workers, hosts protests and events that educate, and promotes marginalized joy.

²²⁶ Serenity House Philadelphia (@serenityhousephl), "We are excited to announce that starting January 1, 2022, Serenity House will be transitioning from a working group within Project SAFE to an independent organization with LaDonna Smith as the Executive Director," Instagram Photo, December 3, 2021.

Sex Workers Outreach Project (SWOP) Pittsburgh	<ul style="list-style-type: none"> • Based in Pittsburgh, founded in 2018 as first Pittsburgh sex workers' rights organization. • Fiscal sponsor is SWOP USA. • Provides mutual aid funding and awareness-building around the harms of criminalizing the sex trade.
Decrim PA	<ul style="list-style-type: none"> • Based in Pittsburgh, founded in 2018 by Gabrielle Monroe to highlight the legislative need for the complete decriminalization of sex work. • Worked with Rep. Summer Lee to propose HB 1381 for amnesty for sex workers.

These groups provide needed resources like harm reduction supplies, wound care, showers, sleeping spaces for unhoused participants, food, clothing, and safe sex work resources. Project SAFE and Philadelphia RUA, for example, focus on building community and creating spaces where people can share their ever-changing experiences and needs.²²⁷ These Pennsylvania organizations have continued the trends of a powerful national movement and created deeply-rooted, local connections through community conversations and political organizing alongside their direct service work.

Coalition-Building with Other Allies: Labor Unions and Joint-Movement Building

In Pennsylvania, sex workers' groups are firmly proceeding with work against the anti-trafficking movement by engaging with more traditional labor movements and seeking out often hidden entry points to coalition in performance art and storytelling platforms. Confronted with a political culture set on criminalizing the sex industry and national trends of exclusion, these gains represent steps toward a larger movement for sex workers' rights.

²²⁷ Begum and Bibi, interview.

In the United States and in Pennsylvania, sex workers have historically not seen large-scale inclusion in labor unions or support from national, mainstream feminist organizations, because of those groups' preexisting, negative attitudes toward sex work.²²⁸ It was only in the 1990s that widespread rallying around working conditions in the commercial sex industry came to the forefront of sex workers' movements. Refusing to accept a political economy that only provided benefits to the privileged, sex workers incorporated economic and workplace justice into their prevailing civil and political rights-based approach.²²⁹ This work echoes in the coalition-building efforts of sex workers' organizations in Philadelphia that are intertwining diverse movements for labor rights, reproductive justice, and disability rights. "Getting workers in highly gendered industries on board" is among the central long-term strategies for sex workers' rights in Project SAFE and Philadelphia RUA, according to Raani Begum and Sultana Bibi.

As part of this fight, Begum and Bibi have led a series of community-building webinars devoted to "joint movement building" to collaboratively explore how sex work decriminalization intersects with all areas of progressive social organizing.²³⁰ These webinars spotlight relationships among sex workers, day laborers, farm workers, and domestic workers and their often notoriously poor workplace conditions. Joint movement building is at the heart of co-organizing with other marginalized workers around issues of police and prison abolition, crimmigration, land back, safe supply, bodily autonomy, disability justice, and survivor justice.²³¹ Other organizers have likewise presented joint movement building as sex workers consistently "showing up" for sexual health, labor rights, or anything impacting overall well-being of

²²⁸ Jackson, "Sex Workers Unite! U.S. Sex Worker Support Networks"; Gregor Gall, "Collective Interest Organization among Sex Workers," in *Negotiating Sex Work*, 237.

²²⁹ Chateauvert, *Sex Workers Unite*, 10-44.

²³⁰ Begum and Bibi, "Joint Movement Building."

²³¹ *Ibid.*

marginalized people.²³² Begum and Bibi’s webinar series has advanced joint movement building during the Covid-19 pandemic for over a year, reaching people allied with or experienced in these other sectors of marginalized labor and enlarging platforms for intersecting political education and strategy-sharing.²³³

Moreover, this labor-rights coalition strategy has uniquely connected Project SAFE and Philadelphia RUA to large workers’ rights groups. Begum and Bibi explained in an interview that they have worked in tandem with groups for labor rights, including the Coalition of Labor Union Women (CLUW), the nation’s only organization that seeks to unify people marginalized by gender within the labor movement.²³⁴ Unlike carceral feminist movements of the past, CLUW promotes anti-carceral approaches to address the conditions that often precipitate violence—lack of housing or employment and racial injustice.²³⁵ Joining these movements for labor rights can pose a substantial opposition to the anti-trafficking movement’s current legislative authority on punishment. It can push forward the idea that other workers recognize the legitimacy of sex work and are invested in formalizing protections for the well-being of those who engage in it. Moreover, it can work to inspire broader labor union inclusion of sex workers’ groups.²³⁶

²³² Best Practices Policy Project, “Politics and Chill,” (webinar, Best Practices Policy Project, Zoom, January 14, 2022).

²³³ Begum and Bibi, “Joint Movement Building.” Based on direct observation; participants who discussed personal experience with domestic labor, human rights lawyers, other advocates for day and farm laborers were also present.

²³⁴ Begum and Bibi, interview. The pair cited the National Domestic Workers’ Alliance (NDWA) as another movement they hope to work with, as both sex workers and domestic workers face exploitative and marginalizing working conditions.

²³⁵ Deborah M. Weissman, “Gender Violence, the Carceral State, and the Politics of Solidarity,” *University of California Davis Law Review* 55 (2021): 801-873, 870. CLUW has deeply supported giving financial resources for people who have faced sexual assault and domestic violence.

²³⁶ Begum and Bibi, interview; “Coalition of Labor Union Women: Index,” accessed March 30, 2022, <http://www.cluw.org/index.cfm>.

Outmaneuvering National Censorship and Platform-Sharing Strategies

Federal legislation censoring online sex work proposed under the guise of stopping human trafficking in the sex industry is another national context shaping sex workers' state-level movements. In 2018, the U.S. Congress enacted the Stop Enabling Sex Traffickers Act (SESTA) and the Fight Online Sex Trafficking Act (FOSTA).²³⁷ Effectively, these acts led to the loss of trusted online advertising platforms, pushing sex workers to less secure platforms for work. They limited the ability to share vital information within sex work communities through “de-platforming,” or removing of information about conferences, past organizing, and future efforts from social media.²³⁸ SESTA and FOSTA, then, have impacted “the longevity of, and ability to, come together.”²³⁹

Organizers from Pittsburgh and Philadelphia alike have highlighted the “extreme challenges” of promoting community-building events online and the isolation resulting from the inability to connect.²⁴⁰ The SESTA/FOSTA legislation has made it difficult to safely and sustainably organize online because “platforms are constantly shut down or cut off.”²⁴¹ In Philadelphia, the work of the Almanac Dance Circus Theatre is a form of resistance to the challenges of information sharing. Organizers “infiltrate” avenues of exchange for art and performance that would prevent de-platforming common among sex workers trying to

²³⁷ Cristine Sardina, “Desiree Alliance written submission for CEDAW discussion on the General Recommendation on Trafficking in Women and Girls in the Context of Global Migration,” February, 2019, <http://desireealliance.org/wp-content/uploads/2019/02/CEDAW-submission-Feb-2019.pdf>. SESTA/FOSTA are responsible for creating “far-reaching carceral penalties attached to citizenship, sex, work, and labor” and “wip[ing] out online advertising venues that could procure a safety net” for sex workers.” These bills allowed anything that could be perceived as human trafficking—and by proxy, sex work—to be censored in order to prevent sex trafficking.

²³⁸ Jackson, “Sex Workers Unite! U.S Sex Worker Support Networks.” In fact, SESTA/FOSTA led to the cancellation of the 2019 Desiree Alliance national conference on *Transcending Borders: Immigration, Migration, and Sex Work*, because of the risk posed to the organization and attendees from SESTA/FOSTA, as organizers feared that “internet-mediated communication and messaging about the conference...could be construed as trafficking.”

²³⁹ Jackson, “Sex Workers Unite! U.S Sex Worker Support Networks.”

²⁴⁰ West, interview.

²⁴¹ West, interview.

organize.²⁴² Websites for advertising theater or dance versus those for organizing around civil, political, or labor rights serve as an inoffensive entry points to coalition building. Not only are events for art and performance geared toward social change less likely to be de-platformed or censored, but they also serve to engage people in the movement for sex workers' rights from otherwise peripheral spheres. As Melinda Chateauvert has described, this “tremendous creativity, dedication, and energy” around storytelling and public performance art have helped to keep the sex workers' movement alive.²⁴³

In 2022, Senator Lindsey Graham (R-South Carolina) proposed the Eliminating Abusive and Rampant Neglect of Interactive Technologies Act (EARN IT Act) which would ultimately extend the SESTA/FOSTA trend of limiting sex workers' ability to use online platforms by making safe communication harder.²⁴⁴ The potential enactment of the EARN IT Act has been the impetus for unified information sharing and crowd-sourced funding to support sex workers' organizations in Pennsylvania. The rallying cry, “none of us are free until all of us are free” is easily brought to life when pushing back against legislation designed with neither input from the sex workers it most impacts nor any evaluation of its ability to curb human trafficking in the sex industry. Most broader coalition organizing by sex workers in Pennsylvania has revolved around opposition to this new form of censorship; national sponsors provide platforms to push against national harms. The sweeping impacts such legislation has on sex workers is sorely felt, and federal proposals provide common ground on which to organize.²⁴⁵ The precedent of unifying

²⁴² West, interview.

²⁴³ Chateauvert, *Sex Workers Unite*, 14.

²⁴⁴ Project SAFE (@safephila), “EARN IT would rely on inoperable and obsolete encryption apps to force online sex workers to self-censor and reduce advertisements, or else face penalties including arrest” Instagram Story, February 2022.

²⁴⁵ Mae West (volunteer, Project SAFE; performer, Almanac Dance Circus Theatre), interview with author, February 2022.

around federal legislation—and building strategies to resist its harms—reflects the potential for a dynamic coalition to come together around state efforts for decriminalization.

Support from “Powerful” Places, Gains for Sex Workers’ Rights, and Reform

In addition to joining around identities of marginalized labor and drawing upon resources for art, communication, and performance, organizers for sex workers’ rights have started to come to the center of the rights-based campaigns in Pennsylvania.

In November 2021, the ACLU of Pennsylvania formally took a stance calling for the decriminalization of sex work. Led by Trans Rights Organizer for the ACLU and former sex worker and organizer for sex workers’ rights in Pennsylvania, Naiymah Sanchez, the ACLU launched a political education campaign focused in Philadelphia to destigmatize sex work and humanize sex workers as agents of their own lives.²⁴⁶ With the District Attorney’s commitment to end prosecutions for prostitution, an unmatched level of progressive municipal leadership, and a strong history of grassroots organizing, the ACLU sees Philadelphia as a model for decriminalization which can propagate through the state of Pennsylvania. While the ACLU has not committed financial resources to leading a campaign for decriminalizing sex work, the organization is committed to supporting organizers both through platform and information sharing and through grants for their lobbying. More broadly, the ACLU sees the success of decriminalizing and legalizing marijuana across the nation, a growing public acceptance of harm reduction, and an overarching focus on reforming the criminal legal system as laying the groundwork for decriminalizing sex work in all forms.²⁴⁷

²⁴⁶ “Decriminalize Sex Work Pennsylvania,” ACLU Pennsylvania, accessed January 28, 2022, <https://www.aclupa.org/en/decriminalize-sex-work-philadelphia>.

²⁴⁷ Sanchez, interview.

Flowing from the power of this intersecting reform moment and the action of sex workers' rights organizers, Rep. Summer Lee of Allegheny County introduced a bill aligned with the sex workers' movement in 2020. This bill would provide “amnesty for sex workers, sexually exploited children, and victims of human trafficking reporting a crime of violence” from prosecution or arrest for prostitution and any related crimes.²⁴⁸ It turned away from the traditional conflation of sex work and sex trafficking, and the bill was the first proposal in the state to recognize sex work as legitimate work by defining a sex worker as “an individual 18 years of age or older who negotiates and performs sexual services for remuneration.”²⁴⁹ While pushing the bill through the legislature without a strong coalition behind it is unlikely because of the deeply entrenched anti-trafficking movement previously defined, the bill does represent gains of the sex workers' rights movements and is an important point of analysis for the broader politics of sex workers' movements.

The initial bill was referred to the Judiciary Committee on May 10, 2021, where it remained until the close of the session—it was never voted upon by legislators. In January 2022, Rep. Lee re-proposed the bill for consideration in the 2022-2023 session as the first of a three-part bill to ultimately reach full decriminalization of the sex trade in Pennsylvania.²⁵⁰ Since being sworn into office in 2019, Rep. Lee has worked closely on this legislation with Gabrielle Monroe, a survivor of childhood sex trafficking, current sex worker, and lifetime advocate of complete decriminalization of sex work. Monroe was integral in highlighting the disparate and harmful impacts of state's anti-trafficking legislation to Rep. Lee's office, and they built this bill together to ensure that sex workers “have safe work environments and policies that protect

²⁴⁸ 18 Pa. Cons. Stat. § 5902, proposed amendment H.B. 1381 (2021).

²⁴⁹ *Ibid.*

²⁵⁰ Summer Lee (State Representative, Allegheny County), interview with author, online, March 2, 2022.

them.”²⁵¹ Monroe’s work with Rep. Lee became the legislative basis for undoing the harm of the purportedly ground-breaking bills for supporting sex trafficking victims—Act 105, the Safe Harbor Bill, and the Buyer Beware Act. Through a co-governing process, Rep. Lee’s office and Monroe worked with two other organizations in the Pittsburgh area, Survivor Siblings and Decrim PA, both of which Monroe helps to lead.²⁵²

Rep. Lee’s amnesty bill for people involved in the sex trade gained diversified support from various political groups, collectives for art and poetry, and organizations supporting Pittsburgh’s queer and transgender community. However, this support was narrowly concentrated in the Pittsburgh area. Sex workers’ groups from the Philadelphia area and organizations from the rest of the state were absent in public support of the bill.²⁵³ Indeed, from 2020 to 2022, the only public-facing discussion of legislation among sex workers’ groups in Pennsylvania was related to SESTA/FOSTA and the EARN IT Act, with the exception of Decrim PA.²⁵⁴ The missing statewide coalition around this legislation was largely the result of fragmentation among sex workers’ groups in the state.

Sanchez reported that the ACLU’s office did not give any input on the creation of Rep. Lee’s bill and that the organization has since been unable to contact or work with Rep. Lee to push her bill forward. She explained that the sheer volume of “crisis control work” happening in the sex workers’ rights movement prevents communication and coalition-building around

²⁵¹ Lee, interview.

²⁵² Survivor Siblings, a Pittsburgh-based mutual aid and outreach organization for people with experiences of trafficking. Decrim PA, a group of harm reductionists, community organizers, sex workers, and sex trafficking survivors calling for the end of the criminalization of the sex trade. All three are associated with the city of Pittsburgh and its surrounding counties. Monroe is involved with leading both Survivor Siblings and Decrim PA.

²⁵³ “#savePA Sign On Letter,” Representative Summer Lee, August 31, 2020, <https://docs.google.com/document/d/1ZsPMAAdFbZ2OAr8yRIEd3pAyKEsT-84ZF71AXzYAXQpw/edit?fbclid=IwAR3s2GcBsDfR8O3B79R4kOi7TllyqU5zlCocqs6XoBvVed6nBeqmq7BsbYg>.

²⁵⁴ This is based on author evaluation of social media, blog postings, and website updates. While it is possible social media from before 2022 was taken down, interviews with organizers revealed that state legislation was of little importance.

legislation.²⁵⁵ Similarly, Mae West, current sex worker and organizer with Project SAFE and the Philadelphia Red Umbrella Alliance, was not aware of the proposed amnesty bill until asked about it in an interview.²⁵⁶ West explained that because their groups focus on the “on-the-ground service provision and social narrative change, they just don’t have access to that kind of information all the time.”²⁵⁷ Raani Begum and Sultana Bibi reported that Representative Lee did not reach out to either Project SAFE or Philadelphia RUA, so they played no role in drafting this bill.²⁵⁸

The amnesty bill’s creation and proposal had a small bastion of support in comparison to the sizable power of the anti-trafficking movement’s voice in the legislature. Yet, reaching full decriminalization requires sex workers’ organizations to build the same broad-based power as the anti-trafficking movement. As Sanchez explained, “if we unified as grassroots organizers in all of our respective areas, we would be able to lobby as much as [the anti-trafficking movement] lobbies against us.”²⁵⁹ Understanding the role of fragmentation among organizers is imperative to the creation of a political environment receptive to decriminalization.

Rep. Lee’s bill represents only one of many avenues to move toward justice for sex workers. However, a statewide coalition is key for loosening the anti-trafficking movement’s grip on legislators’ and the public’s fears, both for sex workers’ amnesty bill, the destigmatization campaign, and broader work for sex workers’ rights. Despite the encouraging examples of organizing detailed above, the concentration of support for legislation in Pittsburgh and the focus on grassroots change in Philadelphia represent distinct political priorities among groups dispersed through the state.

²⁵⁵ Sanchez, interview.

²⁵⁶ West, interview. “I had absolutely no idea this was happening, and I don’t know how I would have if not for this”

²⁵⁷ West, interview.

²⁵⁸ Begum and Bibi, interview. This was in the context that they were generally supportive of this type of bill and would have helped its creation, but were not involved.

²⁵⁹ Sanchez, interview.

Understanding the conditions amenable to progressive change around sex work—as the ACLU has identified in Philadelphia—augments the need to bring together sex workers’ rights organizations that are moving farther apart from the dearth of funding for services and internal conflicts among sex workers’ rights groups and organizers.

Crisis Control and Claims-Making Activities

“All the money and all the resources are going straight to the people oppressing us.”

— Mae West

Legislation from the federal level certainly impedes organizing efforts and broadly impacts sex workers who use any online platforms. However, the immediate impacts of criminalizing sex work are felt at the hyper-local level, where police and prosecutorial practices like Project Dawn and the PAD govern the day-to-day experiences of sex workers most vulnerable to arrest. Organizing work is necessarily concentrated around the immediate harms of policing and prosecution at the local level, and most organizing occurs within the “siloes” of Philadelphia and Pittsburgh—how organizers refer to work concentrated within narrowly defined geographies. Urgent needs for financial relief, local crises of police-inflicted harm, and an overall dearth of funding for sex workers’ organizations have contributed to the siloed work. This form of “crisis control,” where organizations and their clients operate in “survival mode” unambiguously takes priority over dedicating limited capacity to state-level legislative change.²⁶⁰

The majority of funding for resourcing people in the sex trade is allocated exclusively to services for victims of trafficking and routed through anti-trafficking organizations. These groups are ill-equipped to stop exploitation or support sex workers because of both their resistance to

²⁶⁰ Begum and Bibi, interview. Survival mode refers to the chronic stress and exhaustion sex workers face from conditions of criminalization and poverty. Organizations similarly take on this stress or exhaustion because they extend all of their resources to meeting as best they can their clients day-to-day needs.

“humanizing the consensual sex trade” and their approach to service provision relying on the need to exit sex work.²⁶¹ Dramatically fewer resources are given to grassroots groups that cross the boundaries of binary views of criminal and victim and critique carceral and structural violence.²⁶² Many sex workers face chronic stress and exhaustion from conditions of criminalization and poverty, and sex workers rights’ organizations extend all available resources to meeting as best they can their clients immediate needs. With financial power and a politically salient fear of trafficking nourishing anti-trafficking organizations, sex workers’ rights groups are left with acute needs to provide relief and crisis control to those they serve and an emergent shortage of sustainable resources.

In 2006, the Open Society Institute first analyzed this trend of over-funding anti-trafficking work and under-funding grassroots organizations. A report written as part of their Sexual Health and Rights Project showed that the “five most active foundations funding sex worker health and rights in 2005 gave less than 1 million USD.” This was a fraction of what was received by the anti-trafficking sector and an even smaller fraction of what sex workers’ groups needed.²⁶³ In 2012, a group of sex workers’ rights activists and philanthropic donors convened to build the first U.S.-based pooled fund, run by sex workers and set aside for sex workers—the Red Umbrella Fund. Many sex workers’ rights and service providers today receive funding from mutual aid groups modeled on their pooled funding distributed for-and-by sex workers. Others seeking to build organizations at the state level associate with national organizations like the Sex Workers’ Outreach Project (SWOP) to make chapters with the security of national level funding in times of deeper crisis. For example, one reason the founders of the SWOP chapter based in

²⁶¹ Sanchez, interview.

²⁶² Sanchez, interview.

²⁶³ Julie Dorf, “Sex Worker Health and Rights: Where is the Funding?” Sexual Health and Rights Project, Open Society Institute, June, 2006, <https://www.opensocietyfoundations.org/uploads/045e12f7-4389-4460-9c4d-48a38bece3cd/where.pdf>.

Pittsburgh chose to associate with this organization was for the better assurance of financial security.²⁶⁴

Furthermore, many sex workers' rights organizations opt not to apply for federal or state grant funding at all because of the harms that NGO reporting structures inflict by requiring names and other identifying information. Such reporting creates an "incredibly abusive funding relationship" limiting the work organizations can do. Long-time organizer with the Desiree Alliance, Cris Sardina, sees grant application and reporting processes as "almost designed to screen out grassroots groups" and organizations serving people with "unique privacy needs."²⁶⁵ The criminalization of the sex trade makes these reporting requirements dangerous, where sex workers justly fear entrapment by police through identification.²⁶⁶

What limited funds sex workers' organizations do have, moreover, were acquired to go toward local mobilization and life-saving relief rather than a state- or federal-level political campaign. SWOP Pittsburgh suspended its endeavors investigating a statewide push for decriminalization to direct its limited resources toward the relief it set out to provide—connecting to sex workers in the community and bolstering a mutual aid fund.²⁶⁷ Project SAFE was founded on a model of "just go[ing] out to the street where people were, and handing out supplies...just to have some equity around who was accessing services." Their model today is the same; the continued stigma, criminalization, and lack of transportation, child care, health care, housing, education, and more have left the organization and its clients in a survival mode that "has gone on forever."²⁶⁸

²⁶⁴ Maggie Oates (volunteer, SWOP Pittsburgh), interview with author, online, February 11, 2022.

²⁶⁵ Best Practices Policy Project, "Politics and Chill."

²⁶⁶ Ammar Cordoba, "Politics is the heart of all sex worker organizing," *Open Democracy*, April 16 2020, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/politics-heart-all-sex-worker-organising/>.

²⁶⁷ Oates, interview.

²⁶⁸ Begum and Bibi, interview.

Restricted nonprofit funding can also be quite volatile. In 2022, Project SAFE began to move away from its fiscal sponsor, PDAP/NASEN, toward more sustainable mutual aid funding from people in the area supporting their work.²⁶⁹ While PDAP/NASEN has supported harm reduction agencies, including Project SAFE, for years, it is pushing older organizations to find new fiscal sponsorship so it can support emerging syringe service programs.²⁷⁰ Begum and Bibi see this shift away from non-profit funding as a way to foster autonomy within the organization and to build reliable, sustainable funding sources for the long-term that do not require reliance on other groups.

Nonprofit funding additionally prohibits active political organizing in ways that mutual aid funding does not.²⁷¹ Since 1975, government funding has replaced private donors as the largest source of nonprofit revenue.²⁷² As the nonprofit sector grew as the major player in the American social-welfare system, it also provided services to “the most politically marginalized persons in the nation,” which is work the government grew to rely upon. However, the 501c3 designation of nonprofits from the Internal Revenue Code (IRC) as well as data-collection requirements from funding agencies together “restrict nonprofits’ ability to engage in political activities that challenge government policy on behalf of their constituents.”²⁷³ SWOP Pittsburgh, highlighted that in addition to their already lacking resources, having SWOP as a 501c3 fiscal sponsor made leading a campaign for decriminalization difficult because of regulations around lobbying.²⁷⁴

²⁶⁹ West, interview. PDAP/NASEN was incorporated as a 501c3 organization in 1988, and created the first legally sanctioned syringe exchange program in the United States.

²⁷⁰ Begum and Bibi, interview

²⁷¹ Dean Spade, *Mutual Aid: Building Solidarity During This Crisis (and the next)*, (New York: Verso, 2020), 61.

²⁷² Majic, *Sex Work Politics*, 9.

²⁷³ Majic, *Sex Work Politics*, 11.

²⁷⁴ Oates, interview.

Despite the dearth of funding and the political constraints around these organizations, sex workers' rights groups in Pennsylvania have acted politically through claims-making activities, which encompass negotiating “the constraints that nonprofit tax status and funding agreements impose on them.”²⁷⁵ In Project SAFE and Philadelphia RUA, this takes the form of knowledge production around police-assisted diversion and Project Dawn Court, where community experiences were—and continue to be—used to inform city-wide policymakers about their constituents' needs. These organizations aided the Philadelphia District Attorney's Office in informing (non)prosecutorial practices to reduce the risk of sex workers “being trafficked, raped, assaulted, or abused” for his 2018 election.²⁷⁶ Such claims-making also took the form of protest and direct action against police misconduct in Pittsburgh, where SWOP Pittsburgh and other sex workers protested unfair policing practices that held cell phones and condoms as accessories to crime. The story was picked up by numerous media outlets, forcing the overhaul of the municipal policing policies that allowed for this in Allegheny County.²⁷⁷ These notable successes, however, do not negate the need for sufficient resources to both meet the multifaceted needs of their clients and to support large-scale coalition building on an increasingly criminalized and constrained political terrain.

Localized wins for county-based prosecution and policing practices are powerful demonstrations of the siloed work described by organizers. For years, Pennsylvania sex workers' organizations have connected their clients to housing, health care, harm reduction materials, and other life-saving social services not found anywhere else. As diversion programs and policing have spread across the state, so too has the need to end—not just diminish—the harm typified by

²⁷⁵ Majic, *Sex Work Politics*, 140.

²⁷⁶ Aisha Mohammed, “Sex workers don't need aggressive prosecution to protect themselves,” *Philadelphia Inquirer*, January 14, 2019, <https://www.inquirer.com/opinion/commentary/sex-workers-rights-prosecutors-mcswain-krasner-20190114.html#loaded>.

²⁷⁷ Monroe, interview; Oates, interview.

the anti-trafficking movement's victim and rescue roots. A lack of “no-strings-attached” funding exemplifies the need for crisis control in local areas as well as the structural barriers to statewide coalition building.

Inter-community Conflict and “Differently Compacted Harm”

Begum and Bibi are optimistic that their groups will financially stabilize with the shift toward mutual aid funding. Without spending so much of their capacity on fundraising and grant writing, they can focus on broader political goals. However, they assert that the legislative process can be alienating, exclusive, and misaligned with people's constantly changing realities and often unique needs.²⁷⁸ Moreover, Naiymah Sanchez sees the Pennsylvania sex workers' rights movement as one that is “very segmented” in organizing tactics.²⁷⁹ According to Sanchez, people on the ground “doing unsung and quiet work” are not recognized, creating tension among organizers whose work is built upon or reconstructed without being credited.²⁸⁰ National organizers with Lysistrata—an online community of sex workers that provides no-strings-attached financial assistance—have explained that the fracture in this movement is a function of privilege, underlain by racism and classism.²⁸¹ Fragmentation extends into more distinctive “nitty-gritty in-fighting; everyone has different visions of how we can get to this place [of decriminalization and reduced harm],” according to Mae West.²⁸²

SWOP Pittsburgh has been confronted with intense conflict between its founder and former leader Jessie Sage and former member Gabrielle Monroe over unrecognized privilege.²⁸³

According to Monroe, Sage, a former academic and sex worker with relative class privilege,

²⁷⁸ Begum and Bibi, interview.

²⁷⁹ Sanchez, interview.

²⁸⁰ Sanchez, interview. .

²⁸¹ Best Practices Policy Project, “Politics and Chill.”

²⁸² West, interview.

²⁸³ Oates, interview; Monroe, interview.

dominates the conversation around sex work in Pittsburgh in a way that is harmful to street-based sex workers. In an interview on the use of cellphones among street-based sex workers, Sage misrepresented the use of cellphones and told the publication that phones were used to photograph license plates or identifications of clients.²⁸⁴ Monroe as well as other experienced street-based workers have repeatedly asserted that photographing a client's identity in this way "would get someone killed," underscoring the harms of detachment from experience in this type of organizing.²⁸⁵

Moreover, SWOP Pittsburgh and the ACLU set out to observe and evaluate the Positive Recovery Intensive Diversion Experience (PRIDE) Court, which began in 2004 in Allegheny County as a problem-solving court for prostitution.²⁸⁶ Like Project Dawn Court, this program offers limited services along with intense surveillance over participants, a low graduation rate, and a trauma-focused model.²⁸⁷ Monroe was the only member of the group to sit in with the court and was counting on community support from SWOP Pittsburgh. However, Monroe reported that she was repeatedly left to observe alone and bore harassment from police who recognized her as an "alleged prostitute."²⁸⁸ Monroe further explained that she ultimately left the organization after a biting comment from another member of SWOP Pittsburgh that they "were not *that* kind of sex worker," referring to street-based sex work.²⁸⁹ The anti-trafficking movement already displays a huge amount of disregard for sex workers. But, this dismissal can also occur from within the sex

²⁸⁴ Melissa Gira Grant, "In Allegheny County, People Arrested with Cell Phones can be Charged with Possessing Instruments of Crime," *The Appeal*, October 31, 2018, <https://theappeal.org/in-allegheny-county-people-arrested-with-cell-phones-can-be-charged-with-possessing-instruments-of-crime/>.

²⁸⁵ Monroe, interview.

²⁸⁶ Dana Mueller, "Treatment Courts and Court-Affiliated Diversion Projects for Prostitution in the United States," Chicago Coalition for the Homeless, 2011, <https://www.issuelab.org/resources/14135/14135.pdf>. The PRIDE court is not as well studied as Project Dawn, and has had only 40 members graduate between 2004 and 2016. More recent data is not available.

²⁸⁷ Mueller, "Treatment Courts." Drug treatment is additionally mandated, but MAT, or medication assisted treatment for substance use disorder is not supported by PRIDE Court.

²⁸⁸ Monroe, interview.

²⁸⁹ Monroe, interview.

workers' movement itself. Naiymah Sanchez has furthermore described the pushback against her identity as a transgender, Afro-Latina woman that disrupted her organizing around decriminalization prior to joining the ACLU.²⁹⁰ Current harmful discourse among the already small number of sex workers' rights organizers in a highly constrained space has built a fractured environment that stands in the way of a statewide movement.

In Pennsylvania, coalition work and network building are needed among groups on the ground. Organizers with Lysistrata and the Best Practices Policy Project described the national movement as one characterized by “fragmented and segmented actions, proposals, and movements.”²⁹¹ Sanchez similarly explained that while advocating for sex workers' rights, an organizer is “met with so many different ideas of how [to get to] the end goal, and that creates a challenge for everybody moving forward.” This makes it easier for organizers to pivot back to silo work.²⁹² For example, Philadelphia RUA and Project SAFE view long-term coalition and community building across the state and with different sectors to be their ultimate political goal. Legislative change can be ineffective in providing the wealth of resources sex workers largely lack and unable to respond sufficiently to the quickly-evolving harms at the local level. Groups in Pittsburgh, by contrast, have pushed for legislation to combat the looming political presence of the anti-trafficking movement in the legislature. These fractures in priorities are intensified by the geographical dispersion of different groups. Groups need to respond to urgent needs, and services are easier to provide to “someone living next door than for someone across county lines.”²⁹³

²⁹⁰ Sanchez, interview.

²⁹¹ Best Practices Policy Project, “Politics and Chill.”

²⁹² Sanchez, interview.

²⁹³ West, interview.

Stiletto's Inc., for example, was a Philadelphia organizing group which grew as a Black sex workers' collective under the guidance of Bamm Rose during the Covid-19 pandemic. Rose still characterizes Stiletto's Inc. as an organizing body, and she is an active and powerful member of the sex workers' rights community. However, disagreements on political philosophies and strategies for decriminalization combined with "compound trauma and compound marginalization" caused conflict that prompted group members to leave. Today, the group functions primarily as a mutual aid organization and information-sharing resource with future plans to organize around sex workers' and strippers' rights in Philadelphia.²⁹⁴

Moreover, Philadelphia RUA disaffiliated with SWOP in 2015 because the broader SWOP organization did not address racial equity in sex workers' organizing in the same way as Philadelphia organizers. According to Sultana Bibi, "they weren't looking at the experiences and needs of people who were doing street-based work." SWOP did not include any justice-oriented or organizational analysis of class or race in their work that Philadelphia organizers did. At the time, SWOP "tended to be more middle class or working class workers," while Philadelphia organized with street-based workers often experiencing homelessness or deep poverty. The missing focus on racial and class justice steered the former SWOP Philadelphia to rename itself the Philadelphia Red Umbrella Alliance, because they felt "more allied and aligned with" groups including the Best Practices Policy Project. Strategies for defending sex workers' rights and pushing toward decriminalization are weakened by cross-cutting experiences of racialized, gendered, and class-based marginalization. To downplay the real challenges and harms which occur within sex workers' movements would be a disservice to building a path forward. Organizers across the state furthermore emphasized that finding ways to decisively work together is integral to ongoing work for decriminalization.

²⁹⁴ West, interview.

Monroe calls for training and communication workshops for organizers within the community to “learn how to communicate and how to disagree with each other.”²⁹⁵ Sanchez highlights the need to come together, to bridge the community disconnect, and to recognize trauma that organizers who have experience working in the sex industry have faced in the context of criminalization.²⁹⁶ Sanchez explained:

“With any movement, there needs to be inner community healing for us to do this work together. Not doing this, not addressing this disconnect, leaves room for these larger organizations that really don’t have a big imprint in this state to come in and do the work to either move us forward and take the credit for all of our pain or fuck us up and leave us to clean it up. This moment is the one for us to hold ourselves accountable for the connection between us as organizers, us as movement makers, and us as impacted or experienced people.”²⁹⁷

The strategies already used by these organizations—focusing on relief, dignity, and human rights for all their clients, prioritizing social service needs over carceral growth, and holding accountable those who create and sustain harms in their communities—serve well for the necessary inter-community healing called for by organizers. The present state of reform is unmatched by any in the history of Pennsylvania. Proposed legislation that can reach the Senate floor to define sex work under the law could be the basis for detaching criminality from consensual sex work in diversion programs and open the door to a broader divorcing of human trafficking from sex work. The sex workers’ movement has been resilient in the face of an oppressive state context through joint movement building and claims-making at the local level. Organizers have shown that the traditional nonprofit structure is not conducive to the unique needs of a criminalized population, and they have spotlighted the context-specific need for resolving inter-community conflict among longtime organizers. In closing these gaps, sex

²⁹⁵ Monroe, interview.

²⁹⁶ Monroe, interview.

²⁹⁷ Sanchez, interview.

workers' movements can continue to grow as champions of justice. The nuances described here can aid the process of building movements that “slowly, softly, move from small acts that reclaim the right to have rights to bigger, more assertive actions.”²⁹⁸ The sex workers' movement in Pennsylvania is not a series of short-term, results-oriented projects, but a long-term one that negotiates both broader labor mobilization and sex workers' right to have rights.

Conclusion

Beyond Rescue and Diversion: Toward Decriminalization

“The more people power we build, the more community we build, the stronger we are, state support or not.”
—Raani Begum

Takeaways: Criminalization Shifting Forms

Human trafficking occurs in the sex industry as it does in other industries of marginalized labor. Yet, the anti-trafficking movement has conflated sex work with sex trafficking in a way that further criminalizes sex workers. It has increasingly marginalized victims of human trafficking and failed to support the victims it claims to beyond re-entrenching law enforcement responses. The merging of sex trafficking with sex work has not only made abuse against sex workers peripheral to the debate, but it has further devalued consensual sex work by treating sex workers' rights as “necessary collateral damage” in the larger war on trafficking.²⁹⁹ The anti-trafficking movement's success in building a narrative that punishes sex workers is paralleled by its large push of punitive criminal policies for buyers of sex as perpetrators of trafficking. In no case has this movement in Pennsylvania worked to redress the political, economic, and historical conditions that make many workers—including sex

²⁹⁸ Naila Kabeer, Ratna Sudarshan, and Kirsty Milward, eds *Organizing Women in the Informal Economy: Beyond the Weapons of the Weak*, (London: Zed Books, 2013).

²⁹⁹ Gonnerman, “Kalief Browder.”

workers—vulnerable to increased exploitation. Instead, it has used exaggerated data across the nation to create an ostensible war on trafficking that is more of a war on sex workers than any condemnation of structural exploitation.³⁰⁰

The power of the anti-trafficking narrative should not be underestimated. The definitions of human trafficking, sex work, and sexual exploitation are created, enforced, and amended by the state legislature. Pennsylvania's legislation has continued to be influenced by anti-trafficking advocates, giving groups in opposition to decriminalization of sex work the resources to dominate a stigmatizing and inaccurate discussion of the nature of sex work. Pieces of legislation including Act 105, the Safe Harbor Bill, and the Buyer Beware Act flew through the Pennsylvania Senate. While largely symbolic, they mark the broader political attitudes toward sex work among the state's elected leaders. A relatively new fear of human trafficking seems to be proliferating, yet, the narratives it produces and the punitive trends it upholds are deeply rooted in those of the past.

Moreover, the carceral feminist threads of levying harsher punishments toward offenders under the guise of supporting women's rights have given way to the idea of carceral protectionism across all levels of law enforcement. These ideologies have not only exported harmful tropes of sex workers as requiring state rescue, they have pushed forward inordinate amounts of funding to organizations that do not adequately support the entirety of the needs of those it intends to.

The idea that the carceral state has a role in protecting vulnerable members of society has scattered through police-assisted diversion programs, problem-solving courts, prosecutors, and legislators alike. Powerful lobbying groups have clung to the paradox that the police should protect these apparent victims by arresting and jailing them or pushing them through apparently

³⁰⁰ Monroe, interview.

less punitive, yet still carceral, structures. The build-up of softer police responses through police-assisted diversion programs and problem-solving courts have pulled focus away from questioning the criminality of sex work in the first place in favor of small reforms to a system of surveillance and punishment that are profoundly harmful and revealingly insufficient. The marriage of the anti-trafficking movement with calls for criminal legal reform has increased tools for prosecutors and law enforcement officers to decide for themselves who to protect and who to criminalize, extending a kinder criminal justice approach to those seen as victims and a harsher response to those seen as the worst offenders.

The analysis of Project Dawn Court revealed the inefficacy of so-called “therapy at gunpoint,” and its creation shows the harms that anti-trafficking and carceral protectionist narratives wield when inspiring surveillance within the court system. The politics of rescue will likely remain at the center of Project Dawn’s functioning until the last of its participants graduate. At full capacity, Project Dawn at best provided emotional support to its participants. At worst, the court used anti-sex work beliefs to impose strict surveillance and impossible benchmarks upon its participants without addressing any of their larger social or economic needs. District Attorney Larry Krasner’s firm commitment to not prosecuting sex work certainly shined light on unfair criminalization practices and the harms inflicted by Project Dawn Court. However, neither rhetoric alone nor the reduction in charges levied by his office address the long-standing disinvestment in social protections seen in existing shallow reform efforts. Krasner’s commitment to not pursuing prostitution-related charges has not substantially pulled back the carceral state in relation to sex work or sex trafficking. The neoliberal entrenchment of a politics of personal responsibility has been and continues to be a justification for punitive

carceral practices, and even without prosecutions, the police-assisted diversion program continues to grow, and surrounding counties continue to criminalize sex workers in the state.³⁰¹

With the police-assisted diversion program, the criminal legal system is the gatekeeper, manager, and provider of social services for those forced into its ever-growing reach. There has been little evidence of any involvement with this system having sustainable, positive impact on sex workers' lives. Officials within the system see the PAD as an innocuous connector to social services for people who may have otherwise been incarcerated. Yet, this best-case presentation of a simple go-between does not recognize the harms that an increased police presence has on sex workers, nor does it question law enforcement's relationship with an evangelical, anti-trafficking provider in relation to "diversion" from sex work. Like Project Dawn, the PAD inspires little investment in broader equity and poses the policing system as one only in need of small reforms. Neither does it promote a critical questioning of why shuttling police into communities far more in need of housing and health care could be considered reform.

In all cases, the police-assisted diversion program has yet to accept feedback on its process from sex workers' rights organizers. Social service providers partnering with the police have little accountability for the quality of their services. Where the criminal legal system has ostensibly become softer, it is moreover reserved for the "worthy" offenders; access to limited social services through the carceral apparatus and eligibility for diversion programs do not apply to those who do not fit the sensationalized victim narrative—transgender women, male sex workers, or many women of color. For those deemed vulnerable enough to protect through the carceral state, they are met with intensely increased surveillance, inadequate resources, and

³⁰¹ Will Meyer, "A Green New Jail," Longreads.com, October, 2019, <https://longreads.com/2019/10/23/a-green-new-jail/>.

insurmountable barriers to meeting state-prescribed goals. These reforms, then, do not conceivably loosen the carceral state's grip on sex work.

Analytical Contributions

The anti-trafficking movement most loudly touts its successes at the legislative level. Yet, the quieter—and more sinister—impacts are seen when this movement connects with so-called reforms to the carceral state. This analysis has uniquely demonstrated how the anti-trafficking movement's power has grown in Pennsylvania, using legislation and legislative change as a window into its political influence. It has shown the ways this rescue industry and victim-oriented narrative has become entrenched in diversion programs. Such programs are growing in line with others across the nation, like Project Dawn, and receiving funding from elite-driven reformers, like the PAD. In practice, both programs fail to meaningfully improve the lives of those they set out to and in many ways bring more harm than good. Together, these chapters underscore that genuine progress either in carceral reform related to sex work or in achieving sex workers' rights is not possible without completely decriminalizing sex work and associated activity.

While the chapters on anti-trafficking legislation and diversion programs describe the deeply entrenched barriers to decriminalization, sex workers' rights movements have mobilized impressively in response to their harms. As organizations like the ACLU and state legislators rally around recognizing sex workers as in need of the same labor protections as all workers, the sex workers' rights movement has the potential to topple the overhanging fear of trafficking. Sex workers' groups in Philadelphia have worked to reverse this narrative from the ground up, partnering with labor unions, holding political education campaigns, and using new platforms to

share their work in non-traditional sectors. In Pittsburgh, these groups have found success partnering with lawmakers to start to undo the anti-trafficking narrative's ever-extending roots. These strategies serve well as the pieces needed for a statewide campaign to decriminalize sex work. While the dearth of funding for sex workers' rights groups and inter-community conflict make this difficult, sex workers' rights organizers recognize their influence. Transfiguring these barriers will promote the large, long-term coalition organizers call for.

This analysis, then, is above all a piece of the work to highlight the way forward for decriminalization. The politics around sex work in the Pennsylvania criminal legal system are largely around the narrative—or the nature—of sex work itself. The politics of sex workers, however, are more cogently related to the nature of criminalization and social disinvestment. Sex workers and sex workers' rights organizers have historically faced deep exclusion from lawmaking processes and state decisions around law enforcement programs. Inclusion of these groups, with strong community connections and commitments to social, legal, and economic protections for all marginalized people, should be seen as the ultimate priority of any proposed reform to the system.

Organizers have cited child sex trafficking as a “conversation stopper.”³⁰² This analysis, however, shines light on Pennsylvania's current approach with the Safe Harbor Bill. While lauded by many, the existing legislation is ineffective and inefficient, with no funding or resources routed toward victims. Even if it did work as it was intended, the wraparound, holistic approach required to support child victims of trafficking would not be achieved by directing energy to increasing already symbolically high punishments for traffickers. Nor would it be achieved by continuing down a carceral protectionist path of engaging these children in the criminal legal system. The legislative analysis serves to force a fundamental evaluation of the

³⁰² Begum and Bibi, interview.

current approach to building so-called solutions to the public fear of child trafficking. Moreover, this analysis supports a push for new proposals to be directed by people aligned with both repairing a shredded social safety net and reducing the harms of continued carceral growth.

Proponents of the PAD, including the Philadelphia Department of Public Health, see the program as a necessary first step. This analysis points to the harms of the chosen service provider, one who sees the end goal as exiting sex work and who perpetuates the idea that the exchange of sex itself is an issue rather than the criminalization of the industry. By re-evaluating the dual impact of both criminalizing the sex trade and enmeshing it with the anti-trafficking movement, the PAD, in the immediate term, can recognize just how deleterious its work is for sex workers. The services the PAD connects people to who are diverted for sex work are not harm reduction: nearly half of all diverted people for sex work are ineligible, the service provider has little accountability for its services' quality, and the continued patchwork of reforming policing has meager consequences for real carceral reform.

Moreover, highlighting sex workers' gains and powerful strategies at the local level should inspire greater collaboration. Organizers in the state are equipped with the history of political change and coalition building needed to extract the anti-trafficking movement from the movement for carceral overhaul. Sex workers' rights groups share needs for better funding and increased capacity, yet they also share goals of decriminalization and better social and workplace protections for all sex workers and marginalized laborers. This piece of the analysis, hopefully, inspires joint movement building in Pennsylvania during this potential moment of reform—where organizers can unify around the unique harms of the anti-trafficking narrative and its entanglement with trends in criminal legal reform.

Where people who organize around the rights for sex workers have been excluded has resulted in ineffective, punitive, and generally damaging consequences for sex workers' rights, protections for people who have experienced trafficking, and carceral reform alike. Where sex workers' rights groups have aligned with criminal legal officials, as with DA Krasner and Project Dawn, significant harms have been ameliorated. Including sex workers' rights organizers builds pathways to broader social, racial, and economic justice. A political environment that is receptive to the decriminalization of and inclusion of rights for people involved in sex work—a form of labor that falls at the intersection of moral, social, economic, gender, and racial marginalization—is a political environment receptive to rebuilding and reimagining carceral, social, and economic systems that are supportive of and healing for all. The Pennsylvania sex worker-led push against the harms of the anti-trafficking movement—while small, while fragmented, while facing criminalization from federal, state, and local levels—has been the core of a movement that has persisted for nearly five decades in the United States. By recognizing the Pennsylvania-specific barriers to sex workers' rights, it can grow stronger and more unified in those to come.

Table of Interviewees

Interviewee	Role	Date
Mary DeFusco	Project Dawn Court	January 25, 2022
Amber Goltz	Women Organized Against Rape	February 2, 2022
Lesha Sanders	Project Dawn Court	February 7, 2022 and February 8, 2022
Heather LaRocca and Susan Jones	A New Day to Stop Human Trafficking Philadelphia	February 7, 2022
Anish Raj	Adolescent Protection Collaborative	February 10, 2022
Maggie Oates	Sex Workers Outreach Project (Pittsburgh)	February 11, 2022
Naiymah Sanchez	American Civil Liberties Union	February 11, 2022
Oren Gur and Dana Bazelon	Office of the Philadelphia District Attorney	February 15, 2022
Evan Anderson	Police-Assisted Diversion Program Evaluator	February 21, 2022
Greg Rowe	Pennsylvania District Attorneys Association	February 23, 2022
Mae West	Almanac Dance Circus Theatre	February 27, 2022
Summer Lee	Pennsylvania House of Representatives	March 1, 2022
Gabrielle Monroe	Decrim PA	March 1, 2022
Raani Begum and Sultana Bibi	Project SAFE and Philadelphia Red Umbrella Alliance	March 23, 2022

**All interviews were conducted by the author over Zoom, with the exception of an in-person observation of Project Dawn Court. Conversations were recorded and transcribed with verbal consent from participants. Recordings and transcripts were deleted after completion of the project.*

Bibliography

- 18 Pa. Cons. Stat. § 2810, 3001, 3026, 3053, 3056, 3061-3065 (2018).
- 18 Pa. Cons. Stat. § 3001, 3011-3025, 3031-3032, 3051-3055, 3071-3072 (2014).
- 18 Pa. Cons. Stat. § 3001, 3026, 3056, 3061-3065 (2018).
- 18 Pa. Cons. Stat. § 3002 (2006).
- 18 Pa. Cons. Stat. § 5902, proposed amendment H.B. 1381 (2021).
- 42 Pa. Cons. Stat. § 6328 (2018).
- “#savePA Sign On Letter.” Office of Representative Summer Lee, August 31, 2020,
<https://docs.google.com/document/d/1ZsPMAdFbZ2OAr8yRIEd3pAyKEsT-84ZF71AXzYAXQpw/edit?fbclid=IwAR3s2GcBsDfR8O3B79R4kOi7TIIyqU5zlCocqs6XoBvVed6nBeqmq7BsbYg>.
- “A Look Back: Building a Human Trafficking Legal Framework.” The Polaris Project, September 2019,,
<https://polarisproject.org/wp-content/uploads/2019/09/2014-Look-Back.pdf>.
- “Act 1 (2020): Pennsylvania’s Buyer Beware Act.” The Institute to Address Commercial Sexual Exploitation, Villanova University, March 2020,
<https://cseinstitute.org/wp-content/uploads/2020/03/Act-1-2020-3.20.pdf>.
- “Act 105: Pennsylvania’s First Comprehensive Anti Trafficking Law on the Books.” The Institute to Address Commercial Sexual Exploitation, Villanova University, accessed March 24, 2022, <http://cseinstitute.org/wp-content/uploads/2016/12/Act-105-Law-on-the-Books.pdf>.
- Anderson, Evan Ruth Shefner, Rebecca Koppel et. al. “Experiences with the Philadelphia police-assisted diversion program: A qualitative Study.” *International Journal of Drug Policy* 100 (2022).
- “Anti-Human Trafficking Initiatives: Programs that move victims of trafficking to God-centered self-reliance.” Salvation Army, accessed March 20, 2022,
<https://www.salvationarmyusa.org/usn/fight-human-trafficking/>.
- Agustín, Laura. “Becoming Aware of Awareness-Raising as Anti-trafficking Tactic.” *The Naked Anthropologist*, accessed 25 March 2022,
<https://www.lauraagustin.com/becoming-aware-of-awareness-raising-as-anti-trafficking-tactic>.

- Bauer, Mark S., et. al. "An introduction to implementation science for the non-specialist." *BMC Psychology* 3, no.1 (September 16, 2015):32.
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4573926/>
- Barnett, Jessica. "Buyer Beware Act: Penalizing Patrons of Trafficking." *Greenlight Operation*, September 17, 2019,
<https://www.greenlightoperation.org/blog/2019-9-15-buyer-beware-act-penalizing-patrons-of-trafficking/>.
- Begum, Raani and Sultana Bibi. "Destigmatize, Decriminalize, Decarcerate: A Racial Justice Lens on Sex Worker Rights and Harm Reduction." Philadelphia Red Umbrella Alliance, July 22, 2021,
<https://www.phillyrua.com/blog/destigmatize-decriminalize-decarcerate-a-racial-justice-lens-on-sex-worker-rights-and-harm-reduction>.
- Begum, Raani and Sultana Bibi. "Destigmatize, Decriminalize, Decarcerate: On Sex Work and Harm Reduction." Webinar at Project SAFE and Philadelphia Red Umbrella Alliance, Zoom, September 21, 2022.
- Begum, Raani and Sultana Bibi. "Intersecting Conversations and Joint Movement Building." Webinar at Project SAFE and Philadelphia Red Umbrella Alliance, Zoom, September 28, 2022.
- Bernstein, Elizabeth, *Brokered Subjects: Sex, Trafficking, and the Politics of Freedom*. Chicago: University of Chicago Press, 2018.
- Bernstein, Elizabeth, "Carceral politics as gender justice? The "traffic in women" and neoliberal circuits of crime, sex, and right.," *Theory and Society* 41, no. 3 (May 2012): 233-59,
<https://www.jstor.org/stable/41475719>.
- Bernstein, Elizabeth. "Militarized Humanitarianism Meets Carceral Feminism: The Politics of Sex, Rights, and Freedom in Contemporary Anti-Trafficking Campaigns." *Journal of Women in Culture and Society* 36, no. 11 (2010): 45-71.
- Bernstein, Elizabeth, Janet R. Jakobsen, and Jacqueline Heinen. "Sex, Secularism and Religious Influence in US Politics." *Cahiers du Genre* 3, no. 3 (2012): 183-201.
- Bernstein, Elizabeth. "Trafficking." In *The Routledge History of American Sexuality*, edited by Kevin P. Murphy, Jason Ruiz and David Serlin. Abingdon: Routledge, March 2, 2020.
- Bertozzi, Sarah S. "Vicious Geography: The Spatial Organization of Prostitution in Twentieth Century Philadelphia." *College Undergraduate Research Electronic Journal*, (December 20, 2005), <https://repository.upenn.edu/curej/15/>.
- Best Practices Policy Project. "Politics and Chill." Webinar at Best Practices Policy Project, Zoom, January 14, 2022.

“Bill Information (history) - senate Bill 1381; Regular Session 2013-2014.” accessed December 12, 2021,
<https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2021&sInd=0&body=S&type=B&bn=554>

“Bill Information: Senate Bill 913, Regular Session 2021-2022.” accessed December 17, 2021.
<https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2021&sInd=0&body=S&type=B&bn=0913>.

Blumgart, Jake. “Therapy at Gunpoint: Can This Controversial Philly Program Put an End to Sex Work?.” Talking Points Memo. February 24, 2015.
<https://talkingpointsmemo.com/theslice/can-dawn-court-solve-a-problem-like-prostitution>.

Bond, Courtenay Harris. “Health Department hiring two new specialists as ‘tranq’ infiltrates nearly all street drugs in Philadelphia.” *BillyPenn*, February 2, 2022,
<https://billypenn.com/2022/02/02/tranq-philadelphia-wound-care-opioid-crisis-health-department-hiring/>.

“Buyer Beware Act.” PA State Rep. Seth Grove, accessed March 8, 2022,
<http://www.repgrove.com/buyer beware>. Stiletto’s Inc., for example, was a Philadelphia organizing group which grew as a Black sex workers’ collective under the guidance of Bamm Rose during the Covid-19 pandemic. Rose still characterizes Stiletto’s Inc. as an organizing body, and she is an active and powerful member of the sex workers’ rights community. However, disagreements on philosophies for decriminalization combined with “compound trauma and compound marginalization” ultimately led to members of the group leaving. Today, the group functions primarily as a mutual aid organization and information-sharing resource with future plans to organize around sex workers’ and strippers’ rights in Philadelphia.³⁰³

Cann Deanna, Sayward E. Harrison, and Shan Qiao. “Historical and Current Trends in HIV Criminalization in South Carolina: Implications for the Southern HIV Epidemic.” *AIDS and Behavior* 23, no. 3 (October 2019): 233-241,
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7182101/#R12>.

Casper, Monica J. and Lisa Jean Moore. *Missing Bodies: The Politics of Visibility*. New York: New York University Press, 2009.

Castro, Alysa. “Better in Theory: The Road to Prostitution Reform in Pennsylvania.” *Rutgers Journal of Law & Public Policy* 9, no. 1 (2012): 37-71.

Chateauvert, Melinda. *Sex Workers Unite: A History of the Movement from Stonewall to SlutWalk*. Boston: Beacon Press, 2014.

³⁰³ West, interview.

- Cohen, Cathy J. *The Boundaries of Blackness: AIDS and the Breakdown of Black Politics*. Chicago: University of Chicago Press, 1999.
- Clark, John, Patricia Hardyman, and Henry D. Alan. "The Impact of 'Three Strikes and You're Out.'" *Punishment and Society* 1, no. 2 (October 1999): 131-162, [10.1177/14624749922227757](https://doi.org/10.1177/14624749922227757).
- Connelly, Laura. "The 'Rescue Industry': The blurred line between help and hindrance." *Graduate Journal of Social Science* 11, no. 2 (February 2015): 154-160.
- Cordoba, Ammar. "Politics is the heart of all sex worker organizing." *Open Democracy*, April 16 2020, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/politics-heart-all-sex-worker-organising/>.
- "CSE Institute Attends Ceremonial Signing of Safe Harbor Law." The Institute to Address Commercial Sexual Exploitation, Villanova University, November 13, 2018, <https://cseinstitute.org/cse-institute-attends-ceremonial-signing-of-safe-harbor-law/>.
- "Decriminalize Sex Work for Public Health." *Decriminalize Sex Work: End Human Trafficking. Promote Health and Safety.*, January 8, 2021, <https://decriminalizesex.work/why-decriminalization/briefing-papers/decriminalize-sex-work-for-public-health/>.
- "Decriminalize Sex Work Pennsylvania." ACLU Pennsylvania, accessed January 28, 2022, <https://www.aclupa.org/en/decriminalize-sex-work-philadelphia>.
- "Details for House RCS No. 1487." House of Representatives Session of 2013-2014 Regular Session. House Roll Calls, Senate Bill 75 PN 2188, Wednesday June 25, 2014, https://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2013&sess_ind=0&rc_body=H&rc_nbr=1487.
- Dewey, Susan, and Tonia St. Germain. *Women of the Street: How the Criminal Justice-Social Services Alliance Fails Women in Prostitution*. New York: New York University Press, 2017.
- Doe-Simkins, Maya and Alice Bell. "Opioid overdose prevention and related trauma: incorporating overdose prevention, response, and experience into substance use disorder treatment." Illinois Co-Occurring Center for Excellence, Heartland Health Outreach, 2014, <http://prescribeprevent.org/wp2015/wp-content/uploads/Incorporating-OD-into-SUD-Tx-12.141.pdf>.
- Dorf, Julie. "Sex Worker Health and Rights: Where is the Funding?" Sexual Health and Rights Project, Open Society Institute, June, 2006, <https://www.opensocietyfoundations.org/uploads/045e12f7-4389-4460-9c4d-48a38bece3cd/where.pdf>.

- “Drug Courts.” *U.S. Department of Justice, Office of Justice Programs*, August, 2021, <https://www.ojp.gov/pdffiles1/nij/238527.pdf>.
- “Drug Courts Are Not the Answer: Toward a Health-Centered Approach to Drug Use.” The Drug Policy Alliance, accessed March 7, 2022. https://drugpolicy.org/sites/default/files/Drug%20Courts%20Are%20Not%20the%20Answer_Final2.pdf.
- Duggan, Lisa. “Sex wars,” in *Encyclopedia of Lesbian, Gay, bisexual and transgendered history in America*, edited by Marc Stein. New York: Charles Scribner’s Sons, 2004.
- Elmes, Jocelyn et. al. “Effect of police enforcement and extreme social inequalities on violence and mental health among women who sell sex: findings from a cohort study in London, UK.” *Journal of Sexually Transmitted Infections* 2021, (October 26, 2021), <https://sti.bmj.com/content/sextrans/early/2021/10/26/sextrans-2021-055088.full.pdf>.
- FitzGerald, Sharron, Maggie O’Neill, and Gillian Wylie. “Social justice for sex workers as a ‘politics of doing’: Research, policy and practice.” *Irish Journal of Sociology* 28, no. 3 (2020): 257-279, doi:10.1177/0791603520911344.
- Forbes, Anna and Sarah Elspeth Patterson. “The Evidence is in: Decriminalizing Sex Work is Critical to Public Health.” *HIV Law & Policy*, August 13, 2014, <https://www.hivlawandpolicy.org/resources/evidence-decriminalizing-sex-work-critical-public-health-anna-forbes-and-sarah-elspeth>.
- “FY 2007 – FY 2022 Crime Victims Fund Annual Receipts (\$ millions).” Office for Victims of Crime, last updated 28 February 2022, <https://ovc.ojp.gov/about/crime-victims-fund/fy-2007-2022-cvf-annual-receipts.pdf>.
- Gambardello, Joseph A. “Lawsuits say 3 Philly hotels ignored sex slavery on their properties.” *Philadelphia Inquirer*, March 27, 2019. <https://www.inquirer.com/news/philadelphia/sex-trafficking-lawsuit-hotels-philadelphia-2019-0327.html>.
- Grant, Melissa Gira. “In Allegheny County, People Arrested with Cell Phones can be Charged with Possessing Instruments of Crime.” *The Appeal*, October 31, 2018, <https://theappeal.org/in-allegheny-county-people-arrested-with-cell-phones-can-be-charged-with-possessing-instruments-of-crime/>.
- Gonnerman, Jennifer. “Kalief Browder, 1993-2015.” *The New Yorker*, June 7, 2015, <http://www.newyorker.com/news/news-desk/kalief-browder-1993-2015>
- Gottschalk, Marie. *Caught: The Prison State and the Lockdown of American Politics*. Princeton: Princeton University Press, 2016.

Gottschalk, Marie. *The Prison and the Gallows: The Politics of Mass Incarceration in America*. Cambridge: Cambridge University Press, 2006.

“Governor Wolf Signs Five Anti-Trafficking Bills.” The Institute to Address Commercial Sexual Exploitation, Villanova University, July 9, 2021, <https://cseinstitute.org/governor-wolf-signs-five-anti-trafficking-bills/>.

Gruber, Aya. *The Feminist War on Crime: The Unexpected Role of Women's Liberation in Mass Incarceration*. University of California Press, 2020.

Hail-Jares, Katie, Corey S. Shdaimah, and Chrysanthi S. Leon, eds. *Challenging Perspectives on Street-Based Sex Work*. Philadelphia: Temple University Press. 2017.

Heynen, Robert and Emily van der Meulen. “Anti-trafficking saviors: Celebrity, slavery, and branded activism.” *Crime Media Culture* (2021): 1-23.

“HIV Criminalization Laws Map.” Temple University Center for Public Health Law Research, <https://phlr.org/product/hiv-criminalization-laws-map>, accessed February 6, 2022.

“Human Rights for Sex Workers: An Interview with Melinda Chateauvert.” Beacon Broadside, December 10, 2013, <https://www.beaconbroadside.com/broadside/2013/12/human-rights-for-sex-workers.html>.

“Human Trafficking.” The United States Department of Justice, accessed January 20, 2022.

“Human Trafficking Expert and The Institute to Address Commercial Sexual Exploitation Co-Founder, Shea M. Rhodes, Esq. announced as the Recipient of Women Organized Against Rape’s 2018 Bridge Of Courage Award.” Women Organized Against Rape, February 23, 2018, <https://www.woar.org/human-trafficking-expert-institute-address-commercial-sexual-exploitation-co-founder-shea-m-rhodes-esq-announced-recipient-women-organized-rapes-2018-bridge-courag/>.

“Input from the Black Sex Worker Collective, Best Practices Policy Project, the Outlaw Project, Desiree Alliance and New Jersey Red Umbrella Alliance for the preparation of the report of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council resolution 43/1 on the “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers.” *UN Human Rights Office*, December 4, 2020, https://www.ohchr.org/sites/default/files/Documents/Issues/Racism/RES_43_1/NGOsAndOthers/black-sex-worker-collective-new-jersey-red-umbrella-alliance.pdf

Jackson, Crystal A. “‘Sex Workers Unite!’: U.S. Sex Worker Support Networks in an Era of Criminalization.” *Women’s Studies Quarterly* 47, no. 3/4 (2019): 169–88. <https://www.jstor.org/stable/26803272>.

- Kabeer, Naila, Ratna Sudarshan, and Kirsty Milward, eds. *Organizing Women in the Informal Economy: Beyond the Weapons of the Weak*. London: Zed Books, 2013.
- Karakatsanis, Alec. *Usual Cruelty: The Complicity of Lawyers in the Criminal Injustice System*. New York: The New Press, 2019.
- Kaye, Kerwin. *Enforcing Freedom: Drug Courts, Therapeutic Communities, and the Intimacies of the State*. New York: Columbia University Press, 2019.
- Kauffman, Erin N. "The Uniform Act on Prevention of and Remedies for Human Trafficking: State Law and The National Response to Labor Trafficking." *Journal of Legislation* 41, no. 2 (July 29, 2015): 291-328, <https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1644&context=jleg>.
- Kendis, Becca. "Human Trafficking and Prostitution Courts: Problem Solving or Problematic?" *Case Western Reserve Law Review* 69, no. 3 (2019): 805-841, 839.
- Krasner, Larry et. al. "New Policies Announced February 15, 2018." Office of the Philadelphia District Attorney, February 15, 2018, <https://s3.documentcloud.org/documents/4415817/Philadelphia-DA-Larry-Krasner-s-Revolutionary-Memo.pdf>.
- Lauger, Amy D. and Matthew R. Durose. "Human Trafficking Data Collection Activities, 2021." *Human Trafficking Data Collection Archives*, (October 2021).
- Lewinski, Allison A. et. al. *Medical Care* 58: S242-251. June, 2021. https://journals.lww.com/lww-medicalcare/Fulltext/2021/06001/Applied_Rapid_Qualitative_Analysis_to_Develop_a.4.aspx.
- Jones, Teela, Maggie O'Neill, and Jane Pitcher. *Prostitution: Sex Work, Policy & Politics*. London: SAGE Publications, 2009.
- "Testimony of the Honorable Jack Whelan, District Attorney, Delaware County, Before the Senate Judiciary Committee Regarding Senate Bill 851." Pennsylvania District Attorneys Association, September 30, 2015, <https://www.pdaa.org/testimony-of-the-honorable-jack-whelan-district-attorney-delaware-county-before-the-senate-judiciary-committee-regarding-senate-bill-851/>.
- Majic, Samantha. *Sex Work Politics: From Protest to Service Provision*. Philadelphia: University of Pennsylvania Press, 2014.
- "Mann Act." Wex Definitions Team, Legal Information Institute, last modified July, 2020, https://www.law.cornell.edu/wex/mann_act

- Maskovsky, Jeff. “Fighting for our lives: Poverty and AIDS activism in neoliberal Philadelphia.” *Temple University ProQuest Dissertations Publishing*, November 12, 1999, <https://www.proquest.com/openview/bba8e47df10c7c517883c8d8fe317ed9/1?pq-origsite=gscholar&cbl=18750&diss=y>.
- McCorkel, Jill A. *Breaking Women: Gender, Race, and the New Politics of Imprisonment*. New York: New York University Press, 2013.
- McKinley, Michelle A. “Cultural Culprits.” *Berkeley Journal of Gender, Law & Justice* 24, no.2: 91–165. 2009. <https://cslc.law.columbia.edu/sites/default/files/content/docs/McKinley-paper-and-abstract.pdf>.
- Mercier, Andrew. “The top 25 newspapers based in Pennsylvania.” MuckRack. December 31, 2019. <https://muckrack.com/blog/2019/12/31/the-top-25-newspapers-based-in-pennsylvania>.
- Will Meyer. “A Green New Jail.” Longreads.com, October 2019, <https://longreads.com/2019/10/23/a-green-new-jail/>.
- Mgbako, Chi Adanna. “The Mainstreaming of Sex Workers' Rights as Human Rights.” *Harvard Journal of Law and Gender* 43, no. 92 (2020). https://ir.lawnet.fordham.edu/faculty_scholarship/1092.
- Micek, John L. “Report: Pa. ranks 4th nationwide in human trafficking prosecutions.” *Pennsylvania Capital Star*, September 22, 2020, <https://www.penncapital-star.com/commentary/a-new-report-offers-a-vivid-look-at-the-state-of-human-trafficking-in-pa-tuesday-morning-coffee/>
- “Misdemeanor Sentencing Trends.” National Conference of State Legislatures’ Criminal Justice Program and Pew Charitable Trust Public Safety Performance Project. NCSL. January 29, 2019, <https://www.ncsl.org/research/civil-and-criminal-justice/misdemeanor-sentencing-trends.aspx>
- Mohammed, Aisha. “Sex workers don’t need aggressive prosecution to protect themselves.” *Philadelphia Inquirer*, January 14, 2019, <https://www.inquirer.com/opinion/commentary/sex-workers-rights-prosecutors-mcswain-krasner-20190114.html#loaded>.
- moon, moses. “Symposium Introduction: Sex Workers’ Rights, Advocacy, and Organizing.” *Columbia Human Rights Law Review* 52, no. 3 (2021): 1062-1083, <http://hrlr.law.columbia.edu/hrlr/introduction-sex-workers-rights-advocacy-and-organizing/>.
- Mueller, Dana. “Treatment Courts and Court-Affiliated Diversion Projects for Prostitution in the United States,” Chicago Coalition for the Homeless, 2011, <https://www.issuelab.org/resources/14135/14135.pdf>.

- Musto, Jennifer. *Control and Protect: Collaboration, Carceral Protection, and Domestic Sex Trafficking in the United States*, Oakland, California, University of California Press, 2016.
- Myles, Brad. "Form 990 Polaris Project, 2018 Calendar Year." Return of Organization Exempt from Income Tax, 2018, <https://polarisproject.org/wp-content/uploads/2020/01/Polaris-2018-990.pdf>.
- "New Safe Harbor Law Will Protect Child Victims of Human Trafficking." Governor Tom Wolf, November 13, 2018. <https://www.governor.pa.gov/newsroom/new-safe-harbor-law-will-protect-child-victims-human-trafficking/>.
- Norton, Dan. "Villanova launches institute aimed at commercial sexual exploitation law." *Philadelphia Business Journal*, September 9, 2015, <https://www.bizjournals.com/philadelphia/news/2015/09/09/villanova-launches-institute-aimed-at-commercial.html>.
- NCPA Staff. "Pa. House approves bill package to protect human trafficking victims." *North Central PA*, June 8, 2021, https://www.northcentralpa.com/news/pa-house-approves-bill-package-to-protect-human-trafficking-victims/article_cal1f7ce8-c765-11eb-9831-ffc34d0d0276.html;
- "NSWP Consensus Statement on Sex Work, Human Rights, and the Law, Global Network of Sex Work Projects." accessed January 4, 2022, https://www.nswp.org/sites/nswp.org/files/consensus_statement_with_artwork_final.pdf.
- O'Connor, Alice. *Poverty Knowledge: Social Science, Social Policy, and the Poor in Twentieth-Century U.S. History*. Princeton: Princeton University Press, 2001.
- "Overview: Mandatory Minimum Sentences." American Civil Liberties Union of Pennsylvania, accessed March 25, 2022, https://aclupa.org/sites/default/files/field_documents/background_information_on_mandatory_minimums.pdf.
- "Philadelphia Treatment Court." *PHMC Forensic Services Philadelphia*, accessed March 25, 2022, <https://forensicservices.phmc.org/programs/philadelphia-treatment-court>.
- Platt, Larry. "Is Larry Krasner Really A Reformer?" *The Philadelphia Citizen*, April 29, 2021, <https://thephiladelphiacitizen.org/krasner-really-reformer/>.
- "Police-Assisted Diversion of Philadelphia." Philadelphia Police Department, accessed February 12, 2022, <https://www.phillypolice.com/programs-services/pad/>.

- “Police Consolidation in Pennsylvania.” Legislative Budget and Finance Committee, Pennsylvania General Assembly,” September, 2014, <http://lbfc.legis.state.pa.us/resources/documents/reports/497.pdf>.
- “Programs To Combat Human Trafficking.” Office for Victims of Crime, accessed 25 March 2022, https://www.ncjrs.gov/ovc_archives/reporttonation2015/programs-to-combat-human-trafficking.html.
- Pub. L. No. 106-386.
- Public Data Dashboard: Charges.” Philadelphia District Attorney’s Office, accessed March 29, 2022, <https://data.philadao.com/index.html>.
- “Reformist reforms vs. abolitionist steps in policing.” *Critical Resistance*, August 2020, http://criticalresistance.org/wp-content/uploads/2021/02/CR_abolitioniststeps_antiexpansion_2021_eng.pdf.
- “Report on Commercial Sexual Exploitation in Pennsylvania, Spring 2021.” The Institute to Address Commercial Sexual Exploitation, Villanova University, May, 2021, <http://cseinstitute.org/wp-content/uploads/2021/05/Spring-2021-Report-FINAL-pages-1.pdf>.
- Sardina, Cristine. “Desiree Alliance written submission for CEDAW discussion on the General Recommendation on Trafficking in Women and Girls in the Context of Global Migration.” February, 2019, <http://desireealliance.org/wp-content/uploads/2019/02/CEDAW-submission-Feb-2019.pdf>.
- Sarnak, Anna Shaylen Foley, and Alice M. Miller. “Diversion from Justice: A Rights-Based Analysis of Local ‘Prostitution Diversion Programs’ and their Impacts on People in the Sex Sector in the United States.” Global Health Justice Partnership of the Yale Law School and Yale School of Public Health and The Sex Workers Project of the Urban Justice Center, September 2018, https://nswp.org/sites/default/files/diversion_from_justice_ghjp_-_2018.pdf.
- Schroeder, Meghan, Natalie Mihalek, Marci Mustello, Valerie S. Gaydos, and David Rowe. “Human Trafficking Package.” House Co-Sponsorship Memoranda, December 19, 2019, <https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20190&cosponId=30817>.
- “Senior Policy Operating Group Public Awareness and Outreach Committee Guide for Public Awareness Materials (non-binding).” *U.S. Department of State*, <https://www.state.gov/senior-policy-operating-group-public-awareness-and-outreach-committee-guide-for-public-awareness-materials-non-binding/>.

- Session 56 of the Pennsylvania General Assembly, 198th of the General Assembly. October 14, 2014, statement of Steward Greenleaf, Rep. Montgomery County, <https://www.legis.state.pa.us/WU01/LI/SJ/2014/0/Sj20141014.pdf>.
- Shdaimah, Corey S. "Prostitution Diversion Programs." *Encyclopedia of Women and Crime*, 2019.
- Shively, Michael, Kristina Kliorys, Kristin Wheeler, and Dana Hunt. *A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts, Final Report*. Prepared for the U.S. Department of Justice, no. 238796 (June 2012), <https://www.ojp.gov/pdffiles1/nij/grants/238796.pdf>.
- Showden, Carisa R. and Samantha Majic, eds. *Negotiating Sex Work: Unintended Consequences of Policy and Activism*. Minneapolis: University of Minnesota Press, 2014.
- Showden, Carisa R. *Choices Women Make: Agency in Domestic Violence, Assisted Reproduction, and Sex Work*. Minneapolis: University of Minnesota Press, 2011.
- Slobodzian Joseph A. "First of kind lawsuit accuses NE Philly Hotel of accommodating sex trafficking." *Philadelphia Inquirer*. March 10, 2017. <https://www.inquirer.com/philly/news/crime/First-of-kind-lawsuit-accuses-NE-Phila-hotel-of-accomodating-sex-trafficking.htm>.
- Slobodzian, Joseph A. "Leader of Philly prostitution ring gets 37 to 74 years in prison." *Philadelphia Inquirer*., May 4, 2017. <https://www.inquirer.com/philly/news/crime/Leader-of-Phila-prostitution-ring-sentenced-to-37-to-74-years-in-prison.html>.
- Spade, Dean. *Mutual Aid: Building Solidarity During This Crisis (and the next)*. New York: Verso, 2020.
- Steen, Richard et al. "Trafficking, sex work, and HIV: efforts to resolve conflicts." *The Lancet* 385, no. 9963 (July 2014): 94-96.
- Robinson, Paul H. et al. "The modern irrationalities of American criminal codes: an empirical study of offense grading." *Journal of Criminal Law and Criminology* 100, no. 3 (2010): 709-725.
- Ross, Loretta J. and Rickie Solinger. *Reproductive Justice: An Introduction*. Oakland: University of California Press, 2017.
- Sue, Kimberly. *Getting Wrecked: Women, Incarceration, and the American Opioid Crisis*. Oakland: University of California Press, 2019.

- Swenstein, Abigail and Kate Mogulescu. “Resisting the Carceral: The need to align anti-trafficking efforts with movements for criminal justice reform.” *Anti-Trafficking Review*, 2016.
- Thuma, Emily L. *All Our Trials: Prisons, Policing, and the Feminist Fight to End Violence*. Champaign: University of Illinois Press, 2019.
- Twis, Mary and Regina Praetorius. “A qualitative interpretive meta-synthesis of evangelical Christian sex trafficking narratives,” *Journal of Religion & Spirituality in Social Work: Social Thought* 40, no.2:189-215, 2021, doi.10.1080/15426432.2020.1871153.
- “US and State Prostitution Arrests.” ProCon. May 5, 2018.
<https://prostitution.procon.org/us-and-state-prostitution-arrests/>.
- “US Federal and State Prostitution Laws and Related Punishments.” ProCon. Last updated May 4, 2018.
<https://prostitution.procon.org/us-federal-and-state-prostitution-laws-and-related-punishments/>.
- Vella, Vinny. “A Montgomery County Man Forced A Woman Into Sex Work at a Hotel Near the Pennsylvania Turnpike, DA says.” *Philadelphia Inquirer*. May 24, 2021.
<https://www.inquirer.com/news/cornell-scott-milbourne-human-trafficking-plymouth-meeting-20210524.html>.
- Vella, Viinny. “A former Delco child services caseworker got probation for coercing a client into sex work.” *Philadelphia Inquirer*, March 22, 2021.
<https://www.inquirer.com/news/candace-talley-delaware-county-children-youth-services-prostitution-20210322.html>.
- Victims of Trafficking and Violence Protection Act of 2000*. Public Law 196-386, *U.S. Statutes at Large* 114 (2000): 1464-1548,
<https://www.govinfo.gov/content/pkg/PLAW-106publ386/pdf/PLAW-106publ386.pdf>.
- Walker, Jack. “R.I. sex workers seek legislative change.” *The Brown Daily Herald*, March 7, 2021,
<https://www.browndailyherald.com/article/2021/03/r-i-sex-workers-seek-legislative-change>.
- Judith R. Walkowitz. “The Politics of Prostitution and Sexual Labour.” *History Workshop Journal* 82, no. 1 (2016):188–198, <https://doi.org/10.1093/hwj/dbw029>.
- Weissman, Deborah M. “Gender Violence, the Carceral State, and the Politics of Solidarity.” *University of California Davis Law Review* 55 (2021): 801-873.
- White, Elise, Rachel Swaner, Emily Genetta, Suvi Hynynen Lambson, Janell Johnson Dash, Isaac Sederbaum, and Ariel Wolf. “Navigating Force and Choice: Experiences in the New

York City Sex Trade and the Criminal Justice System's Response.” Center for Court Innovation. December, 2017. <https://www.courtinnovation.org/publications/NYC-sex-trade>.

Yamaha, David C., “Therapeutic Jurisprudence: Foundations, Expansion, and Assessment.” University of Miami Law Review 75, no. 3:3. June 4, 2021. <https://repository.law.miami.edu/cgi/viewcontent.cgi?article=4636&context=umlr>.