



RESEARCH SUMMARY | Consequences of Policing Prostitution: An Analysis of Individuals Arrested and Prosecuted in New York City

Background

Despite public interest in trafficking, and the conflation of *all sex work* with trafficking, sex workers and trafficking victims remain criminalized throughout the United States. This study looks at who is being arrested, and the effect of policing, arrest and criminal records on the lives of individuals who qualify as victims of trafficking.

The Study

The New York City Legal Aid's "Exploitation Intervention Project" [EIP] provides legal services to virtually all individuals arrested for prostitution in the city, as well as criminal record relief (vacatur) services to individuals who qualify, as victims of human trafficking in the sex trade. This study is based on 3 datasets:

- ★ Information collected by EIP attorneys on the sociodemographic characteristics, victimization histories, and service needs of 1,400 of the 1,413 individuals charged with prostitution offenses in New York City between 2015-2016. (Data collected through structured, opt-in interviews during attorney-client interactions in "Human Trafficking Intervention Court").
- ★ Case files of 51 of the 71 EIP clients who obtained criminal record relief as trafficking victims (vacatur) in this period.
- ★ In-depth interviews with 20 of the 51 individuals who received vacatur (convenience sample).

The Results: All Individuals Arrested for Prostitution-Related Charges in New York City

- ★ **NYC Mainly Arrested Black (34%) and Asian (32%) Women (98%) for Prostitution:** 98% of those arrested were cisgender (93%) or transgender (5%) women. Slightly under one-third identified as Latinx (17%) or white (11%).
- ★ **Disproportionate and Increasing Arrest of [Largely Asian] Migrant Sex Workers:** 38% of those arrested were non-US citizens, and 14% were undocumented. Data also documents a 2700 percent increase of asian-identified women arrested for unlicensed massage from 2012 to 2016.
- ★ **High Portion of Arrestees Reported Current/Past Trafficking History, with Asian Migrant Sex Workers *Less Likely to Report Trafficking History*:** 35% of all those arrested report either minor involvement or forced/coerced involvement in the sex trade at least one, with 20 percent reporting current trafficking according to the federal definition. In contrast to rampant racialized stereotypes, non-Asian US citizens (44%) were 3 times as likely to report a trafficking history than Asian migrants (14%). Those with prior family court involvement (59% vs. 21%), less than a high school education (45% vs. 25%), and those who reported homelessness in the last five years (54% vs. 24%) were also more likely to report experiences meeting federal definitions for trafficking.
- ★ **Desire for Tangible Services:** Over 78% of individuals arrested expressed desire for assistance, with employment (43%), housing (28%), education (26%), and health care (15%) as the primary needs expressed. Only one individual indicated a desire for mental health assistance, only 3 requested substance abuse services, and only 45 of the 2000 sample requested public assistance.
- ★ **Intersection Between Criminal and Family Court Involvement:** been involved in a case in family court once (23%) or more than once (8%), with over 43% of non-Asian U.S. citizens reporting family court involvement.

The Results: Individuals with Trafficking Histories

- ★ **Most Individuals Left Trafficker on Their Own (34%) or With Help from a Client (12%):** Other sources of support were friends (8%), through their own arrest (8%) or through the help of a brothel owner (2%).
- ★ **Individuals had an average of 21 prostitution-related convictions on their records:** ranging from 1-147 convictions. 25% had also been convicted of a different non-prostitution charge which was included in their vacatur motion.

- ★ **Keeping and Gaining Employment Due to Criminal Record Was the Primary Challenge Reported by Trafficking Victims** with 63% of individuals reporting this as their main challenge. Other criminal-record related challenges were: hiding sex trade involvement from families (20%), family and immigration law cases (16%), and education access (3%).
- ★ **45% Had First Been Arrested Before the Age of 18**, and all respondents reported lack of a victim-centric approach.
- ★ **Most Individuals Described Overwhelmingly Negative Encounters With Law Enforcement and Courts**, including verbal abuse, intimidation, humiliation, sexual harassment, and profiling. They also reported pressure to accept plea deals and not receiving an explanation of the implications of accepting charges.
- ★ **Prostitution Charges Had Disproportionate Impact on Ability to Gain Employment, Compared to Other Misdemeanors.**

The Implications

- ★ **Racialized Assumptions About Asian Migrant Sex Workers Inaccurate, and Increased Policing of this Group:** Asian Migrant sex workers in New York were 3 times less likely to have a trafficking history than non-Asians. Further, the study shows a correlation between increased attention to trafficking and a 27X increase in arrest of Asian Migrant sex workers.
- ★ **Clients' and Victims' Role in Leaving Trafficking Situations:** Clients were the most frequent source of support in leaving trafficking situations. This problematizes the policing of sex worker clients as an anti-trafficking strategy and suggests that programs should explore initiatives that treat clients as possible allies against trafficking. Further, the vast majority of victims left on their own, pointing to the agency of victims of trafficking in the sex industry.
- ★ **Diversion Programs Are Not Addressing Sex Workers' Needs:** Around the country, the vast majority of programs aimed at getting sex workers to “exit” the sex trade focus heavily on mental health, trauma and substance use. This study indicates that services must focus on sex workers material needs, including removing criminal record barriers to employment, access to livable-wage jobs, education, housing and health care.

Limitations....And Further Research

- ★ **The Study May Not be Representative:** The demographics and experiences of individuals engaged in and arrested for sex work in New York City may not be representative of those across the country.
- ★ **Interview Context Encouraged Over-Reporting of Victimization and Desire to Leave Sex Industry and Under-Reporting of Mental Health and Substance Use Issues:** Individuals were interviewed by non-sex workers (lawyers) at a prostitution court, or in the process of criminal record vacatur services. It is likely that this led to overreporting of victimization and interest in services related to leaving the sex industry (e.g. employment resources); and underreporting of need for services relating to potentially incriminating behavior (e.g. harm reduction/substance use services) or that would affect their credibility (e.g. mental health services).
- ★ **The Term “Trafficking” Was Not Clearly Defined in the Study**, and minor involvement in the sex trade, and involvement resulting from force, coercion or fraud were presented in aggregate.
- ★ **More Research is Needed on the Demographics, Experiences and Needs of Individuals Arrested for Sex Work:** In particular, more research is needed in mid to small cities and towns in the south and non-coastal parts of the U.S.
- ★ **Large-Scale Research, Outside of Prison and Court Interactions, by Peers, is Needed:** Most research takes place in social service, prisons, diversion program and court settings, with interviews conducted by non-sex workers. This generates both respondent and response bias.

Just Policy Center (2017). “Consequences of Policing Prostitution An Analysis of Individuals Arrested and Prosecuted for Commercial Sex in New York City.” Available at: <http://www.urban.org/research/publication/consequences-policing-prostitution>