

**OREGON HUMAN RIGHTS COMMISSION REPORT
ON THE STATE OF SEX WORKER RIGHTS
(October 2021)**

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Executive Summary

Sex work decriminalization translates to safety, dignity, and the legitimization of a labor industry historically stigmatized and oppressed by the carceral state. The criminalization of adult consensual sex work threatens public health, safety, and human rights.

Oregon House Bill 3088 was introduced to the Oregon legislature in early February of 2021 by State Representative Rob Nosse, proposing the repeal of the state's prostitution- and prostitution-related criminal laws. 54% of polled Oregonians expressed support for the bill, but the House Judiciary Committee failed to consider moving forward with legislation. After participating in legislative hearings for the bill, the Oregon Sex Worker Committee, a local sex worker-led activist group, recognized a need to educate the public and the legislature about the harms of the criminalization of sex work and the countless benefits of decriminalization. The Committee thus convened the Oregon Sex Workers Human Rights Commission in order to educate Oregonians on the importance of decriminalizing sex work to promote the dignity, protection, and human rights of sex workers. The Commission is comprised of individuals with a vast array of experience and expertise on sex work. Its goals are: to dispel myths in the public's mind regarding sex work; to help the uninformed discern the difference between consensual adult sex work and human trafficking; to clarify the necessity for decriminalization as opposed to other models that delegitimize the labor and experiences of sex workers; and to advocate for and promote the human rights of sex workers. On July 15, 2021, the Sex Workers Human Rights Commission held a public hearing presenting testimony from sex workers, survivors of human trafficking, academic and legal experts, service providers, elected officials, faith leaders, and other community members. The evidence presented at the Commission hearing shows that the total decriminalization of sex work is the best policy approach to protect the health, safety and human rights of sex workers. This subsequent report highlights testimony from sex workers, survivors, and industry experts from the commission hearing; it also collates data on arrests for prostitution and trafficking related charges in Oregon, as well as national and international studies conducted on the impact of different policies related to sex work.

There are statutes in Oregon state law that govern the sale and purchase of sex (the misdemeanor crimes of Prostitution and Commercial Sexual Solicitation, respectively) as well as related crimes, such as Promoting Prostitution, which is a felony. The existing complex statutory scheme is both unnecessary and disproportionately punitive to already marginalized arrestees engaging in victimless conduct. Oregon law has some safeguards built in to protect victims of trafficking and people reporting violent crime, but the existing criminal statutes ensnare exploited people nonetheless. Human trafficking concerns are addressed in Oregon's Trafficking in Persons and Compelling Prostitution laws, which criminalize exploitation of both children and adults. The repeal of prostitution laws (while allowing existing protective measures to remain) will ensure that many Oregonians are not needlessly traumatized by unnecessary involvement in the criminal legal system.

Data on arrests for prostitution-related crimes reveal significant racial bias. Black individuals are eight times more likely to be arrested for Prostitution and four times more likely to be arrested for Commercial Sexual Solicitation than their nonblack counterparts. The most dramatic racial bias exists in arrest rates for more serious crimes; Black Oregonians are seventeen times more likely to be arrested for Promoting Prostitution, a felony, than white Oregonians. Despite making up a small fraction of Oregon's population,

racial minorities are disproportionately targeted by law enforcement. The repeal of these laws would put an immediate stop to racially biased policing of sex work.

Oral and written testimony presented at the Commission hearing powerfully outlined how the harms of criminalization manifest in the day-to-day lives of individuals and community ecosystems. Work is a human right and consensual, adult sex work is a viable profession. Criminalization of that work threatens access to safety, healthcare, and social services. Conversely, decriminalization protects sex workers and victims of human trafficking from exploitation by expanding options to seek justice and support.

Decriminalization has empirically been shown to reduce rates of violence and criminal behavior directed at sex workers; improve the ability of law enforcement to investigate human trafficking and of survivors to report exploitation; and slow the spread of HIV and other sexually transmitted infections. The punitive policing of sex workers alone has cost Oregon taxpayers an average of \$21 million annually over the last 16 years. Beyond that, it has eroded trust between community members and law enforcement, endangered public health and safety, and misdirected anti-trafficking funds towards the prosecution of consensual sex workers and their clients. No policy to date has successfully eradicated sex work - the existing approach has only harmed public health outcomes, endangered sex workers, and made trafficking harder to detect. To make matters more pressing, it is clear that these burdens are not borne evenly. Those who are already burdened by structural inequality as a result of gender identity, sexual preference, race, poverty, immigration status, drug use, and/or lack of access to healthcare, education, and housing disproportionately suffer under the criminalization of sex work.

The Commissioners unequivocally recommend that, in order to protect the welfare, health, and human rights of Oregon community members, particularly those who are most vulnerable to exploitation, Oregon must totally decriminalize sex work statewide through the repeal of laws criminalizing the adult consensual sale and purchase of sex while maintaining laws that protect against human trafficking and sexual exploitation. The Commission has also identified some incremental steps that can be taken immediately to protect the health and wellbeing of sex workers while the sweeping decriminalization effort is underway. These other actions involve, but are not limited to: the expansion of existing laws that protect exploited people and victims of crime such as vacatur and immunity laws; repeated Commission meetings to continue the advancement of policy efforts; hyperlocal policy initiatives such as encouraging counties to stop prosecuting prostitution cases and repealing harmful city ordinances such as Portland's Loitering to Solicit Prostitution city code section; and protecting the human rights of sex workers with improved access to healthcare, housing, and education. The Commission and its report should also be used as a model in other jurisdictions around the country and world to raise awareness about these issues and how best to address them. Ultimately, legislators must look at the evidence and write and repeal laws, keeping in mind the health, safety, human rights, and happiness of all their constituents, and all stakeholders must recognize that decriminalization is the ultimate solution to the systemic problems plaguing sex workers and all communities.

I. Introduction

In 2021, Oregon State Representative Rob Nosse introduced House Bill 3088 to decriminalize the sale and purchase of sex in Oregon,¹ building on a long history of sex worker rights activism in the state and across the country. In the wake of this crucial moment for sex worker rights, local activists formed the Oregon Sex Workers Committee under the belief that the most effective policies are formed by those they directly impact. After participating in the initial House Judiciary hearing on HB3088, the committee convened the first ever Oregon Sex Workers Human Rights Commission [hereinafter referred to as “the Commission”] to be comprised of individuals with experience and expertise on sex work from a variety of disciplines and lived experiences. The Commission is tasked with analyzing decades of evidence on the effects of different legal and societal approaches to sex work. This includes analysis on the impact of different policy models and recommendations on where Oregon should stand on sex work and human trafficking policy in order to optimize public health, safety, and human rights.

The Commission held an in-person public hearing on July 15th, 2021. The event was recorded in full and is available to watch online.² Sex workers, survivors of human trafficking and sexual exploitation, service providers, legal and policy experts, and other community members all testified about why they support the decriminalization of adult consensual sex work. The hearing and this report provide the background information needed by government officials and other policymakers to be informed when making decisions that affect the safety and wellbeing of sex workers and the community at large.

The Oregon House Judiciary Committee declined to proceed with HB3088 during the 2021 legislative session, despite a poll conducted by Data for Progress finding that the majority of Oregon voters supported the bill.³ Nonetheless, the sex worker rights movement in Oregon continues to grow in size and strength and push policy initiatives forward. The Commission has identified a number of strategies to continue this work, detailed later in the report. Ultimately, the Commission’s primary policy recommendation is for Oregon to decriminalize consensual adult sex work, in contrast to continued criminalization; legalization and regulation (as exists in certain Nevada counties); and the Nordic model (decriminalizing the sale, but not the purchase of sex).⁴ Well-established empirical research and the extensive evidence and testimony presented to the Commission show that decriminalization is the only model to comprehensively protect the rights and wellbeing of sex workers and survivors of trafficking.

The Oregon Human Rights Commission is co-chaired by Oregon State House Representative Rob Nosse and Alex Andrews, Executive Director of Sex Workers Outreach Project (SWOP) Behind Bars. Fellow commissioners include Jo Ann Hardesty, Portland City Commissioner; Elizabeth Steiner Hayward, MD, Oregon State Senator; Elle Stanger, Certified Sex Educator/CSE, podcaster, writer, and Oregon sex worker; Katherine Dire, local sex worker; Barbara G. Brents, Ph.D., Professor of Sociology at University of Nevada, Las Vegas; Angela Jones, Ph.D., Professor of Sociology at Farmingdale State College; Ricci

¹ More specifically, the bill repeals Oregon’s prostitution, commercial sexual solicitation, and promoting prostitution laws; it also makes conforming changes. H.B. 3088, 2021 Leg., Reg. Sess. (Or. 2021), <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB3088>.

² The recording is available to watch at <https://www.avstream.me/oregonsexworkers>.

³ Rebecca Buckwalter-Poza and Sean McElwee, “Poll: Oregonians Support Decriminalizing Sex Work,” *The Appeal*, March 17, 2021, <https://theappeal.org/the-lab/polling-memos/poll-oregonians-support-decriminalizing-sex-work/>.

⁴ Also known as the Entrapment Model, the End Demand Model, and the Abolitionist Model; see Appendix C for a more detailed description of various policy models.

Joy Levy, President & CEO of The Woodhull Freedom Foundation; Rev. Kerlin Richter, Rector Saint David of Wales; Amy-Marie Merrell, Executive Director of the Cupcake Girls; Melissa Sontag Broudo, JD/MPH, Co-Executive Director of the SOAR Institute & Legal Director of Decriminalize Sex Work; and Vanessa Warri, community health educator, scholar, researcher, and Transgender Community Advisor to G.L.I.T.S., Inc..⁵

II. Legislative Overview

A. State & Federal Legislation

No jurisdiction in the United States has decriminalized prostitution to date. Sex work is legal in select rural counties in Nevada, meaning that sex workers are able to work in licensed brothels in specific areas of the state under certain parameters. Otherwise, adult consensual prostitution is entirely prohibited under every state's criminal laws.

In recent years, there has been a significant shift in legislative attitudes, prosecutorial approaches, and concrete policies affecting sex workers. Sex workers' rights advocates utilize multiple strategies to advance objectives, such as advocating for immediate decriminalization, creating or repealing specific statutes related to certain aspects of policing and sex work, and encouraging prosecutors to no longer pursue prostitution cases.

In light of shifting cultural perspectives on the criminal legal system and sex work specifically, there have been several recent notable achievements advancing the human rights of sex workers:

- Decriminalization bills have been introduced in Louisiana, Massachusetts, Rhode Island, New York, Vermont, and New Hampshire in addition to HB3088 in Oregon.⁶ Burlington, Vermont's City Council unanimously approved a city resolution to decriminalize sex work.⁷
- In response to increased public pressure, New York State and the city of Seattle, Washington repealed their respective loitering for prostitution laws.⁸ Those laws allowed law enforcement to target and harass community members based on their physical appearance, disproportionately affecting Black and Latinx trans sex workers. The California legislature is considering a bill this

⁵ The report was written and endorsed by all of the Commissioners, with the exception of the three elected officials (Portland City Commissioner Jo Ann Hardesty, State Representative Rob Nosse, and State Senator Elizabeth Steiner Hayward) due to their governmental duties. The report would not have been possible without the research and writing of Frances Steele and Rebecca Cleary, Esq. of Decriminalize Sex Work.

⁶ Note that some bills have been introduced in prior sessions; cited legislation is from the most recent session in which a decriminalization bill was introduced: H.B. 67, 2021 Leg., Reg. Sess. (La. 2021), <http://www.legis.la.gov/legis/ViewDocument.aspx?d=1202431>; H. 1867, 192nd Gen. Ct., Reg. Sess. (Mass. 2021), <https://malegislature.gov/Bills/192/H1867>; S. 771, 2021 Gen. Assemb., Jan. Sess. (R.I. 2021), <http://webserver.rilin.state.ri.us/BillText/BillText21/SenateText21/S0771.pdf>; S. 3075 / A. 849, 2021-2022 Leg. Sess. (N.Y. 2021), <https://www.nysenate.gov/legislation/bills/2021/S3075>; H. 569, 2020 Gen. Assemb., Reg. Sess. (Vt. 2020), <https://legislature.vermont.gov/bill/status/2020/H.569>; H.B. 1614, 2016 Gen. Ct., Reg. Sess. (N.H. 2016), http://encourt.state.nh.us/bill_status/bill_status.aspx?lsr=2642&sy=2016&sortoption=&txtsessionyear=2016&txtbillnumber=H1614.

⁷ Staff Report, "Burlington City Council Approves Decriminalizing Prostitution," *Sun Community News*, July 13, 2021, <https://suncommunitynews.com/news/90509/burlington-city-council-approves-decriminalizing-prostitution/>.

⁸ S. 1351, 2021-2022 Leg. Sess. (N.Y. 2021), <https://www.nysenate.gov/legislation/bills/2021/S1351>; Seattle, Wash. C.B. 119807 (2020), <http://seattle.legistar.com/LegislationDetail.aspx?ID=4569520&GUID=A9C88B38-B61C-4954-8CF7-40EF4D881294>.

session repealing their own loitering statute; as of this writing, that bill passed both the state Senate and Assembly but was held at the governor's desk.⁹ Portland's City Code contains a Loitering to Solicit Prostitution section that is similar in language to the loitering laws and ordinances being repealed in other parts of the country.¹⁰

- Law enforcement agencies and state legislatures are increasingly adopting policies prohibiting the use of condoms as evidence in prostitution cases in an effort to chip away at the distrust between sex workers and law enforcement and to end the legal dissuasion from the use of sexually transmitted infection (STI) prevention measures.¹¹
- Several states have joined Oregon in passing laws granting immunity from arrest and prosecution to sex workers who report witnessing or experiencing violence.¹²
- Prosecutors in several major American cities, including Manhattan, Baltimore, and Philadelphia have publicly changed their policies to no longer prosecute certain prostitution crimes;¹³ others have begun to dismiss open prostitution cases.¹⁴ Data in other parts of the country also show a degree of decreased arrest and conviction rates for prostitution and prostitution-related crimes over the past several decades.¹⁵
- Police reform advocates support defunding Vice departments that target sex workers and clients, noting that vice efforts are unnecessary and often abusive.¹⁶

⁹ S.B. 357, 2021-2022 Leg., Reg. Sess. (Cal. 2021),

https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB357.

¹⁰ "It is unlawful for any person to loiter in or near any street or public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting, or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested are that the person repeatedly contacts, stops or attempts to stop pedestrians, or repeatedly stops or attempts to stop motor vehicle operators or passengers by hailing them or gesturing to them." Portland City Code § 14A.40.040(B) Loitering to Solicit Prostitution., <https://www.portland.gov/code/14/a40/040>.

¹¹ For example, NYPD announced a department policy to no longer collect condoms as evidence in 2014, and California adopted a law prohibiting condom possession use in prostitution-related crime prosecutions in 2019. See Christopher Robbins, "NYPD Will Stop Seizing Condoms From Sex Workers," *Gothamist*, May 12, 2014, <https://gothamist.com/news/nypd-will-stop-seizing-condoms-from-sex-workers>; S.B. 233, 2019-2020 Leg., Reg. Sess. (Cal. 2019), https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB233.

¹² Oregon's immunity bill passed in 2019. See, S.B. 596, 2019 Leg., Reg. Sess. (Or. 2019), <https://olis.oregonlegislature.gov/liz/2019R1/Measures/Overview/SB596> California, Montana, Vermont, and New Hampshire recently passed immunity laws. See, S.B. 233, 2019-2020 Leg., Reg. Sess. (Cal. 2019), https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB233; H.B. 520, 2021 Leg., 67th Reg. Sess. (Mont. 2021), <https://leg.mt.gov/bills/2021/billhtml/HB0520.htm>; H. 18, 2021 Gen. Assemb., Reg. Sess. (Vt. 2021), <https://legislature.vermont.gov/bill/status/2022/H.18>; H.B. 123, 2021 Gen. Ct., Reg. Sess. (N.H. 2021), http://gencourt.state.nh.us/bill_status/bill_status.aspx?lsr=93&sy=2021&sortoption=&txtsessionyear=2021&txtbillnumber=HB123.

¹³ Jonah E. Bromwich, "Manhattan to Stop Prosecuting Prostitution, Part of Nationwide Shift," *New York Times*, April 21, 2021, <https://www.nytimes.com/2021/04/21/nyregion/manhattan-to-stop-prosecuting-prostitution.html>; Julianna Battaglia, "Baltimore will no longer prosecute drug possession, prostitution and other low-level offenses," *CNN*, March 27, 2021, <https://www.cnn.com/2021/03/27/us/baltimore-prosecute-prostitution-drug-possession/index.html>; Bobby Allyn, "After year one, Philly DA Larry Krasner earns praise from reformers, scorn from victim advocates," *Whyy*, February 5, 2019, <https://why.org/articles/after-his-first-year-philly-da-larry-krasner-earns-praise-from-reformers-scorn-from-victim-advocates/>.

¹⁴ Press release, "Brooklyn District Attorney Eric Gonzalez Dismisses All Outstanding Prostitution-Related Warrants," *Brooklyn District Attorney's Office*, January 29, 2021,

<http://brooklynda.org/2021/01/29/brooklyn-district-attorney-eric-gonzalez-dismisses-all-outstanding-prostitution-related-warrants/>.

¹⁵ Howard N. Snyder, "Arrests in the United States, 1990-2020," *U.S. Department of Justice*, pg. 4, <https://bjs.ojp.gov/content/pub/pdf/aus9010.pdf>.

¹⁶ Stephen Engleberg, "How NYPD's Vice Unit Got Prostitution Policing All Wrong," *ProPublica*, May 3, 2021, <https://www.propublica.org/article/how-nypds-vice-unit-got-prostitution-policing-all-wrong>.

- Various other legislation is being proposed and passed across the country that affects the well-being of sex workers on a smaller scale.¹⁷

Despite this political and cultural shift, legislation proposed and passed on both the federal and state level in recent years has also endangered sex workers' rights and safety:

- The Trump Administration passed the Stop Enabling Sex Traffickers Act (SESTA)/Fighting Online Sex Trafficking Act (FOSTA) in 2018, a federal law enacted to address online trafficking concerns. SESTA/FOSTA limits protections for online platforms and creates legal liability for websites that host content advertising sexual services. The fallout from SESTA/FOSTA is significant and well-documented: sex workers no longer have access to the safety net provided by websites that allowed for online advertising and client screening, forcing many into more dangerous street-based sex work; law enforcement agencies concerned with ending trafficking operations no longer can use internet listings to identify potential victims; and most recently, social media platforms have censored and demonetized any form of sexual content, destroying the sole source of income for many content creators earning their living online in the increasingly digital world.¹⁸ As a result, the Woodhull Freedom Foundation filed a federal lawsuit challenging the constitutionality of the law on behalf of multiple plaintiffs. *Woodhull Freedom Foundation v. United States*¹⁹ was initially denied due to lack of standing, but Woodhull filed a successful appeal and as of the writing of this report, the case has been remanded to district court for further proceedings that have yet to begin.²⁰
- Decriminalization efforts across the country have been countered by prohibitionists introducing Nordic Model legislation,²¹ which seeks to “end demand” by repealing laws affecting sex workers but continuing criminalization of purchasers. Prohibitionist attitudes around sex work are reductive, denying sex workers agency by painting sex work as victimization regardless of the

¹⁷ A bill limiting the use of arrest photos on law enforcement social media pages passed in California with a similar bill being proposed in New Hampshire, see A.B. 1475, 2021-2022 Leg., Reg. Sess. (Cal. 2021) https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1475 and H.B. 125, 2021 Gen. Ct., Reg. Sess. (N.H. 2021),

http://www.gencourt.state.nh.us/bill_status/bill_status.aspx?lsr=0092&sy=2021&txtsessionyear=2021&txtbillnumber=hb125&sortoption=&q=1; Rhode Island legislators considered a patient bill of rights that protected patients from discrimination, including on the basis of their source of income or profession, see H. 5464, 2021 Gen. Assemb., Jan. Sess. (R.I. 2021), <http://webserver.rilin.state.ri.us/BillText/BillText21/HouseText21/H5464.pdf>; Rhode Island passed a bill creating a study commission to research and provide recommendations on reforming prostitution laws, see H. 5250, 2021 Gen. Assemb., Jan. Sess. (R.I. 2021), <http://webserver.rilin.state.ri.us/BillText/BillText21/HouseText21/H5250.pdf>.

¹⁸ Musto, J. et al., “Anti-trafficking in the time of FOSTA/SESTA: networked moral gentrification and sexual humanitarian creep,” *Social Sciences*, 10(2), (2021): p.58; Blunt, D., & Wolf, A., “Erased: The impact of FOSTA-SESTA and the removal of Backpage on sex workers,” *Anti-Trafficking Review*, (14), (2020): pp.117–121, <https://doi.org/10.14197/atr.201220148>; Tichenor, E., “‘I’ve Never Been So Exploited’: The consequences of FOSTA-SESTA in Aotearoa New Zealand,” *Anti-Trafficking Review*, (14), (2020): pp.99–115, <https://doi.org/10.14197/atr.201220147>; Born, E.J., “Too far and not far enough: understanding the impact of FOSTA,” *NYUL Rev.*, (94), (2019), p.1623; Isabelle T. Lee, “One Year Later, FOSTA-SESTA Throws Sex Workers Back into the Fire,” *Bitch Magazine*, December 17, 2019, <https://www.bitchmedia.org/article/fosta-sesta-throws-sex-workers-into-fire>.

¹⁹ Petitioner’s complaint available at:

https://www.woodhullfoundation.org/wp-content/uploads/2018/06/Woodhull-Freedom-Foundation-v.-United-States_Redacted.pdf

²⁰ “Woodhull Wins FOSTA Appeal,” Woodhull Freedom Foundation, January 24, 2020,

<https://www.woodhullfoundation.org/2020/01/24/woodhull-wins-fosta-appeal/>.

²¹ Maine’s governor vetoed a proposed end demand bill, see L.D. 1592, 130th Leg., 1st Spec. Sess. (Me. 2021),

http://legislature.maine.gov/legis/bills/display_ps.asp?LD=1592&snum=130. Similar bills were introduced in New York and Massachusetts, see S. 6040, 2021-2022 Leg. Sess. (N.Y. 2021), <https://www.nysenate.gov/legislation/bills/2021/S6040>; S. 940, 192nd Gen. Ct., Reg. Sess. (Mass. 2021), <https://malegislature.gov/Bills/192/S940>.

seller's motivation; they also disregard evidence showing that the Nordic Model not only fails to eliminate the sex trades, but creates an environment that puts sex workers at greater risk of violence and exploitation.²² Under decriminalization, sexual exploitation and trafficking of any kind remain illegal but engaging in consensual sex with another person for a fee is decriminalized, allowing law enforcement resources to be used more effectively in only targeting exploitation rather than focusing on consensual sex work between adults.

B. Oregon Laws

Oregon has laws scattered throughout the Oregon Revised Statutes (ORS) that address both sex work and human trafficking.²³ The Crimes and Punishments section of the ORS contains a series of laws explicitly criminalizing adult consensual sex work. The Prostitution law makes the sale of sex a Class A misdemeanor.²⁴ Commercial Sexual Solicitation governs the solicitation and purchase of sex and is also a Class A misdemeanor.²⁵

Promoting Prostitution is a Class C felony and embodies a wide range of conduct;²⁶ troublingly, this statute makes it a crime to “maintain[] a place of prostitution or a prostitution enterprise”.²⁷ A prostitution enterprise is defined as “an arrangement whereby two or more prostitutes are organized to conduct prostitution activities”²⁸. Sex workers often work together for safety purposes, which thus per statutory language can elevate the misdemeanor crime of prostitution to promoting prostitution, which is a felony. A place of prostitution is defined as “any place where prostitution is practiced”,²⁹ which implies that working out of a home or hotel room, which is safer than working outdoors, again can turn a prostitution charge into promoting prostitution.

A Class A misdemeanor can come with a \$100-\$6500 fine³⁰ and up to 364 days imprisonment³¹ - a harsh enough punishment, but promoting prostitution can increase penalties up to 5 years imprisonment³² and a \$200-\$125,000 fine.³³ The Promoting Prostitution statute also criminalizes accepting “money, goods, property, services or something else of value...pursuant to an agreement or understanding” that the thing(s) of value “derived from a prostitution activity”, and engaging in conduct that “institutes, aids or facilitates an act or enterprise of prostitution”.³⁴ By the word of Oregon law, victimless behavior like accepting rent money from someone who you know is a sex worker or offering your home as a place for a friend to practice sex work safely can result in a felony conviction.

²² Policy briefing, “The Impact of End Demand’ Legislation on Women Sex Workers”, *NSWP*, 2019, https://www.nswp.org/sites/nswp.org/files/pb_impact_of_end_demand_on_women_sws_nswp_-_2018.pdf.

²³ See Appendix B for a comprehensive list of relevant state laws.

²⁴ ORS § 167.007, Prostitution.

²⁵ ORS § 167.008, Commercial sexual solicitation.

²⁶ ORS § 167.012, Promoting prostitution.

²⁷ ORS § 167.012(1)(a). Promoting prostitution: “(1) A person commits the crime of promoting prostitution if, with intent to promote prostitution, the person knowingly: (a) Owns, controls, manages, supervises or otherwise maintains a place of prostitution or a prostitution enterprise...”

²⁸ ORS § 167.002(3), Definitions.

²⁹ ORS § 167.002(1), Definitions.

³⁰ ORS §§ 137.286(1), Minimum fines; waiver; 161.635(1)(a), Misdemeanors; fines.

³¹ ORS § 161.615(1), Sentences for misdemeanors.

³² ORS § 161.065(3), Maximum terms of imprisonment; felonies.

³³ ORS §§ 137.286(2), Minimum fines; waiver; 161.625(1)(d), Felonies; fines.

³⁴ ORS § 167.012(1)(c)-(d), Promoting prostitution.

Oregon's overbroad Promoting Prostitution statute creates penalties for a wide swath of non-violent conduct - most of which is undertaken for safety purposes. This is a prime example of the way that criminalization creates disproportionate punishments for victimless crimes and enforces unreasonable barriers for those involved in adult consensual sex work. A felony conviction closes off avenues to pursue other forms of employment for people seeking to leave the sex trade.

Oregon law allows the use of evidence of the "general reputation and reputation of persons who reside in or frequent [a] place" in determining whether that place constitutes a "place of prostitution", meaning subjective reputation can be taken into account in cases involving a "place of prostitution".³⁵ As with loitering for the purpose of prostitution laws, discussed above, that are written vaguely so that law enforcement has the discretion to target, harass, and arrest individuals solely on the basis of their appearance, the "general reputation" language allows for the introduction of evidence that is based only on preconceived notions.

Oregon's immunity law prohibits statements made by or other evidence obtained from someone reporting a "person felony" from being used to prosecute the person reporting the crime for prostitution (no crimes other than prostitution apply).³⁶ This immunity measure does not exist in most states, though a few have adopted similar laws in recent years. Oregon has positioned itself as a state that values the safety of sex workers, but the current law only protects witnesses and victims when they are reporting certain enumerated felonies.³⁷ Decriminalization would better encourage sex workers to report all crimes committed against them. Immunity from prosecution is likely unknown to most laypeople and fear of arrest and distrust of law enforcement dissuades reporting violent crime.

Similarly, Oregon's prostitution statute contains a provision that provides an affirmative defense to victims of trafficking in persons who are being prosecuted for prostitution.³⁸ Senate Bill 274³⁹ was introduced in the Oregon legislature in 2021, proposing to significantly expand the affirmative defense option, but it died in committee at the adjournment of the legislative session. While the existing affirmative defense provides an avenue for exploited people to escape prosecution, involvement in the criminal legal system is harmful regardless of outcome. Trafficking survivors should not experience criminalization, even with the protection of an affirmative defense. Prostitution laws ensnare victims of exploitation, and post-arrest exceptions do little to solve that problem.

Like most states, Oregon provides post-conviction relief for survivors of trafficking, who can petition to vacate prostitution convictions that resulted from their exploitation.⁴⁰ However, Oregon's vacatur law places an unfair burden of proof of trafficking on applicants.⁴¹ The Polaris Project ranked Oregon as

³⁵ ORS § 167.027(1), Evidence; marital privilege.

³⁶ ORS § 136.437, Crime reporting; evidence of prostitution.

³⁷ OAR § 213-003-0001(14), Definitions, <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=271289>.

³⁸ ORS § 167.007(3), Prostitution.

³⁹ S.B. 274, 2021 Leg., Reg. Sess. (Or. 2021), <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB274>.

⁴⁰ ORS § 137.221, Vacation of judgment of conviction for prostitution.

⁴¹ "The motion must contain an explanation of facts supporting a claim that the person was the victim of sex trafficking at or around the time of the conduct giving rise to the prostitution conviction. The motion must further contain an explanation of why those facts were not presented to the trial court." ORS § 137.221(2)(c), Vacation of judgment of conviction for prostitution.

having one of the worst vacatur laws in the country, putting the state in its “hall of shame” for this requirement.⁴²

Oregon’s Trafficking in Persons law, first enacted in 2007, makes it a felony for a person to “recruit[], entice[], harbor[], transport[], provide[] or obtain[]” another person while “know[ing] or recklessly disregard[ing] the fact that force, fraud, or coercion will be used to cause the other person to engage in a commercial sex act.”⁴³ The Compelling Prostitution statute is located in the prostitution section of the ORS and makes it illegal to use “force or intimidation to compel another to engage in prostitution.”⁴⁴ Compelling is also a felony. Thus, a person who coerces another person to engage in sex work could be charged with Compelling Prostitution and Trafficking in Persons under certain circumstances.

III. International Policy Overview: Relevant Frameworks and Analyses

Research on sex work and related policies indicates that the majority of laws criminalizing sex workers, their clients, and their peers fail to address the underlying structural and systemic conditions of poverty, economic disparities, xenophobia, and racial and gender injustice. These factors play a significant role in determining who engages in sex work, under what conditions, and the outcome of their participation in sex work. Here we examine different structural analyses that can be used to understand how to make sex work safer, healthier and more transparent for all communities.

A. Human Rights

In 2017, a study out of Utrecht University identified a shift towards more repressive and punitive policies regulating sex work, and observed that this approach subjects sex workers to a myriad of controls and regulations that prevent sex work from becoming “worker-controlled, non-abusive, and non-exploitative.”⁴⁵ These policies fail to meet the needs of sex workers and trafficking survivors alike and they ignore criminalization as the structural basis of the harms of sex work, wrongly believing that the harm is created by the work itself.⁴⁶ A study on levels of abuse, freedom of movement, and access to medical care among exploited women found severe implications for the well-being of trafficked people and sex workers who are denied human rights, agency, and access to medical care and contraception. Criminalization of both supply and demand pushes workers into more secluded and marginalized spaces,

⁴² “Three states (Illinois, Montana, and Oregon) require that survivors state in their motion why facts were not presented in the initial court proceedings. Again, as argued above, states should not require an explanation from survivors who may not have been able to process their trauma, to face their trafficker, or to articulate their victimization for any other number of reasons during the initial proceeding. By imposing these requirements, states place undue blame and burden on trafficking survivors.”

<https://polarisproject.org/wp-content/uploads/2019/03/State-Report-Cards-Hall-of-Shame.pdf>; see also: <https://polarisproject.org/wp-content/uploads/2019/10/2019-CriminalRecordRelief-Oregon.pdf>;

⁴³ ORS § 163.266, Trafficking in persons. This statute also applies to trafficking for involuntary servitude, minors induced into commercial sex acts, and benefitting financially from trafficking.

⁴⁴ ORS § 167.017, Compelling prostitution. Also applies to inducing, causing, aiding, or facilitating in a minor engaging in prostitution and inducing or causing one’s spouse, child, or stepchild to engage in prostitution.

⁴⁵ Ine Vanwesenbeeck, “Sex Work Criminalization Is Barking up the Wrong Tree,” *Archives of Sexual Behavior* 46, no. 6 (May 2017): pp. 1631-1640, <https://doi.org/10.1007/s10508-017-1008-3>.

⁴⁶ *Id.*; Platt, L. et al., “Associations between Sex Work Laws and Sex Workers’ Health: A Systematic Review and Meta-Analysis of Quantitative and Qualitative Studies.” *PLOS Medicine* 15, no. 12 (December 11, 2018): pp. 1–54. <https://doi.org/10.1371/journal.pmed.1002680>.

decreasing access to resources and safety strategies across the sex industry for both those who are exploited and those who do sex work as a result of choice.⁴⁷

The decriminalization of sex work in New Zealand under the Prostitution Reform Act (PRA) in 2003 has significantly increased sex workers' rights. The PRA provides critical protection in the workplace for both independent sex workers and brothel-based workers, which has reduced exploitation, increased agency, and mitigated stigmatization of workers.⁴⁸ Decriminalization has also shifted the balance of power between police and sex workers by removing the risk of arrest. As a result, sex workers experience significantly reduced levels of violence and improved police relations. This is particularly true for street-based workers, the group most vulnerable to abuse and violence.⁴⁹ Ultimately, empirical research shows that criminalization actively harms sex workers' rights and decriminalization enhances and ensures access to health and safety.

B. Public Health

One of the most immediate and severe impacts of the repressive policing of sex work is poor health outcomes and barriers to accessing healthcare. Sex workers are unlikely to seek or have access to medical and mental health services under criminalization due to fear of arrest, violence, and discrimination. A 2018 meta-analysis out of the Johns Hopkins School of Public Health conclusively found that repressive policing of sex work increases the likelihood of sex workers to experience sexual and physical violence, HIV and STI infection, and condomless sex.⁵⁰ Risk of HIV/STI transmission is two-to-four times greater among sex workers who experience arrest; have sex with police officers to avoid arrest; have condoms, needles or syringes confiscated by the police; or have been subject to police raids.⁵¹

Criminalization, repressive laws, and punitive policing of sex workers and their clients result in higher rates of physical and sexual violence, HIV and sexually transmitted infections, condomless sex, and willingness to take on risk behavior.⁵² Decriminalization has been shown to reduce HIV transmission between 33-46% when accompanied by sex worker-led interventions.⁵³ Evidence shows that criminally enforced regulatory models create major disparities within sex worker communities, possibly enabling access to safer conditions for some but excluding the large majority who remain under a system of criminalization, including trans women, cis men, people who use drugs, migrant populations, and often sex workers operating in outdoor environments, all who are at increased risk of HIV in many settings.⁵⁴

⁴⁷ Maria L. Di Tommaso et al., "As Bad as It Gets: Well-Being Deprivation of Sexually Exploited Trafficked Women," *European Journal of Political Economy* 25, no. 2 (2009): pp. 143-162, <https://doi.org/10.1016/j.ejpoleco.2008.11.002>.

⁴⁸ Gillian Abel and Melissa Ludeke, "Brothels as Sites of Third-Party Exploitation? Decriminalisation and Sex Workers' Employment Rights," *Social Sciences* 10, no. 1 (December 24, 2020): pp. 3-15, <https://doi.org/10.3390/socsci10010003>, 13.

⁴⁹ Lynzi Armstrong, "From Law Enforcement to Protection? Interactions between Sex Workers and Police in a Decriminalized Street-Based Sex Industry: Table 1," *British Journal of Criminology* 57 (February 17, 2016): p. 583 <https://doi.org/10.1093/bjc/azw019>.

⁵⁰ Platt et al., "Associations between sex work laws," 1.

⁵¹ Kate Shannon et al., "Global Epidemiology of HIV among Female Sex Workers: Influence of Structural Determinants," *The Lancet* 385, no. 9962 (July 22, 2015): p. 58, [https://doi.org/10.1016/s0140-6736\(14\)60931-4](https://doi.org/10.1016/s0140-6736(14)60931-4).

⁵² Platt et al., "Associations between sex work laws."

⁵³ Kate Shannon et al., "Prevalence and Structural Correlates of Gender Based Violence among a Prospective Cohort of Female Sex Workers," *BMJ* 339 (2009), <https://doi.org/10.1136/bmj.b2939>.

⁵⁴ *Id.* at 43.

Conversely, both international and U.S.-based studies have shown that evidence-based, rights-affirming policies towards sex work are central to an effective HIV strategy. Laws governing sex work have been shown to be structural determinants of the spread of HIV. Though rates of HIV incidence have been slowing across the globe, there are persistent infection rates among sex worker communities.⁵⁵ When Rhode Island decriminalized indoor sex work from 2003-2009, STI rates decreased by 39%, in large part due to the fact that sex workers are able to be more risk-averse in a decriminalized environment and are more likely to seek medical care.⁵⁶ A 2014 study on the structural determinants of HIV infections predicts that of all policy shifts, the decriminalization of sex work would have the greatest impact on HIV epidemics around the world, decreasing infections by 33-46%.⁵⁷

C. Human Trafficking Prevention

Research from around the world routinely shows that, as with any industry, criminalization encourages organized crime.⁵⁸ In the case of sex work and trafficking, criminalization pushes sex workers into more secluded and dangerous spaces to avoid law enforcement, exposing them to increased risk of assault, fraud, control, and lack of freedom, which in turn makes them more vulnerable to sexual exploitation and trafficking.⁵⁹ A study of clients of sex workers in the U.S. and U.K. revealed that clients encountering sex workers that seemed to be experiencing exploitation would like to have reported this to law enforcement, and would in a decriminalized environment.⁶⁰

Where and when sex work is decriminalized and workers and clients are able to report abuse and exploitation, trafficking has declined. The Netherlands and Germany have varied degrees of legalized and regulated sex work, and each experienced a documented decline in trafficking, pimping, and exploitation under legalization because of increased enforcement capability.⁶¹ In New Zealand, decriminalization increased sex workers' trust and ability to call on police to push back against exploitative managers and ensure safe working conditions.⁶² New Zealand allows workers to perform labor independently, outside the confines of a management structure, in contrast to the legalization and regulation seen elsewhere which still allows for exploitation of sex workers as employees. Under decriminalization, sex workers are still subject to health and safety regulations as well as tax obligations, but they have the greatest access to labor rights.

⁵⁵ Carrie E. Lyons et al., "The Role of Sex Work Laws and Stigmas in Increasing HIV Risks among Sex Workers," *Nature Communications* 11, no. 1 (2020): pp. 1-10, <https://doi.org/10.1038/s41467-020-14593-6>.

⁵⁶ Scott Cunningham and Manisha Shah, "Decriminalizing Indoor Prostitution: Implications for Sexual Violence and Public Health," *The Review of Economic Studies* 85, no. 3 (December 20, 2017): pp. 1683-1715, <https://doi.org/10.1093/restud/rdx065>.

⁵⁷ Shannon, "Global Epidemiology of HIV," 67.

⁵⁸ Ronald Weitzer, "New Directions in Research on Human Trafficking," *The ANNALS of the American Academy of Political and Social Science* 653, no. 1 (2014): pp. 6-24, <https://doi.org/10.1177/0002716214521562>.

⁵⁹ Di Tommaso et al., "As Bad as It Gets."

⁶⁰ Teela Sanders, Barbara G. Brents, and Chris Wakefield, "Paying for Sex in a Digital Age: US and UK Perspectives," Taylor and Francis Group, March 17, 2020, <https://www.taylorfrancis.com/books/mono/10.4324/9780429454370/paying-sex-digital-age-teela-sanders-barbara-brents-chris-wakefield>.

⁶¹ Daalder, Annelies, *Prostitution in the Netherlands in 2007*. The Hague: Ministry of Justice, 2007.

<https://www.government.nl/documents/reports/2015/06/01/prostitution-in-the-netherlands-in-2014>. See also Department of State, *Trafficking in Persons Report*, 2005.

⁶² Armstrong, "From Law Enforcement to Protection?"

D. Intersectional Feminism

Sex work is a hotly contested and divisive topic among those who advocate for gender justice. Some self-described feminists believe that sex work is inherently exploitative, but it is increasingly seen instead as a means for financial, sexual, and cultural freedom and empowerment. Carol Leigh described this evolution as “a moral shift that emphasizes sex work as an act of empowerment and reclamation.”⁶³ Taking into account the nuance of feminist approaches to labor rights and economic independence as well as the intersectional nature of the sex worker rights movement (which brings up questions about racial, economic, and gender identity justice), sex work should be recognized as an affirmation of the feminist principles of equity, diversity and human rights.⁶⁴

Sex workers suffer a disproportionate amount of gender-based violence, yet research conclusively finds that an increase in repressive policing towards sex work heightens, rather than mitigates, this violence. In fact, much abuse is perpetuated by law enforcement themselves.⁶⁵ A 2009 study surveying 237 cisgender and transgender female-identifying sex workers found that 57% experienced some kind of gender-based violence. For street-based sex workers, 100% experienced verbal harassment and 67% were beaten or physically assaulted.⁶⁶ Violence against sex workers is incredibly gendered, both on an individual and systemic scale. Intersectional feminists recognize that cross-sections of marginalized identities create additional risks for those who sit at those intersections: successful and comprehensive sex work policy reform will only truly address the needs of sex workers when it does the same.

E. LGBTQ Rights

In 2014, the National LGBTQ Taskforce recommended the decriminalization of adult consensual sex work.⁶⁷ LGBTQ community members are uniquely impacted by sex work laws. Participating in street economies is critical to survival particularly for LGBTQ youth and transgender women of color who are rejected by family members and experience “disproportionate rates of violence, homelessness, and discrimination in employment, housing, and education.”⁶⁸

Sex work laws are often used not to protect public safety, but rather to profile, harass, and arrest individuals on the basis of race and gender expression. The impact of these laws disproportionately harms transgender women of color and the LGBTQ community as a whole.⁶⁹ Transgender individuals are ten times more likely to engage in sex work than cisgender women. 13% of transgender people who experience family rejection have done sex work.⁷⁰ Whether or not LGBTQ individuals participate in

⁶³ Mesce, Gabriella, "Sex Work Decriminalization and Feminist Theory" (2020). Senior Theses. P. 7.
https://scholarcommons.sc.edu/senior_theses/365.

⁶⁴ *Id.*

⁶⁵ Shannon et al., “Prevalence and Structural Correlates”, 5; See Platt et al., “Associations between sex work laws”; Kathleen N Deering et al., “A Systematic Review of the Correlates of Violence Against Sex Workers,” *American Journal of Public Health* 104, no. 5 (May 2014): pp. 42-53.

⁶⁶ Shannon et al., “Prevalence and Structural Correlates”, 4.

⁶⁷ “Sex Work Policy Recommendations” (National LGBTQ Taskforce, October 2014),
https://www.thetaskforce.org/wp-content/uploads/2014/10/TF_sexworkpolicy_recommendations.pdf.

⁶⁸ “LGBT Rights Organizations Join Amnesty International in Call to Decriminalize Sex Work.” *Lambda Legal*, August 20, 2015. Lambda Legal. https://www.lambdalegal.org/blog/20150820_decriminalize-sex-work.

⁶⁹ *Id.*

⁷⁰ Jaime M Grant, Lisa A Mottet, and Justin Tanis, “Injustice at Every Turn: A Report of the National Transgender Discrimination Survey” (National Center for Transgender Equality, 2011),
https://transequality.org/sites/default/files/docs/resources/NTDS_Exec_Summary.pdf.

sexual labor, they are frequently profiled, harassed and incarcerated as sex workers, perpetuating violence at the hands of law enforcement and the public.⁷¹ Criminalization and stigma result in alarmingly high rates of harassment and physical and sexual abuse perpetuated against LTGBQ community members. A 2009 study conducted by UC Irvine found that 59% of transgender people in California men's prisons report having experienced sexual assault while in custody.⁷² The criminalization of sex work disproportionately affects LGBTQ-identifying people, who are already especially susceptible to violence and harassment when entangled in the criminal legal system.

F. Racial Justice

People of color are the primary subjects of violence against and prosecution of individuals perceived as sex workers.⁷³ Due to stigma, crimes committed against sex workers are rarely reported and when they are, fail to be taken seriously. This dynamic is heightened when crimes are perpetrated against people of color because cultural conditioning has primed society to both expect and devalue violence within Black, Indigenous and People of Color (BIPOC) communities.⁷⁴ Black women selling sexual services are disproportionately targeted by violent criminals.⁷⁵ Police are often perpetrators of violence themselves, or they turn a blind eye, even labeling the crimes as "NHI" ("no humans involved").⁷⁶ 23% of Black transgender individuals will experience physical or sexual assault by police because they are perceived as transgender and involved in sex work.⁷⁷

Recent findings by researchers at the National Institute of Justice found that 62% of national sex trafficking prosecutions are Black men, and that this bias constitutes a serious violation of human rights.⁷⁸ Racial disparities in the arrest and sentencing of those involved in sex work stem from: 1) the systemic discrimination in the United States criminal legal system that targets communities of color and individuals in these neighborhoods for low-level crimes; 2) intersectional discrimination against people of color, transgender and gender nonconforming individuals in traditional labor markets that limits their access to the same economic opportunities and relief structures available to white and cisgender individuals;⁷⁹ and 3) the focus on abolishing commercial sex rather than examining the structural

⁷¹ Lambda Legal, "LGBTQ Rights".

⁷² Valerie Jenness, "Transgender Inmates in California's Prisons: An Empirical Study of a Vulnerable Population" (Irvine, CA: UC Irvine, Center for Evidence-Based Corrections, 2009).

⁷³ Jasmine Sankofa, "From Margin to Center: Sex Work Decriminalization Is a Racial Justice Issue," *Amnesty International*, December 12, 2016, https://www.amnestyusa.org/from-margin-to-center-sex-work-decriminalization-is-a-racial-justice-issue/#_ftn1.

⁷⁴ Nazgol Ghandnoosh, "Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies" (The Sentencing Project, September 3, 2014), <https://www.sentencingproject.org/publications/race-and-punishment-racial-perceptions-of-crime-and-support-for-punitive-policies/>.

⁷⁵ Jasmine Philips Sankofa, "Mapping the Blank: Centering Black Women's Vulnerability to Police Sexual Violence to Upend Mainstream Police Reform," *Howard Law Journal*, September 1, 2016, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2828422.

⁷⁶ Zachary Wigton, "The L.A.P.D. Didn't Catch an Alleged Serial Killer For 30 Years. Is It Because the Victims Were Black?," *Vanity Fair*, December 18, 2014, <https://www.vanityfair.com/hollywood/2014/12/tales-of-the-grim-sleeper-nick-broomfield>.

⁷⁷ Sankofa, "From Margin to Center".

⁷⁸ Williamson K.G., Marcus A. (2017) Black Pimps Matter: Racially Selective Identification and Prosecution of Sex Trafficking in the United States. In: Horning A., Marcus A. (eds) Third Party Sex Work and Pimps in the Age of Anti-trafficking. Springer, Cham. https://doi.org/10.1007/978-3-319-50305-9_9

⁷⁹ Erin Fitzgerald, MPA, Sarah Elspeth Patterson, M.Ed., Darby Hickey, et al., "Meaningful Work: Transgender Experiences in the Sex Trade," National Center for Transgender Equality, December 2015: 16, https://www.transequality.org/sites/default/files/Meaningful%20Work-Full%20Report_FINAL_3.pdf.

inequality that drives the need for sexual labor, putting the onus on individuals rather than social structures to address poverty, stigmatization, and racial and gender based violence.⁸⁰

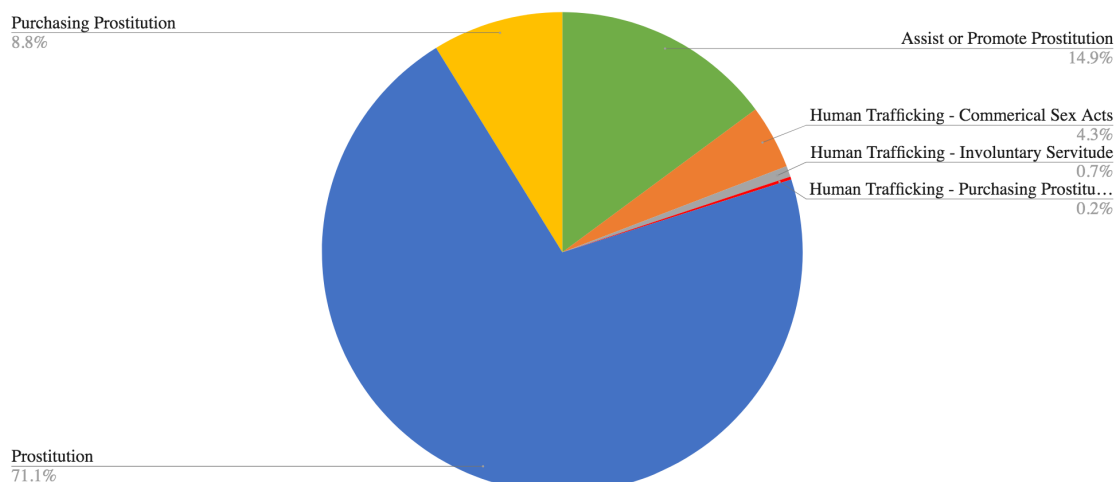
IV. Oregon Arrest Statistics and Communities Impacted

In this section, we analyze available data for prostitution and trafficking-related arrests to explore how the criminalization of sex work impacts Oregon communities. The data was provided by the Oregon State Police (OSP) CJIS Division and is gathered under the Federal Uniform Crime Reporting (UCR) Program. The UCR collates arrest data provided by different municipal police departments around the state and country. OSP provided data on arrests for prostitution- and trafficking-related crimes in the state from 2005-2020. Not all counties provided counts for all sixteen years. For example, Multnomah and Washington counties, urban counties with high populations and relatively high crime rates did not provide arrest data for years leading up to 2015. While this is important to take into consideration, we can still draw inferences by looking at data trends and overall averages. For the data breakdowns to follow, it is important to keep in mind that Oregon’s population is overwhelmingly white. In 2016 among all Oregon residents, 76% identified as white, 13% Latinx, 5% Asian and Pacific Islander, 2% African American, 1% American Indian and Alaska Native, and 3% two or more races.⁸¹

A. Arrest Data⁸²

**Figure 1.
Prostitution-
and trafficking-
related arrests,
2005-2020**

Arrests for Prostitution-related Crimes in Oregon, 2005-2020



⁸⁰ Vanwesenbeeck, “Sex Work Criminalization.”

⁸¹ Oregon Health Authority, 2018, <https://www.oregon.gov/oha/ph/about/pages/healthstatusindicators.aspx>.

⁸² Given the variance in state laws and municipal ordinances, the UCR provides a standardized way to track crime and arrest rates. The qualifications for coding arrests are necessarily vague. Categorizing arrests is left to the discretion of individual police departments. Thus, the results of the same arrest data can vary based on the county that codes it. Luckily, UCR classifications for prostitution-related crimes mirror Oregon law fairly closely. Here, arrests for Commercial Sexual Solicitation are assumed to be represented by “Purchasing Prostitution”; Promoting Prostitution by “Assist or Promote Prostitution”; and various subsections of the Trafficking in Persons statute by the different “Human Trafficking” labels, with the exception of the “Human Trafficking - Purchasing Prostitution” label because the connection with either UCR definitions or Oregon law is unclear and the data for that classification is negligible. Full text of all relevant Oregon statutes is located in Appendix B.

At 71.1%, the vast majority of all prostitution- and trafficking-related arrests in Oregon from 2005-2020 were for selling sexual services. This statistic challenges the legitimacy of rhetoric used by district attorneys in multiple counties that claim to be concentrating resources on the prosecution of trafficking rather than sex work.⁸³ Unfortunately, conviction data is unavailable, so it is difficult to determine how much this disparity stems from a misalignment between policing and prosecution and how much is a misrepresentation of strategy or resource allocation.

Sex Work and Trafficking Related Arrests in Oregon 2005-2020

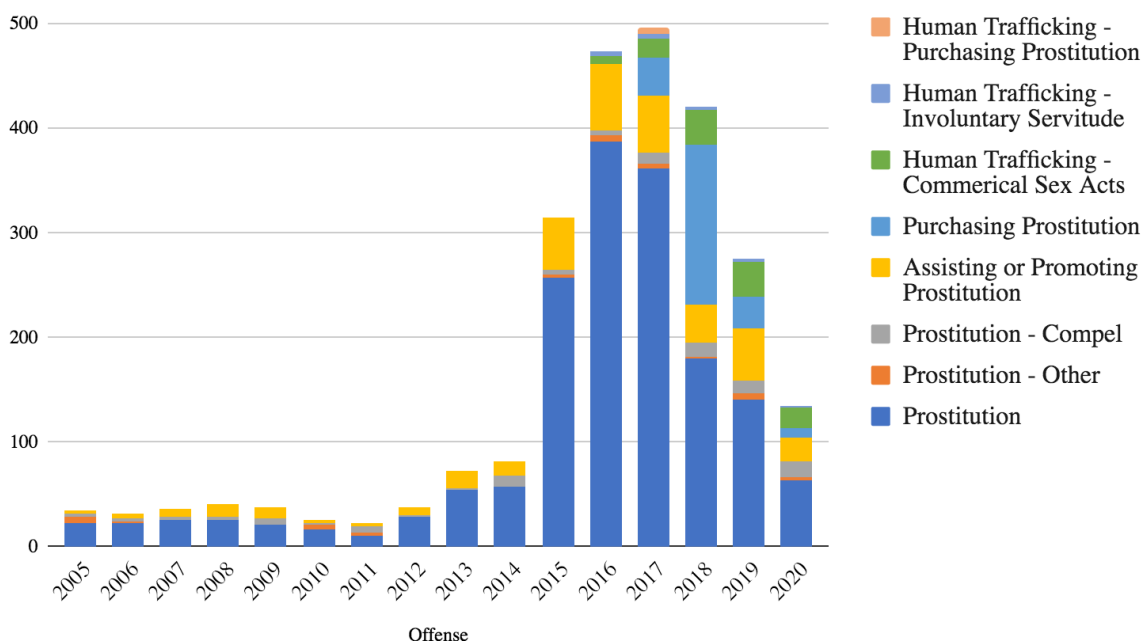


Figure 2. Prostitution and trafficking-related arrests year-over-year, 2005-2020

As evidenced in Figure 2, Multnomah, Washington, and Clackamas counties did not report arrest data prior to 2015. Nonetheless, the breakdown of arrest type remains fairly proportionately consistent over time, with the vast majority of arrests being for prostitution. Trafficking arrests only become notable in the past few years, likely due to the fact that Oregon’s Trafficking in Persons statute was passed in 2007⁸⁴ and the majority of those arrests come from the counties that did not start reporting until 2015.⁸⁵ Even where trafficking arrests are reported, there are significantly more arrests for prostitution.

1. Prostitution

UCR data shows 1,716 prostitution arrests from 2005-2020,⁸⁶ but several counties did not begin recording arrest data until 2015. By retroactively applying the average of prostitution arrest rates from 2015 onwards to the years before all counties were reporting, a conservative estimate can be made of actual

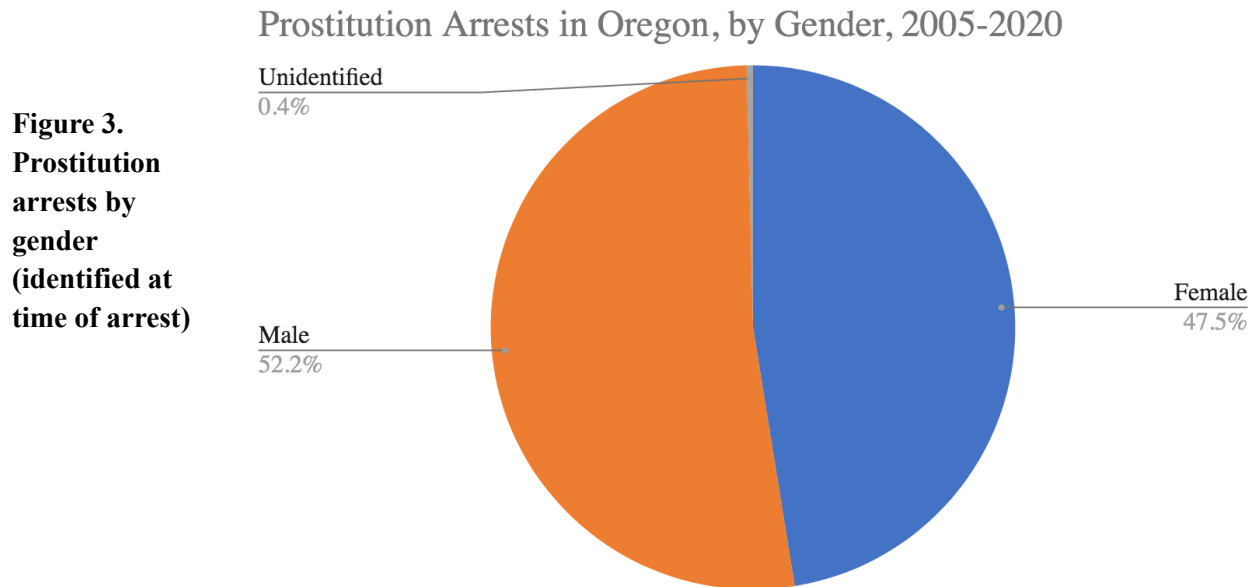
⁸³ Susan Elizabeth Shepard, “An East Coast Advocacy Group Is Using Oregon as a Testing Ground for Decriminalizing Sex Work,” *Willamette Weekly*, February 10, 2021, <https://www.wweek.com/news/2021/02/10/an-east-coast-advocacy-group-is-using-oregon-as-a-testing-ground-for-decriminalizing-sex-work/>.

⁸⁴ ORS § 163.266, Trafficking in persons.

⁸⁵ Oregon State Police, 2020.

⁸⁶ Oregon State Police, 2020.

arrests for 2005-2020: 3,838. The average cost of investigating, arresting, detaining, and prosecuting an individual for prostitution in the United States is anywhere from \$5,400-\$7,560 a case.⁸⁷ Using the estimated 15-year prostitution arrest total and the minimum \$5,400 spent per case, prostitution arrests alone may cost Oregon taxpayers a minimum of \$21 million a year.



Prostitution arrests are split more evenly by gender than might be expected. The number of women arrested for prostitution may be higher than indicated in the data because transgender women are often misgendered and reported incorrectly in the criminal legal system. Nonetheless, understanding that there is gender diversity in sex work as evidenced here is important to acknowledge, as this data challenges prohibitionist arguments that sex work is inherently patriarchal and oppressive. Prohibitionists describe sex work as “men purchasing women”, but this data refutes that reductionist view.

⁸⁷ The totals have been adjusted for inflation; Laurie Becklund, “Prostitution Arrests Cost \$2,000 Each, Study Finds,” *Los Angeles Times*, July 10, 1987, <https://www.latimes.com/archives/la-xpm-1987-07-10-mn-1941-story.html>; Julie Pearl, “The Highest Paying Customers: America’s Cities and the Costs of Prostitution Control,” *Hastings Law Journal* 38, no. 4 (1987): pp. 768-800.

Prostitution Arrests in Oregon, by Race, 2005-2020

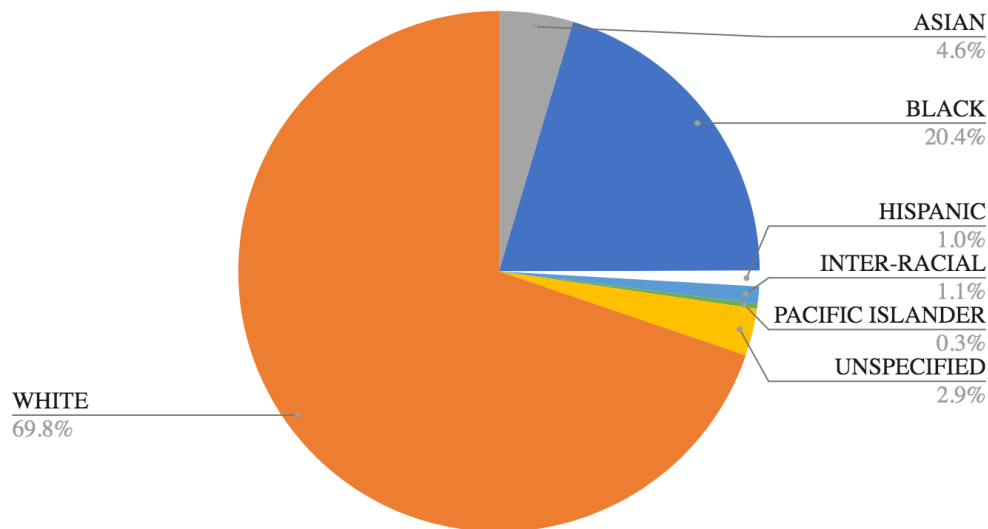
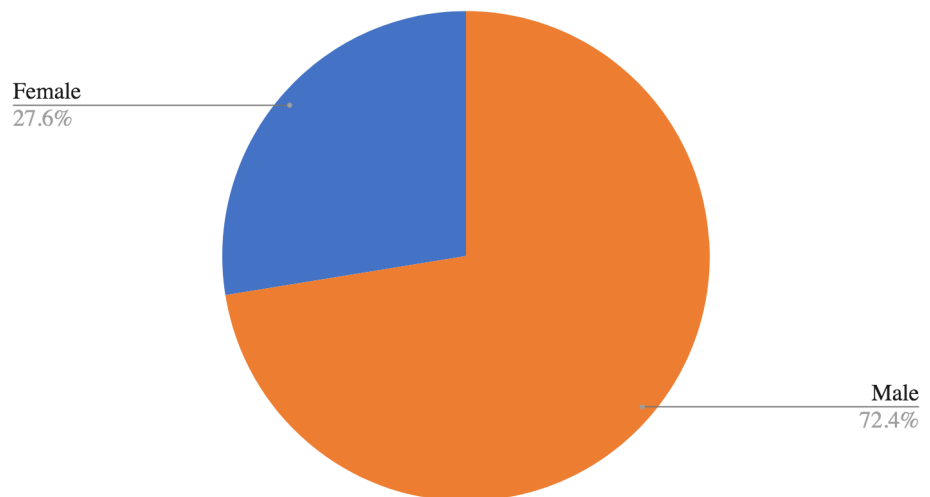


Figure 4.
Prostitution
arrests by race,
2005-2020.

White individuals make up 69.8% of prostitution arrests, a majority for the state. However, accounting for population percentages, Black Oregonians are eight times more likely to be arrested for prostitution than their white counterparts. Arrest rates for Asian individuals by population percentage are similar to those of whites, while Latinx Oregonians are less likely to face arrest for prostitution than other races.

2. Promoting Prostitution

Arrests for Assisting or Promoting Prostitution in, 2005-2020, by Gender



**Figure 5. Promoting
prostitution arrests
by gender, 2005-2020.**

Arrests for Assisting or Promoting Prostitution in, 2005-2020, by Race

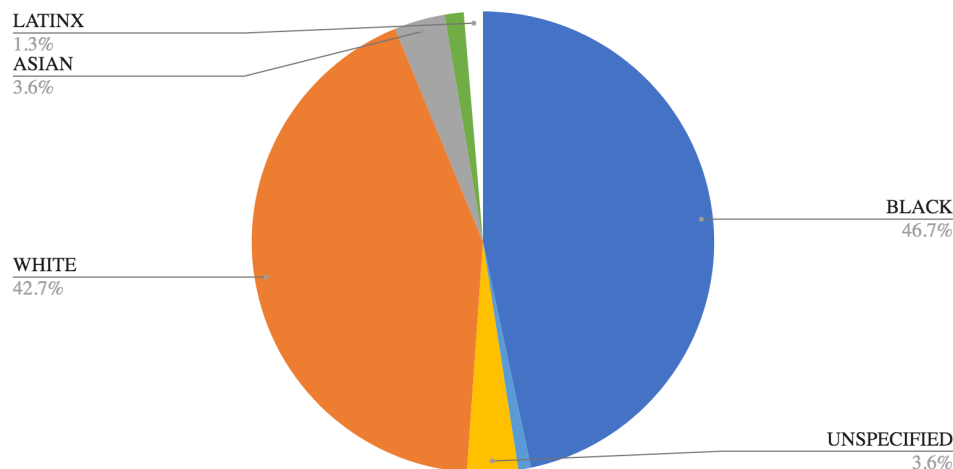


Figure 6. Promoting prostitution arrests by race, 2005-2020.

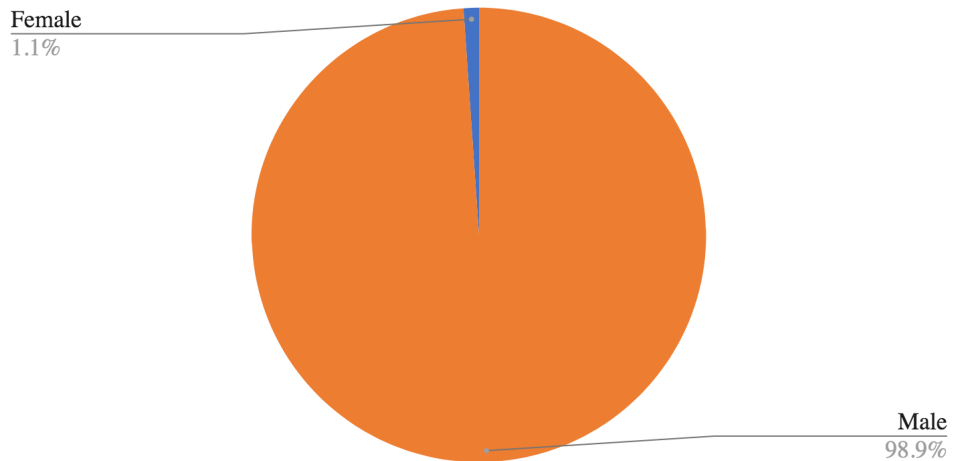
Between 2005 and 2020, there were 360 arrests for promoting prostitution in Oregon.⁸⁸ As shown in Figure 5, the majority of these arrests were of male-identified individuals, though women still made up 27.6% of arrests. Comparing arrests by race in Figure 6, Black people in Oregon are 15 times more likely to be arrested for promoting prostitution than whites and 17 times more likely to be arrested than Asian individuals. As with prostitution arrests, Latinx individuals in Oregon face a lower arrest rate than whites for promoting. Looking at these arrests without knowing the facts of each case presents an additional challenge: as discussed in the outline of Oregon prostitution laws, statutory language can allow the promoting law to be used against arrestees engaging in safety behavior such as working together and other situations that don't align with the common conception of "promoting prostitution". Unfortunately, there is no way to quantify which arrests came under which subsection of the law or how police apply the law in practice, which would help shed light on the gender and racial dynamics of the arrest data.

⁸⁸ As clarified above, the UCR data is collected across many jurisdictions and thus uses general classifications for arrest types; the "Assisting or Promoting Prostitution" UCR classification is assumed to be Oregon's Promoting Prostitution law, which states, in relevant part, that a person is guilty of promoting prostitution when they knowingly: "own, control, manage, supervise or otherwise maintains a place of prostitution or a prostitution enterprise; induce or cause a person to engage in prostitution or to remain in a place of prostitution; receive or agree to receive money, goods, property, services or something else of value, other than as a prostitute being compensated for personally rendered prostitution services, pursuant to an agreement or understanding that the money, goods, property, services or something else of value is derived from a prostitution activity; or engage in any conduct that institutes, aids or facilitates an act or enterprise of prostitution." ORS § 167.012. The statutory language can be found in full in Appendix B.

3. Purchasing Prostitution

Figure 7. Arrests for purchasing prostitution by gender, 2005-2020.

Arrests for Purchasing Prostitution in Oregon, by Gender, 2005-2020



There were 227 arrests for purchasing prostitution⁸⁹ between 2005-2020. While it is not uncommon for arrest rates for the sale of sex to exceed those for the purchase of sex, of Oregon’s 36 counties, arrests for purchasing prostitution were only made in five. 98% of these arrests were from Multnomah and Washington Counties. Of these 227 arrests, only two were of women.

Arrests for Purchasing Prostitution in Oregon, by Race, 2005-2020

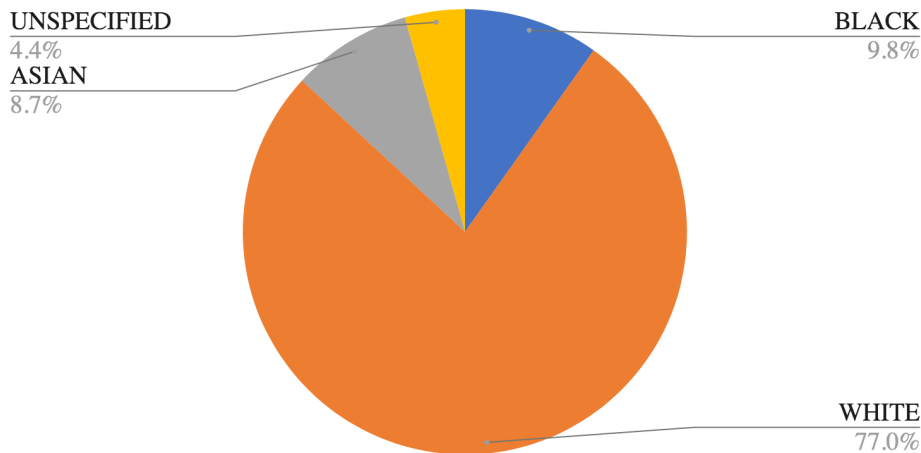


Figure 8. Arrests for purchasing prostitution by race, 2005-2020.

⁸⁹ The “purchasing prostitution” data is assumed to be that of arrests for Commercial Sexual Solicitation under Oregon law, in which a person “pays, or offers or agrees to pay, a fee to engage in sexual conduct or sexual contact.” ORS § 167.008.

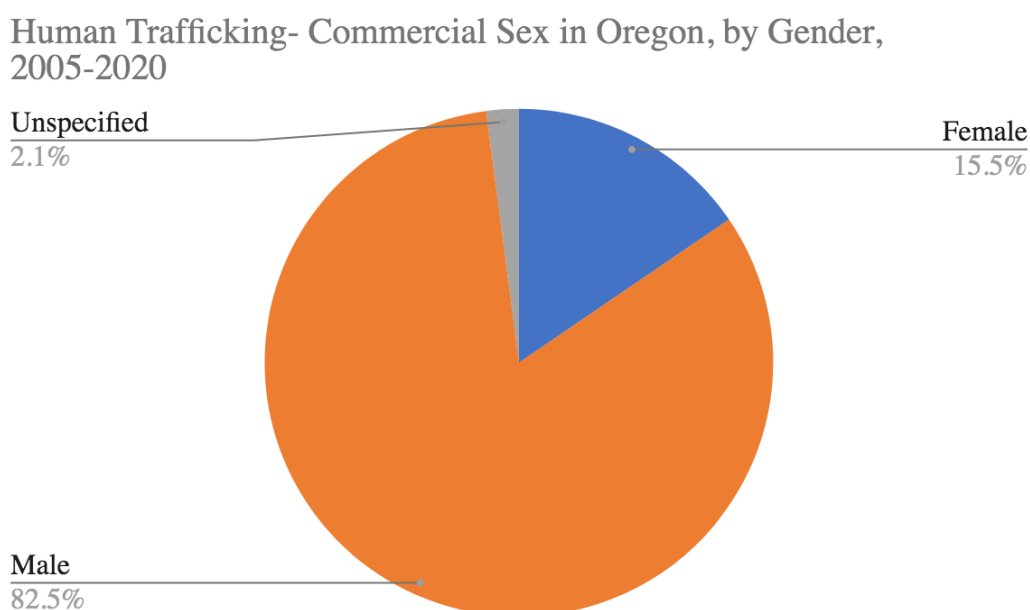
The arrest data is less racially skewed for purchasing prostitution than it is for promoting prostitution or for prostitution. Still, Black Oregonians are four times more likely to be arrested for purchasing than whites. Asian individuals are nearly twice as likely as whites to be arrested for purchasing prostitution.

4. *Human Trafficking and Compelling Prostitution*

The UCR separates human trafficking arrests into two categories: trafficking for commercial sex acts and trafficking for involuntary servitude, which are contained within the same Trafficking in Persons statute in Oregon law but are parallel to the Oregon law's subsections.⁹⁰ Under Oregon law, trafficking for commercial sex acts is a class A felony and trafficking for involuntary servitude is a class B felony.⁹¹ From 2005-2020, there were 110 recorded arrests for trafficking for commercial sex and 19 arrests for trafficking for involuntary servitude. 97% of trafficking for commercial sex arrests took place in Multnomah and Washington counties.

There is also arrest data for compelling prostitution which is defined similarly to trafficking in that it involves the use of force or coercion,⁹² so the offenses will be considered alongside each other here. Oregon's Compelling Prostitution law was enacted in 1971 whereas the Trafficking in Persons law did not exist until 2007. Compelling Prostitution is located within the Oregon Revised Statutes' Prostitution section, but the law would remain on the books under the decriminalization of consensual adult sex work because it criminalizes conduct that is not consensual. There were 102 compelling prostitution arrests in Oregon between 2005-2020.

Figure 9.
Human
trafficking for
commercial
sex arrests by
gender,
2005-2020.



⁹⁰ Trafficking in Persons subsections (1)(b) and (c) would fall into the UCR's commercial sex acts designation and subsections (1)(a) and (2) are in the involuntary servitude designation; each explicitly contain the words "commercial sex" and "involuntary servitude". The full law can be found in Appendix B.

⁹¹ ORS § 163.266(4)-(5).

⁹² "A person commits the crime of compelling prostitution if the person knowingly uses force or intimidation to compel another to engage in prostitution or attempted prostitution; induces or causes a person under 18 years of age to engage in prostitution; aids or facilitates the commission of prostitution or attempted prostitution by a person under 18 years of age; or induces or causes the spouse, child or stepchild of the person to engage in prostitution." ORS § 167.017.

Human Trafficking- Involuntary Servitude, by Gender, Oregon, 2005-2020

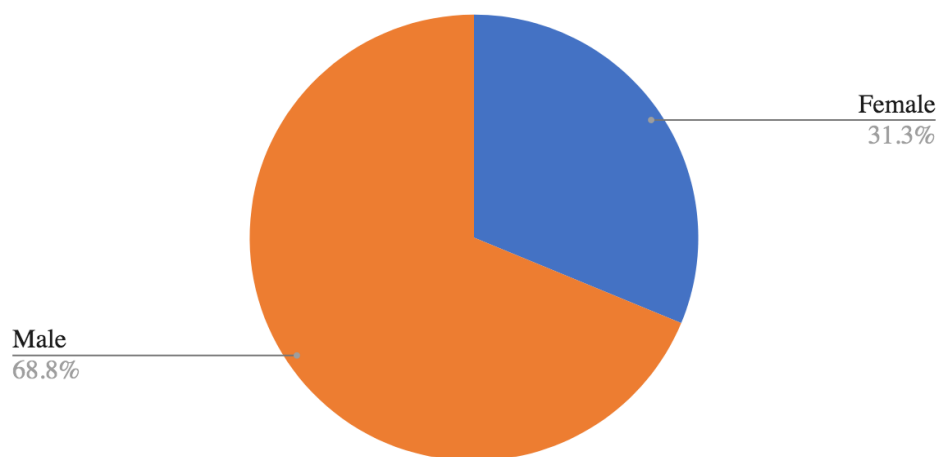
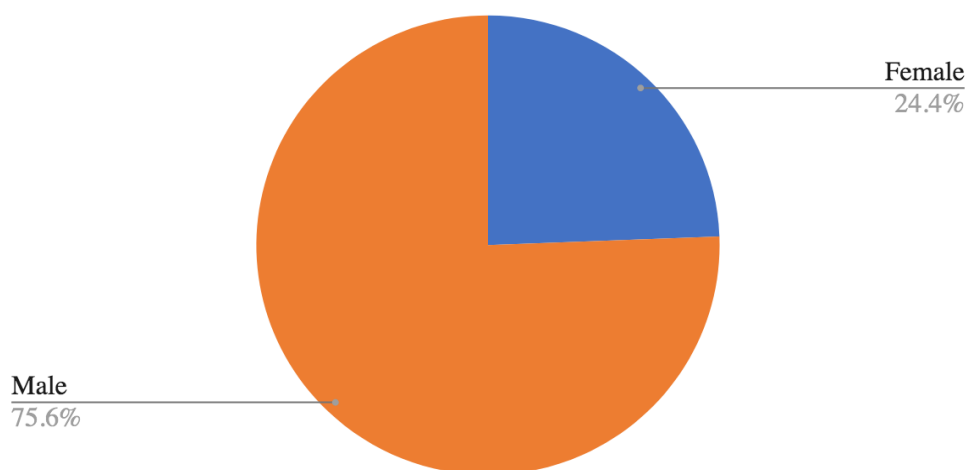


Figure 10. Human trafficking for involuntary servitude arrests by gender, 2005-2020.

Compelling Prostitution Arrests in Oregon, by Gender, 2005-2020

Figure 11. Compelling prostitution arrests by gender, 2005-2020.



As exhibited by Figures 9 through 11, male-identified individuals make up the majority of all trafficking and trafficking-related arrests in Oregon from 2005-2020. The gender disparity is greatest for trafficking for commercial sex, which resembles national trends.

Human Trafficking- Commercial Sex in Oregon, by Race, 2005-2020

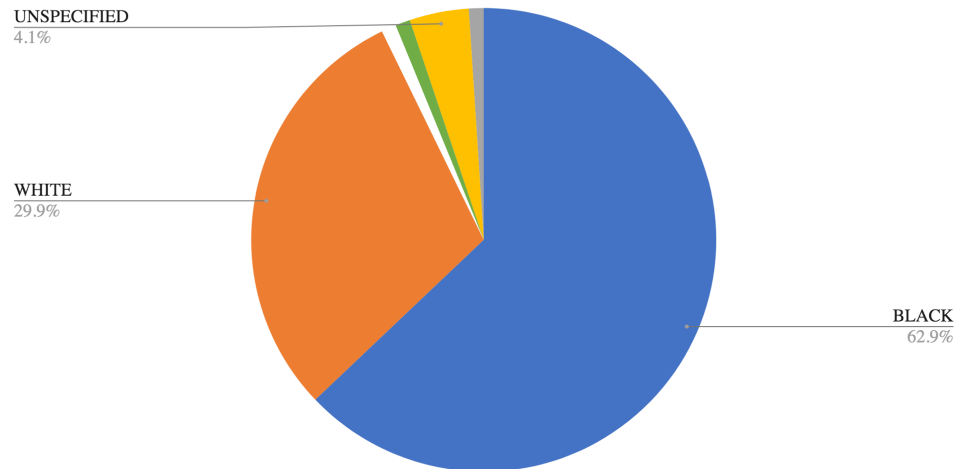
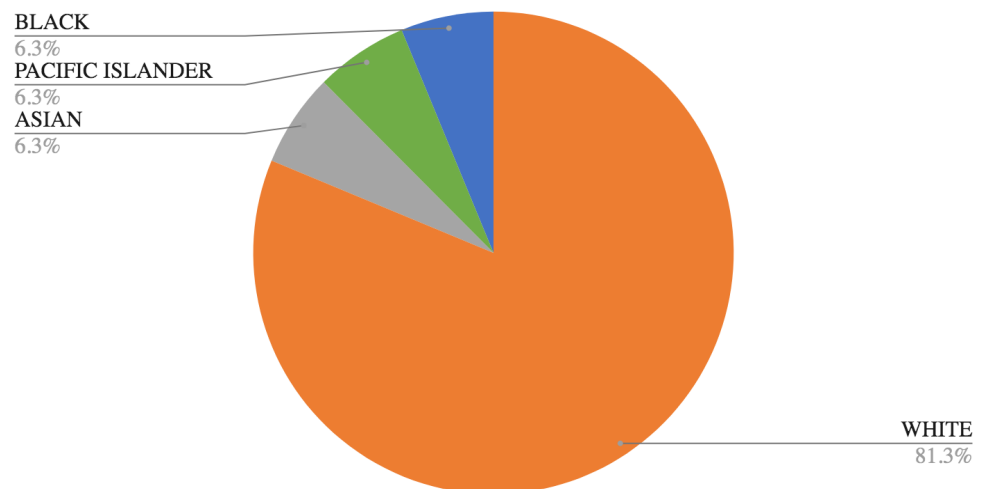


Figure 12. Human trafficking for commercial sex arrests by race, 2005-2020.

Human Trafficking- Involuntary Servitude, by Race, Oregon, 2005-2020

Figure 13. Human trafficking for involuntary servitude arrests by race, 2005-2020.



Compelling Prostitution Arrests in Oregon, by Race, 2005-2020

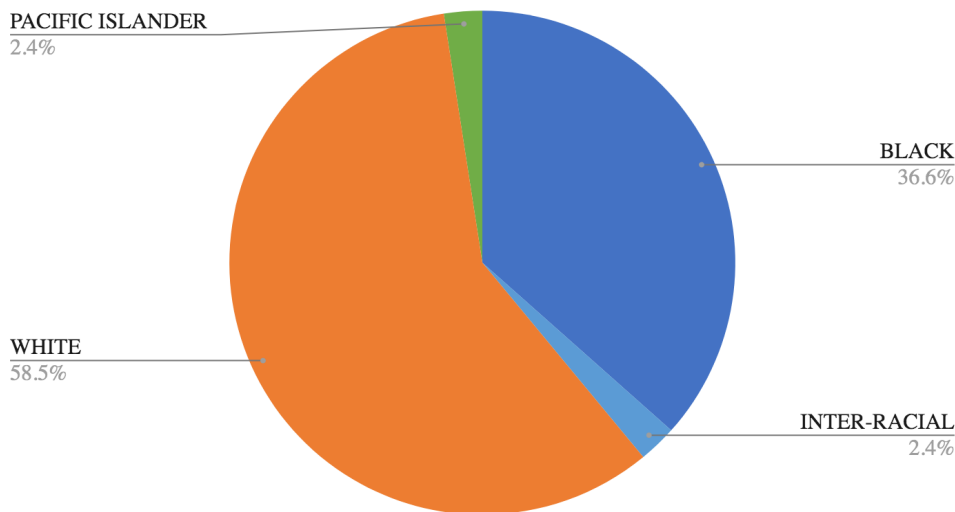


Figure 14.
Compelling prostitution arrests by race, 2005-2020.

Figures 12 through 14 reveal that arrests for exploitation make up the greatest racial discrepancies in prostitution- and trafficking-related arrests in Oregon. Though Black Oregonians make up 2% of the population, they account for 69% of arrests for human trafficking for commercial sex. Black individuals are 24 times more likely to be arrested for trafficking for commercial sex and 2.7 times more likely to be arrested for trafficking for involuntary servitude than white individuals. It is 12 times more likely for a Black person in Oregon to be arrested for compelling prostitution than a white person.

B. Analysis of Data Identified Trends

Since their peak in 2017, arrests for prostitution and prostitution-related crimes have decreased overall, but not consistently. Prostitution arrests have declined the most. As is common in other states, prostitution arrests in Oregon are clustered in urban areas. In 2017, when these arrests spiked, 52% occurred in Multnomah County. 87% overall took place in Oregon’s 4 most populous counties: Clackamas, Lane, Washington, and Multnomah Counties.

Multnomah County is the site of the most significant decline. Over the past five years, prostitution arrests there declined by 93%, which aligns with rhetoric in Portland and surrounding urban areas that is encouraging a shift away from the aggressive prosecution of sex workers. In his 2020 campaign for District Attorney of Multnomah County, now-DA Mike Schmidt called the prosecution of those voluntarily involved in sex work “pointless” and touted “public health-driven alternatives” to fight trafficking.⁹³ However, the data also reflects Schmidt’s office’s reluctance to fully commit to decriminalization. Though arrests for purchasing prostitution have also declined, a break from their previous endorsement of partial criminalization, there were still 11 arrests for prostitution and 6 purchasing arrests in 2020. Clackamas, Deschutes, Lane, and Marion Counties have all mirrored

⁹³ “Comparing Multnomah County’s District Attorney Candidates” (Oregon DA For the People, May 19, 2020), https://www.oregondaforthepeople.com/s/Mulnomah_DA_Candidate_Report_Card_08.pdf.

Multnomah's decline in the number of arrests made for prostitution without completely eliminating them. Washington is the only county with a significant arrest rate that has not noticeably declined.

Only Multnomah and Washington Counties have significant arrests for purchasing prostitution. It appears that Oregon police departments have been more focused on the sale than the purchase of sex. This is not uncommon given that, as repeat offenders, sex workers are often easier to detect than their clients.

Arrests for promoting prostitution have not consistently declined in Oregon in the last 15 years. Since 2015 when the more populous counties began consistently reporting arrests, year-over-year averages have gone down overall, but the decline in individual counties is small and indicates no clear and reliable trend. Unlike purchasing, arrests for promoting occur throughout the state, though they are more common in more populous and urban areas.

Trafficking arrests were largely concentrated in Multnomah and Washington Counties, particularly arrests for trafficking for commercial sex.

1. Race

Oregon is an overwhelmingly white state, but proportionately, there is a significant racial disparity in arrests rates for all sex work and trafficking-related crimes to some degree. Those racial disparities tend to be more pronounced for crimes with more serious punishments. Purchasing prostitution arrests were the least racially skewed of all charges detailed above. Commercial Sexual Solicitation is a class A misdemeanor in Oregon. Promoting Prostitution, on the other hand, is a Class C felony. Trafficking charges are either a class A or B felony and also see a great racial discrepancy in arrest rates. Given what we know about bias in the criminal justice system where Black Americans are more likely to be stopped by police, detained pretrial, charged with more serious crimes, and sentenced more harshly than their white counterparts, it is entirely possible that police and judicial discretion lead to increased targeting of Black individuals for more serious crimes than their white counterparts.⁹⁴

Pacific Islanders are also over-represented in Oregon human trafficking arrest rates. Despite making up only 0.4% of the state's population, Pacific Islanders are 8.4 times more likely to be arrested for trafficking for involuntary servitude and 6.25 times more likely to be arrested for trafficking for commercial sex than white Oregonians. There is a documented history of labor exploitation among other vulnerabilities in the API community in Oregon, so this is likely another example of a community being criminalized for its own marginalization and lack of resource access.⁹⁵

Given what we know about profiling and police discretion, these dynamics are unsurprising but no less critical. The way that sex work laws are written and implemented disproportionately impacts communities of color as well as other marginalized communities.

⁹⁴ Elizabeth Hinton, LeShae Henderson, and Cindy Reed, "An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System" (The Vera Institute of Justice, May 2018), <https://www.vera.org/downloads/publications/for-the-record-unjust-burden-racial-disparities.pdf>.

⁹⁵ A Currey-Stevens, "The Asian and Pacific Islander Community in Multnomah County: An Unsettling Profile" (Coalition of Communities of Color & Portland State University, 2012), <https://www.portlandoregon.gov/oehr/article/713235>, p. 95.

2. Gender

Gender disparities are difficult to quantify through arrest data because transgender women practicing sex work are often misgendered by law enforcement upon arrest. Reports of what Lovell et al. termed “structural misgendering” not only cloud data but also delegitimize gender identification and obscure the experiences of transgender individuals.⁹⁶ The slight overrepresentation of male-identified arrestees for prostitution may reflect that structural misgendering of transgender women, who are frequently stereotyped, targeted, and arrested as sex workers, whether or not they are actually engaged in sex work at the time of arrest.⁹⁷ In 2015, Black transgender women reported officers assuming they were a sex worker one in every three times they interacted.⁹⁸ 90% of transgender sex workers or those suspected of being a sex worker reported being harassed, attacked, or assaulted by the police.⁹⁹

Still, this arrest data makes it clear that sex work decriminalization is not just an issue that impacts women. Male participation in sex work is deeply misunderstood and under-researched, making this population particularly vulnerable to poor health and safety outcomes and a lack of access to resources.¹⁰⁰

Arrests for purchasing prostitution and promoting prostitution were 99% and 82.5% male respectively. Women who purchase sex are more likely to be mature and financially stable, potentially making detection and arrest less likely.¹⁰¹ The gender disparity is smaller for promoting prostitution, which may be a result of the above-discussed potential use of the statute to target sex workers engaging in safety behavior. Regardless, the role that confirmation bias can play in arrest trends should not be ignored. Police stings targeting sex purchasers almost always focus on male buyers.¹⁰²

Arrests for compelling prostitution and human trafficking are also majority male, which reflects national trends. For confirmed trafficking cases, an average of 81% of perpetrators across the country are male.¹⁰³

3. Human trafficking

Trafficking in general presents an interesting question about the policing of trafficking and sex work. National and international anti-trafficking advocates have criticized the United States for

⁹⁶ Rachel Lovell, Misty Luminais, and Karen Coen Flynn, “Structural Misgendering of Transgender Sex Workers in Chicago Via Mug Shots? A Case Study of Practicing in the Social Sciences,” *Practicing Anthropology* 40, no. 1 (January 2018): pp. 48-52, <https://doi.org/10.17730/0888-4552.40.1.48>.

⁹⁷ Taniya Walker, “To Protect Black Trans Lives, Decriminalize Sex Work,” American Civil Liberties Union, November 20, 2020, <https://www.aclu.org/news/lgbtq-rights/to-protect-black-trans-lives-decriminalize-sex-work/>.

⁹⁸ Sandy E. James et al., “The Report of the 2015 U.S. Transgender Survey” (National Center for Transgender Equality, December 2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>, p.14.

⁹⁹ *Id.*, p. 12.

¹⁰⁰ Stefan David Baral et al., “Male Sex Workers: Practices, Contexts, and Vulnerabilities for HIV Acquisition and Transmission,” *The Lancet* 385, no. 9964 (2015): pp. 260-273, [https://doi.org/10.1016/s0140-6736\(14\)60801-1](https://doi.org/10.1016/s0140-6736(14)60801-1).

¹⁰¹ Rigmor C Berg, Sol-Britt Molin, and Julie Nanavati, “Women Who Trade Sexual Services from Men: A Systematic Mapping Review,” *The Journal of Sex Research* 57, no. 1 (July 2, 2019): pp. 104-118, <https://doi.org/10.1080/00224499.2019.1624680>.

¹⁰² Michael Shivley et al., “A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts, Final Report” (Abt Associates, June 2012), <https://www.ojp.gov/pdffiles1/nij/grants/238796.pdf>; Joshua Kaplan and Joaquin Sapien, “NYPD Cops Cash In on Sex Trade Arrests With Little Evidence, While Black and Brown New Yorkers Pay the Price,” *ProPublica*, December 7, 2020, <https://www.propublica.org/article/nypd-cops-cash-in-on-sex-trade-arrests-with-little-evidence-while-black-and-brown-new-yorkers-pay-the-price>.

¹⁰³ “Characteristics of Suspected Human Trafficking Incidents, 2008-2010,” Bureau of Justice Statistics, April 28, 2011, <https://bjs.ojp.gov/press-release/characteristics-suspected-human-trafficking-incidents-2008-2010>.

over-emphasizing trafficking in commercial sex, pumping resources towards arrest and prosecution while ignoring trafficking cases involving non-sexual forced labor. 80% of trafficking survivors are exploited into service, agricultural, or some form of labor outside of sex work,¹⁰⁴ but because “sex trafficking” has been so sensationalized in media and policy, numbers have been inflated while many cases of labor trafficking go unreported and undetected.¹⁰⁵ In 2018, only 4% of trafficking prosecutions in the U.S. involved labor trafficking primarily, while 96% of resources were devoted to sex trafficking prosecutions.¹⁰⁶ Nationally, only 30% of suspected trafficking cases are confirmed to be trafficking.¹⁰⁷ Oregon has moderate human trafficking rates for the United States, with an average rate of 3.08 cases per 100,000 residents,¹⁰⁸ but the Oregon arrest data shows a greater rate of arrest for trafficking for commercial sex than trafficking for involuntary servitude which is in line with national trends.

V. Violence Against Sex Workers

When the #MeToo movement reached a pinnacle in 2017, Meloni Hill, a consensual adult sex worker of 20 years, took to social media to speak out about her own experiences with sexual violence. Instead of support, she received backlash blaming her for the violence she experienced because of her profession.¹⁰⁹ Sex workers across the country are both more vulnerable to physical and sexual assault and murder due to their profession, and also less likely to report the crimes committed against them due to fear of arrest. When sex workers do report crimes perpetrated against them, it is common for incidents not to be investigated, or for sex workers to be blamed themselves for the violence and exploitation they experience.¹¹⁰

A systematic review of global research found that sex workers have a 45% to 75% chance of experiencing sexual violence on the job.¹¹¹ Much of this violence is gender-based; directed at women, both cisgender and transgender.¹¹² Serial rapists and murderers often intentionally target sex workers; they “can be reasonably assured that because of their typically transient lifestyle, the disappearance of [their] victim will not be immediately deemed foul play.”¹¹³ A number of infamous serial killers are known to have

¹⁰⁴ “Global Estimates of Modern Slavery: Forced Labour and Forced Marriage,” International Labour Office, September 19, 2017, 30, https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf.

¹⁰⁵ Helen Kline, “USA,” ECPAT (ECPAT-USA, August 23, 2019), <https://www.ecpatusa.org/blog/2019/8/23/human-trafficking-101-what-is-the-difference-between-labor-and-sex-trafficking>.

¹⁰⁶ Office to Monitor and Combat Trafficking in Persons, “Trafficking in Persons Report,” U.S. Department of State, June 2020, 516-17, <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

¹⁰⁷ BJS, “Characteristics of Suspected Human Trafficking Incidents, 2008-2010.”

¹⁰⁸ “Human Trafficking Statistics By State 2021,” World Population Review, 2021, <https://worldpopulationreview.com/state-rankings/human-trafficking-statistics-by-state>.

¹⁰⁹ Samantha Cooney, “‘They Don’t Want to Include Women Like Me.’ Sex Workers Say They’re Being Left Out of the #MeToo Movement,” *Time Magazine*, February 13, 2018, <https://time.com/5104951/sex-workers-me-too-movement/>.

¹¹⁰ Jillian Keenan, “Sex Workers Don’t Deserve to Be Raped,” *The Daily Beast*, September 27, 2014, <https://www.thedailybeast.com/sex-workers-dont-deserve-to-be-raped>.

¹¹¹ Deering et al., “A Systematic Review of the Correlates of Violence Against Sex Workers.”

¹¹² Shannon et al., “Prevalence and Structural Correlates.”

¹¹³ Heidi Rebecca Charlotte Baker, “The Serial Murder of Sex Workers: The Social Construction of Serial Killers by Sex Worker Advocacy Groups,” *The Serial Murder of Sex Workers: The Social Construction of Serial Killers by Sex Worker Advocacy Groups* (2003) pp. 17-18, <https://scholar.uwindsor.ca/cgi/viewcontent.cgi?article=5266&context=etd>.

targeted sex workers, including (but certainly not limited to) Gary Ridgway (the Green River Killer) and Dayton Leroy Rogers (the Molalla Forest Killer), who both operated in Oregon.¹¹⁴

Conversely, rates of violence, marginalization, and stigmatization decrease when repressive tactics are eased or eliminated. Decriminalization in New Zealand has empowered sex workers to more effectively screen clients, supporting their safety and well-being.¹¹⁵ When indoor sex work was briefly decriminalized in Rhode Island via a legal loophole, reported rapes fell by 31%.¹¹⁶ Online sex work advertisements from Craigslist's Erotic Services (ERS) page allowed many sex workers to create online safety networks, vet clients, and avoid street-based work. A study examining the rollout of ERS across the country found that the platform decreased female homicide by anywhere from 10-17% around the country.¹¹⁷

Social stigma also results in both perceived and actual lack of police protection. Alisha Walker, a nineteen-year-old sex worker from Akron, Ohio fought back when a regular client became violent. She stabbed him in self-defense and was charged with second degree murder. During Alisha's trial, prosecutors disparaged her profession and portrayed her as a manipulative criminal.¹¹⁸ It is not uncommon for police to perpetuate violence against sex workers themselves where sex work is criminalized. According to a report submitted to the United Nations in 2004, a pattern of police violence against sex workers includes "assault, sexual harassment, public 'gender searches', and rape."¹¹⁹

The decriminalization of sex work has been shown to mitigate both stigma and violence. Deering et al. found that the risk of violence at the hands of clients as well as police harassment decreased by 86% under decriminalization.¹²⁰ The same cannot be said for the Nordic model. In Norway, Northern Ireland, and Canada, all places that have implemented the Nordic model, the policy has resulted in increased anti-social behavior directed at sex workers and fear of violence reported by sex workers.¹²¹

¹¹⁴ Blaine Harden, "The Banality of Gary: A Green River Chiller", *Washington Post*, November 16, 2003, <https://www.washingtonpost.com/archive/lifestyle/2003/11/16/the-banality-of-gary-a-green-river-chiller/2d9575c7-6843-4ec3-9517-72cd3ecdd9b0/>; Steve Mays, "Women who escaped serial killer Dayton Leroy Rogers describe encounters in resentencing trial", *Oregon Live*, October 26, 2015, https://www.oregonlive.com/clackamascounty/2015/10/women_who_escaped_serial_kille.html

¹¹⁵ Lynzi Armstrong, "Screening Clients in A Decriminalised Street-Based Sex Industry: Insights into the Experiences of New Zealand Sex Workers," *Australian & New Zealand Journal of Criminology* 47, no. 2 (2014): p. 220, <https://doi.org/10.1177/0004865813510921>.

¹¹⁶ Cunningham and Shah, "Decriminalizing Indoor Prostitution".

¹¹⁷ Scott Cunningham, Gregory DeAngelo, and John Tripp, "Craigslist Reduced Violence Against Women," 2019, pp. 1-50.

¹¹⁸ "Alisha Walker: Survived and Punished," Barnard Center for Research on Women, August 27, 2020, <https://bcrw.barnard.edu/videos/alisha-walker-survived-and-punished/>.

¹¹⁹ "Sexual Violence Against Sex Worker" (The Sex Workers Project at the Urban Justice Center, August 2020), <https://swp.urbanjustice.org/wp-content/uploads/sites/14/2020/08/Fact-Sheet-Sexual-Violence-Against-Sex-Workers-1-1-1.pdf>.

¹²⁰ Deering et al., "A Systematic Review of the Correlates of Violence Against Sex Workers."

¹²¹ Graham Ellison, Caoimhe Ni Dhonaill, and Erin Early, "Assessment of Impact Criminalisation of Purchasing Sexual Services" (Northern Ireland Department of Justice, September 18, 2018), <https://www.justice-ni.gov.uk/news/report-published-impact-sex-purchase-offence>; Elena Argento et al., "The Impact of End-Demand Legislation on Sex Workers' Access to Health and Sex Worker-Led Services: A Community-Based Prospective Cohort Study in Canada," *PLOS ONE* 15, no. 4 (April 6, 2020), <https://doi.org/10.1371/journal.pone.0225783>; "The Human Cost of 'Crushing' the Market: Criminalization of Sex Work in Norway" (Amnesty International, 2006), https://www.amnestyusa.org/files/norway_report_-_sex_workers_rights_-_embargoed_-_final.pdf.

VI. Human Rights Commission Testimony

At the Commission's public hearing on July 15th, 2021, the 13 Commissioners unanimously testified that the criminalization of sex work contributes to violence, poor health outcomes, and discrimination, with the most adverse outcomes felt by those who are most vulnerable. Commissioner statements were interspersed with those of other witnesses, including sex workers, survivors of human trafficking, service providers, and leaders of organizations specializing in human rights, health and safety. The testimony quoted below is not representative of the full scope of what was presented at the hearing, which can be viewed in full online.¹²²

A. Commissioner Testimony

State Representative Rob Nosse, Commission Co-Chair gave powerful opening remarks: "We need a new legal approach to how we treat sex work. Our society needs fewer reasons to involve people in the criminal justice system, especially for something like sex." Representative Nosse expressed a need to educate the public that, under decriminalization, exploitation and trafficking would remain serious criminal offenses. He commented that decriminalization would improve health and safety outcomes, decrease interactions and costs associated with the justice system, improve working conditions for sex workers, and leave the government out of the private business of consenting adults. He emphasized that decriminalization would diminish incidence of human trafficking.

Alex Andrews, Commission Co-Chair and co-founder of Sex Workers Outreach Project (SWOP) Behind Bars, opened the hearing by explaining, "I have been an activist since 2008. Before that, I was a sex worker. I entered the industry in 1984. I have also been a victim of sexual assault, I have been a victim of domestic violence, and I am a survivor of exploitation. I support the full decriminalization of sex work because I believe that it will make us safer. I believe that it will make us healthier. And I believe that it will make us a better society. And that will create a better world for us to live in."

JoAnn Hardesty, Portland City Commissioner, spoke about reimagining community policing and public safety, saying, "We have to use our limited resources in a way that's building community and not destroying community."

Elle Stanger, Oregon-based sex worker, certified sexuality educator, and rights advocate, touched on the shame and ostracization associated with sex work-related arrests. "People who want to pay for touch are not inherently sick, sad, perverse, or harmful...Some people hate pornography, sex outside of marriage, sex for money, queer sex, kinky sex, poly sex; I know that there are people who are traumatized with their own negative experiences with sexually explicit media and I understand that trauma can cloud the bigger picture. But the people who hurt us the most are often the people who want to abolish sex work, not make it safer. Many people cloak their hatred of sex work in false concern in sex workers."

Dr. Barbara Brents, Professor of Sociology at University of Nevada, Las Vegas, spoke to the wide variety of individuals who participate in sex work in the current social climate, the vast majority of whom do so as a result of choice or to earn a living rather than because of the existence of any type of coercion.

¹²² The recording is available to watch at <https://www.avstream.me/oregonsexworkers>.

Dr. Brents noted that, though coercion and abuse do exist, it is rare compared to the scope of participation, and criminalization only exacerbates the risk of exploitation. Minors who participate in street-based sex work report that they are not afraid of so-called “pimps” but rather finding a safe place to sleep, food, and access to healthcare.

Dr. Angela Jones, Professor of Sociology at Farmingdale State College, testified that “no policy to date has successfully eliminated the supply nor demand for consensual adult sex work because those policies continually fail to address the structural problems underlying the need and desire to engage in sex work. Sex work remains the best way for many people to earn a living and policymakers must find ways to make it safer, more transparent, and healthier.” Dr. Jones emphasized the disproportionate harm of criminalization borne by those who are most marginalized - “those experiencing poverty, people of color, trans people, and people with disabilities. Decades of research unequivocally show that criminalization makes sex workers less safe, contributing to violence, poor health outcomes, banking and housing discrimination, stigma, and driving exploitative third parties underground,” making abuse hard to detect. “In contrast, decriminalizing sex work has many benefits, including public safety, health, and again, all of the studies show that decriminalizing sex work has the impact of decreasing human trafficking.”

Ricci Joy Levy is President and CEO of the Woodhull Freedom Foundation, the chief plaintiff in the lawsuit challenging the constitutionality of SESTA/FOSTA. “As with all human rights work,” Levy testified, “the work to decriminalize prostitution is integrally connected to the work for social and economic justice because without those things there is no sexual freedom, and, conversely, without sexual freedom social or economic justice will not be complete.” Levy also highlighted decriminalization’s intersection with trafficking: “For sexual freedom to be fully recognized as a human right, we have to address the issues of forced labor and trafficking, but the criminalization of prostitution is not the answer. The criminalization of prostitution is about controlling our bodies, controlling our access to and participation in labor, in pleasure, in sexual expression.”

Vanessa Warri, community health educator, scholar, researcher, and Transgender Community Advisor to G.L.I.T.S., Inc., testified that sex workers have been asking for decriminalization for decades in order to be able to fully participate in society and access critical resources, saying, “When we say that we want decriminalization, it is to keep us safe.” She expanded on the unequal impact of these laws: “individuals who exist at the intersections of blackness, queerness, transness, and womanhood... are disproportionately likely to experience racialized and gender-based discrimination and violence that takes the form of limited access to full societal participation, negative interactions with law enforcement, and lack of access to the resources that enable us to meet our basic needs.”

Amy-Marie Merrell is the Executive Director of Cupcake Girls and a service provider for survivors of sex trafficking, domestic violence survivors, and people in adult entertainment. “I am ashamed that my tax money has gone to criminalization and I am frustrated that I am also paying to undo the harm that our government has done to these tenacious, courageous people,” Merrell testified. She went on to speak about her efforts to reunite parents with their children after the state deems them unfit parents for sex working offenses, “even though it has been proven that children are far better off staying with their parents over foster care, except in extreme circumstances.”

Katherine Dire works as a Dominatrix in Portland and spoke about the importance of her work. “Sex is an inherently positive, healthy, natural part of the human experience,” explained Dire. “I absolutely love my job. I can’t think of any other job that I would rather do; and, when I retire, I plan to teach other people exactly what I do because it makes a lot of people happy.” Like many, Dire is frustrated by the myth that sex work, which brings her joy and fulfillment, is inherently exploitative and violent, when criminalization is in fact what drives abuse in the industry.

Melissa Sontag Broudo, JD, MPH is a longtime attorney and advocate for sex workers and trafficking survivors with the SOAR Institute and Decriminalize Sex Work. She provided a national overview of sex work policy, highlighting legislative strides for sex workers and trafficking survivors in Rhode Island, New Hampshire, New York, California, and Vermont that represent a broader trend of moving away from criminalization. She concluded, “I have a panoramic perspective, in a sense, of the industry. I have had the honor of learning from all of my clients and colleagues in the industry who represent a very diverse spectrum of the industry... There is no one story. But there are common threads - stigmatization, criminalization, marginalization - and that is what we are working here today together to fight.”

Reverend Kerlin Richter, an Episcopal priest in Portland, testified that “Christianity has a really rough history of being part of the problem — of shame, sex negativity; on behalf of the Church, I’d like to apologize. I want to work toward healing and liberation, which is what I believe Jesus came here to do. I believe in a god who showed up in a human body and never once shied away from touch, women, or sex workers. The criminalization of sex work is much more about power, control, and shame than any Christian value such as love, justice, or mercy.”

State Senator Elizabeth Steiner Hayward, MD was a practicing physician before she entered public office. She advocates for decriminalization to improve public health outcomes and access to resources. She said, “Good policy should be based on hard science. But good policy is sold by great stories because without putting a human face to who sex workers are and the difference between sex work and trafficking, we will never be able to pass good, evidence-based policy to decriminalize sex work.”

B. Impacted Community Testimony

Kara Alexander identifies as a trafficking survivor who returned to sex work later in life as a consensual sex worker. The shame and stigma that Alexander felt while being trafficked made her feel that she had no way out. “I was raped several times. I was assaulted. The police did nothing because I was a prostitute.” After years of enduring the abuse, she escaped and decided to press charges against her trafficker. “I was scared to testify... because not only was I scared of the gang I was being trafficked by, I was scared because the police had failed me. They had allowed my trafficker to come out into the same hotel in which I was staying so I felt unsafe. They tried to put me in a DV shelter and when they first arrested my trafficker, because the room was in his name, I had to sit outside in below zero freezing weather. I was a criminal in their eyes.” The resources to meaningfully help trafficking victims, says Alexander, “just aren’t there.” She was later connected with Commission Co-Chair Alex Andrews of SWOP Behind Bars, who offered to help Alexander get cosmetology training. Alexander also decided to return to sex work, “Except this time it was different. There was a change. The trauma was there from the trafficking, but now I have empowered myself. I’m able to set goals, I’m able to go to school, I’m able to take control of my life, control that has been taken from me for years.”

Alexander felt like she was on a path to success until SESTA/FOSTA was passed, costing her thousands of dollars and her profession. It “took back the control that I had felt like I had,” she explained. She tried to get a job, even taking her certification of her trafficking survivor status to interviews but she was still rejected because of the misdemeanor solicitation charges on her record from being trafficked. “We need to stop the criminalization because not only was I exploited by a gang, I was exploited by the system and I’m still held accountable every day for it. I may heal from the past of being trafficked but every day I have to look at, am I gonna be able to get a job, can I get into an apartment? I support decrim as a sex trafficking survivor and as a former sex worker.”

Brandi is a sex worker and a survivor of human trafficking and domestic violence. She credits sex work with providing her a stable enough life to avoid exploitation. “I’m a single mom with no family support and I’ve exhausted every option available to me to survive. I have endlessly committed to training courses, 9-5’s, time after time I was always short on the bare minimum of providing food and housing for my family. Consensual sex work has been a game changer and the only opportunity that put me in a position of being able to pay my rent. My work life does not overlap with my home life. I am able to buy food, my kids’ school supplies, give them presents on Christmas morning and not have the fear of being homeless.” Brandi’s positive experience as a sex worker has been marred by negative interactions with law enforcement. When she was attacked and robbed, law enforcement declined to help her and instead arrested her for prostitution as part of an alleged human trafficking operation. “Law enforcement says I should get a real job— as if I don’t have a real job,” Brandi testified. “I have counseled married couples on things they were too embarrassed to talk to anyone else about. I’ve offered consensual touch and comfort to single people and I’m their only source of human contact. I’ve gained tremendous amounts of knowledge on interactions with humans through my work.”

When she sought employment outside of sex work, she was denied because of her background. Brandi has also been denied housing because of her background. She feels that the current laws have “trapped” her “into a life of never-ending poverty and criminalization...I’m not violent, I am not addicted to drugs, I was not sexually abused as a child. But I was exploited and trafficked in a domestic violence situation as an adult and law enforcement did nothing to help me because apparently I’m not a victim if I want to continue consensual sex work on my own.” Brandi elaborated on her appreciation for her clients as “the ones who saved me from being victimized. My clients allow me a stable life. My clients have been the only ones to offer me meaningful support...I say it’s my body and it’s my choice. The law says my clients are criminals for supporting me. How is justice served? The only justice is decriminalization.”

Bianca Beebe is a New Zealand-based sex worker and Co-Chair of the Oregon Sex Workers Committee, currently pursuing a Master of Public Health degree from Johns Hopkins University. As a dual citizen of the United States and the Netherlands, she has years of experience as a sex worker under criminalization (in the U.S.), legalization (in the Netherlands), and decriminalization in New Zealand, as well as “substantial academic rigor behind [her] unequivocal statement that the decriminalization of sex work is an essential component of human rights.” Bianca spoke about different sex work policy models that have taken hold around the world. She acknowledged criminalization as the most harmful policy and continued that “legalization and end demand, or the so called ‘Nordic Model’ still exacerbate health and legal inequities between different kinds of sex workers and exacerbate violence against the most

vulnerable sex workers. We need only to look at Nordic countries that have implemented it to show that, without fail, this system isolates sex workers from communities that keep them safe, promotes trafficking, and is not supported by any sex worker-led organization. It is not a step in the right direction. We need decriminalization. Decriminalization is the only legislative model that decreases the ability of clients or police to commit violence against sex workers with impunity and it is the only model that fully combats sex trafficking. Very rarely are choices this simple. Decriminalize sex work and you save lives.”

Bianca spoke about a sexual assault she experienced at the hands of a client while working in New Zealand. She called the police and filed a report, as decriminalization provided her with the security that she would not be punished for seeking help. She described being treated respectfully and taken seriously by law enforcement. When discussing her hesitancy and fear with them, “A uniformed, on duty, male police officer...said to [her], we don’t care what you do for a living. No one is allowed to treat you this way. We just want to catch this guy and make sure he doesn’t do this to someone else.” Bianca went on to say, “this is not the first time in my life I have been sexually assaulted but it was the first time it happened through sex work and it was the only time it was ever taken seriously and I was not blamed for what happened to me. Decriminalization made that possible. You have the opportunity to make Oregon a world leader in the pursuit of human rights and I hope you take it.”

Kate and Jessie Marquez are a mother and daughter who testified about their experience of Kate doing sex work while Jessie was growing up. When Jessie was eight years old, Kate took her daughter and left behind an abusive marriage. She moved to San Francisco to attend college. Kate describes going “to work at a downtown massage parlor where I worked alongside mostly immigrant women in very similar circumstances to those recently murdered in Atlanta. They were mothers who were the support of their immediate families, and very often their families back in their home countries.” At this time, Jessie remembers her mother sitting her down to tell her daughter she was working as a sex worker. “My mother said to me, ‘the right to be a prostitute is as important as the right not to be’ and that made sense to me.”

Both Kate and Jessie describe their lives changing significantly as a result. They were lifted out of poverty, and “got a better car, new clothes, and started being able to buy more of what we wanted at the grocery store. We were no longer poor. We were secure,” says Jessie. Kate was able to finish school and be a present parent for her daughter. She made friends who Jessie remembers as “artists, poets, painters, musicians... wonderful women [who] gave me lots of love and affection. They enriched my life and they taught me values of freedom, strength, acceptance, and kindness.” Jessie also remembers watching her mother publicly shamed for doing sex work. But Kate was also getting involved in activism. She joined COYOTE, a sex workers rights group. She credited her activism with helping her face the stigmatization she encountered. “Stigma is profound,” Kate testified. “It has shaped my life. I think of the tens of thousands of people who have done sex work and how the stigma affects them, their spouses, children and parents. Stigma is uniquely isolating.”

Lisa is a survivor of sex trafficking who later reentered the industry as a consensual sex worker. Now she works as a public policy consultant and advocate for sex workers, trafficking survivors, and people with disabilities in the sex industry. She testified about her trafficking experience, which came at one of the most vulnerable times in her life. After escaping exploitation, her resulting trauma made it difficult to maintain traditional employment. When a friend suggested she do sex work, she heeded the advice and

found herself finally in a sustainable job. “Running my own business as an independent escort has given me a confidence and self-esteem that has always eluded me due to the stigma as being a person who lives with disabilities,” she testified.

Samantha Evans is disabled sex worker and trafficking survivor who suffers from PTSD and anxiety. At the age of 14, Evans was trafficked to Canada. When law enforcement “rescued” her, she was placed in solitary confinement at the border. She testified about her experience with Homeland Security, saying they “blamed me for my plight. They said I was lucky I didn't end up in a ditch, as if it was my fault. I don't know how many hours or days I interrogated for. This is very common for trafficking victims due to the criminalization of sex work.” Evans later found herself in an abusive marriage and credits the “anonymity and power of sex work” for allowing her to escape. “No other job has been as accommodating to me as sex work. I have the power to make my own schedule, sit down and take breaks, and say no to anyone I want when I need to. I also have the ability to make decent earnings in a short amount of time. I am treated with respect by my co-workers and clients. I have reclaimed my identity, confidence and life due to sex work. You go from being targeted and trafficked to... being uplifted and respected by coworkers and clients.”

Stoney Faye is a sex worker who lives with autism, a sensory processing disorder, and severe anxiety, all of which create challenges in traditional employment. “Sex work has changed my life and saved my life multiple times. Survival sex work made me financially independent for the first time and let me leave multiple abusive relationships. Right now, sex work is allowing me to put myself through graduate school while I stay at home with my daughter. I feel no shame about what I have done for dollars because consensual interactions between adults should not be judged, policed, or criminalized by outside parties. I feel no shame in my history because I know I am a healer.”

C. Advocate Testimony

Dame Catharine Healy is a New Zealand-based sex worker rights activist, researcher, and former sex worker. Dame Healy played an instrumental role in the passage of New Zealand's decriminalization law in 2003 and was recognized with an Order of Merit from the Queen of England for her work in 2018. In the late 80's, Dame Healy partnered with the New Zealand government to improve health outcomes among sex workers. As she described it, “on the one hand, we had the police who were taking our condoms and prosecuting us, and on the other hand we had the health administrators and policy people expecting us to run this full HIV prevention program. So we pushed out legislators to acknowledge our concerns. And in 2003, our Parliament with 123 Parliamentarians voted in favor of decriminalization.”

Dame Healy attested to the vast improvements New Zealand has witnessed under decriminalization. “Sex workers report having more access to justice, they feel more comfortable coming forward and contacting the police. Our courts have supported sex workers to lay complaints in terms of sexual harassment and other dreadful crimes that have been committed against them and have found in favor and set precedents, not only for sex workers but for all other people.” She went on to describe the case of a sex worker who had recently brought a case of sexual harassment against a manager in the brothel she was working at to New Zealand's Human Rights Tribunal. The court awarded her a six-figure settlement.

“On the ground, the reality of many sex workers is that they have more choice,” said Dame Healy. “Sex workers can work, if they choose, with a friend, they can work from home, or they can work in a managed brothel. Importantly, street-based sex workers can work from anywhere. Often it’s street-based sex workers who are picked on and arrested disproportionately.” Dame Healy urged Oregon legislators to listen and learn from New Zealand. “The way forward is definitely to decriminalize sex work and ensure that sex workers have labor rights. You could adopt an integrative model, one that upholds labor rights, human rights and acknowledges that this community is a significant contributor to any society.”

Nancy McConnell, founder and CEO of Rebel Recovery Florida and former sex worker, spoke about her personal experiences in the industry as well as her work supporting recovery from substance abuse disorders. “My life has been adversely affected due to my prostitution charges from over a decades ago,” she testified. The charges “prevented me from obtaining full licensure as a licensed clinical social worker even though I have completed all my academic requirements and graduated magna cum laude from my university.” She went on to say, “Sex workers face enormous challenges but have survived in one form or another since the beginning of time. People who trade sex deserve to have the same rights and protections that all people who trade their labor for money have and should be able to have access to safe spaces. They should be welcomed into discourse that shapes their lives through the creation of policies and programs to improve their health and the wellbeing of their families.”

Gloria Lockett is a former sex worker, the former Co-Director of COYOTE, and Executive Director of CalPEP. Lockett did not speak at the Commission, but video of her speaking from a documentary made about longtime sex workers rights activist Margo St. James was aired with her permission. In the video, Lockett spoke about her experience being a Black woman sex worker in the 1970’s and 80’s and the blatant racial profiling she and her fellow workers experienced. “When we got busted they were trying to send the black people to jail and the white girls, they wanted [them] to testify against us, which they didn’t,” Lockett recounted. “We got busted for working together - they thought the one black man was controlling us.” After Margo St. James helped them defend their case, the women continued to work together, advocating for sex workers and doing street outreach to provide services and support. “It wasn’t about us telling them what they should and shouldn’t do, but how to do their work safely,” Lockett said.

Ali, who is the Executive Director of the Sex Worker Outreach Project (SWOP) USA and a sex worker submitted video testimony saying, “by decriminalizing something, you are saying that you care about the most marginalized, Black, brown and trans folks. We are allowing organizations, neighborhoods, and communities to help these people without having their hands tied by the legal system.”

Shawna Peterson, Executive Director of the Oregon Chapter of the National Organization for Women (NOW) touched on the historical tension between NOW and the sex worker rights movement. She was transparent about the organization’s former stances as “anti-prostitution and unaware of sex trafficking...making a clear assumption that 100% people in the sex industry are first of all female and second of all, there against their will.” But Peterson commented that the organization is embracing cultural change: “we are forever moving in the direction of more youthful and diverse voices, constantly listening, learning and growing.”

Peterson expressed her gratitude for being included in the event and her support of promoting the human rights, safety, and health of sex workers above all else. “Sex work is a hot button issue at NOW,” she said. Regardless of the previous leanings of the organization, “Most of us believe that no one should have any say over someone else’s bodily autonomy whether this involved sex work, end of life rights, or abortion.”

Ian Morton, Executive Director of the Q Center, testified that the “decriminalization of sex work is the first step in providing appropriate protection to Oregon’s sex worker community.” He declared his and the Center’s public support for decriminalization, particularly attesting to the disproportionate impact of criminalization on “our queer, trans, and BIPOC communities... our shared effort should be protection not punishment.”

Sandy Chung, the Executive Director of the ACLU of Oregon, testified about a 2020 report released by the ACLU that comprehensively reviewed more than 80 studies on this decriminalization based in the United States and beyond.¹²³ “The ACLU’s 2020 report contains the following findings,” explained Chung. “First, the criminalization of sex work negatively affects the safety and well-being of sex workers. This includes higher risk of misconduct and physical violence by clients and police officers, negative impacts on their ability to report crimes and advocate for their rights in other ways, and negative impacts on their physical, mental, emotional, and sexual health. Second, the report confirms what many of us know from our lived experiences: criminalization and its negative consequences disproportionately impact sex worker communities who are the most vulnerable and marginalized in our society, including LGBTQ+ people, people of color, immigrants and refugees, undocumented people, and those living at the margins of these identities.” Chung concluded by saying, “the true measure of our society is how we treat our most vulnerable members. The ACLU of Oregon urges you to help create an Oregon of great justice, equity, and care for the sex worker community.”

Portland City Commissioner Carmen Rubio was not present at the meeting but submitted a written statement read by her policy director Ricardo Lujan Valerio. “I stand here today alongside others in support of the decriminalization of anti-prostitution laws,” said Commissioner Rubio. “These repressive and discriminatory laws threaten sex workers’ access to justice, health, and social services, and deny the right to self-determination. Decriminalization is necessary so that we can focus on workers rights and equity in the sex sector and also to refocus the fight against trafficking to where it belongs, on the trafficker, not on the victims or workers.” She elaborated, “Sex work does not on the balance make our community less safe. Decriminalization makes these workers more safe and thus moves us closer to a truly inclusive model of public safety. We still have to push for further recognition and reform for the many that still face punitive consequences under our current laws. Our emergency and prosecutorial resources should not be spent on consenting adults that make self-determined and informed decisions to do this line of work.”

¹²³ Sarah Sakha, Emily Greytak, and Mya Haynes, “Is Sex Work Decriminalization The Answer? What The Research Tells Us” (American Civil Liberties Union, October 21, 2020), <https://www.aclu.org/report/sex-work-decriminalization-answer-what-research-tells-us>.

VII. Future Research

Because of the stigma around prostitution, research has been limited and criminalization makes it difficult to aggregate data. The Commission strongly urges continued research around:

- The long term and standardized impact of sex work-related arrests and how this affects an individual's life course;
- The financial cost of arresting sex workers and their clients in terms of criminal and judicial expenditures, as well as the costs to public health and public safety;
- How much anti-trafficking funding is diverted into arresting and criminalizing adult consensual sex workers;
- The rate of violence committed against sex workers and how often these crimes are meaningfully addressed (if ever); and
- Human trafficking responses, how individuals are directed into diversion programs or criminalized, and what the outcome of diversion programs are.

VIII. Conclusion and Recommendations

At this critical juncture, when lawmakers are increasingly listening to advocates and community members impacted by sex work and anti-trafficking policies, Oregon lawmakers and citizens must take action. Analysis of national and global studies on sex work and trafficking laws, state-level legislation, and arrest data demonstrates that Oregon's current policy of criminalizing sex work poses enormous social, political, and economic costs to its populace.

The punitive policing of sex workers alone has cost Oregon taxpayers an average of \$21 million dollars annually over the last 16 years. Beyond that, it has eroded trust between community members and law enforcement, endangered public health and safety, and misdirected anti-trafficking funds towards the prosecution of consensual sex workers and their clients. No policy to date has successfully eradicated sex work and punitive policing has only harmed public health outcomes, made sex work more dangerous, and trafficking harder to detect. To make matters more pressing, it is clear that these burdens are not borne evenly. Those who are already burdened by structural inequality, whether as a result of gender identity, sexual preference, race, poverty, immigration status, drug use, or lack of access to healthcare, housing, and education disproportionately suffer under the criminalization of sex work.

A. Decriminalization of Consensual Adult Sex Work

This Commission unequivocally recommends the decriminalization of consensual adult sex work for the wellbeing of all Oregonians. The decriminalization of sex work:

1. Mitigates the egregious acts of violence perpetuated against sex workers and those stereotyped as participating in sex work. Decriminalization allows sex workers greater access to safe online forums and indoor work where they can screen clients for safety and increases workers' agency and rights when interacting with law enforcement entities;

2. Leads to improved public health outcomes by mitigating stigma and allowing sex workers access to adequate health care. Under decriminalization, violence and STI infections decline; and
3. Reinvests the resources used to surveil consensual sex workers into interventions that can actually combat trafficking. Under decriminalization, the resources previously devoted to prosecuting consensual sex workers and their clients can effectively be used to target and prosecute trafficking and support survivors. Clients and sex workers who witness or suspect exploitation can safely report it without fear of arrest for sex work itself.

B. Incremental Legal Changes

As we continue to work towards the goal of decriminalization, there are a number of strategies and steps we can and should take to advance the movement, including some that are already underway:

- Prosecutors and district attorneys' offices must stop the practice of prosecuting prostitution-related cases, as they have in some other parts of the country.
- City codes must be amended to remove harmful ordinances, such as Portland's Loitering to Solicit Prostitution rule.
- Vacatur laws for survivors of human trafficking must be expanded. Currently, survivors in Oregon can still be prosecuted for crimes they were compelled to commit as a result of their exploitation. Some protection does exist for survivors convicted of prostitution, but the burden of proof is far too high to make it accessible to many survivors. A criminal record prevents many survivors from accessing critical resources they need to move on from their trafficking experience, including housing, job opportunities, and education. Many survivors are forced to commit crimes which are not prostitution-related and are ineligible for vacatur, a burden they will bear for life.
- Existing human rights protections must be expanded to include sex workers; for example, patients' bill of rights should specify that medical professionals cannot discriminate against patients based on income or profession, housing protections must be expanded, and it must be ensured that discrimination does not occur in higher education.
- There should be enhanced licensing and legal protections for somatic sexual educators or other therapeutic sexual services.
- There should be another commission convened to look deeper into state-wide laws and policies regarding sex work and trafficking. This commission should identify any other harmful pieces of legislation that exist as well as what services are needed to address the underlying structural issues driving poor health and safety outcomes in the sex industry.

C. Next Steps

The Commission ultimately recommends the decriminalization of consensual adult sex work to protect the welfare, health, and human rights of Oregon community members, particularly those who are most vulnerable to exploitation. The records of people previously charged and convicted of sexual offenses related to consensual sexual commerce should be expunged. The Sex Worker Human Rights Commission public hearing should be repeated next calendar year and provide a model for other cities and states around the country to raise awareness about these issues and how best to address them. While national,

and even state-level, policy change can be slow, improvements at the local level are more easily accomplished and incredibly valuable for their demonstration of improved outcomes.

Commissioners are optimistic about future iterations of HB 3088 as the decriminalization of sex work becomes better understood for its benefits to health, safety and human rights. The Commission looks forward to the possibility of a ballot initiative being introduced in Oregon within the next few years. Local activists are also pursuing a grassroots lobbying effort in Multnomah County led by sex workers to stop sting operations and prostitution arrests.

Ultimately, legislators must all look at the evidence and write and repeal laws, keeping in mind the health, safety, human rights, and happiness of all their constituents, and there must be a collective effort by policymakers, activists, and community members alike to ensure continued public education on the harms of criminalization.

Appendix A: The History of the Oregon Sex Workers Committee

Sex workers throughout modern and ancient culture have faced violence and discrimination due to criminalization. We have repeatedly sought the same rights and protections that others are entitled to under the law. The Oregon Sex Workers Committee (OSWC) continues these efforts with our stated mission to destigmatize and decriminalize sex work for consenting adults, beginning with the state of Oregon. Our intention is to empower sex workers across the industry to lead their own movement so we may all gain these basic human rights, and so that no worker must face the harms posed by the stigma and criminalization of our labor.

The OSWC has its origins in the Urban Justice Center's Sex Worker Project, which contracted Ted Blaszak, a political consultant to champion the passage of HB 3088, which would decriminalize sex work in the state of Oregon. Co-sponsored by Representatives Rob Nosse, Wlinsky Campos, and Dacia Graybear, HB 3088 was the result of the tireless efforts of grassroots organizing from sex workers in the community. It received wide support from sex workers throughout (and beyond) Oregon, whose lobbying efforts directly to legislators were frequently the first time legislators had engaged in the topic of sex work with actual sex workers. Ted introduced the idea of hosting a Sex Workers Human Rights Commission to allow legislators and members of the general public to hear directly from sex workers and researchers about why the criminalization of sex work is harmful, and decriminalization is the only legislative model that has demonstrated a positive impact on workers' rights and safety, while also combatting the conditions that lead to trafficking.

Unfortunately, HB 3088 did not progress past its first reading, and the Sex Workers Project decided to focus on other initiatives. Undeterred, sex worker activists remained committed to advocating for decriminalization in Oregon, and were able to continue to collaborate with Ted as an independent lobbyist. This collaboration resulted in the establishment of the Oregon Sex Workers Committee as an independent, miscellaneous political action committee, with Ted as treasurer and sex worker activists Elle Stanger and EM serving as chair and secretary. We hosted separate meetings for sex workers and non-sex working allies, both of which were well-attended with enthusiastic support, immediately growing our committed membership. Despite the lack of funding or outside institutional support, the OSWC decided to host the Oregon Sex Workers Human Rights Commission hearing anyway. Fortunately, less than a month after parting ways with the Sex Workers Project, Alex Andrews, the Executive Director of Sex Worker Outreach Project Behind Bars (SWOP-BB), raised the money needed to hold a successful Human Rights Commission. She became an integral member of the OSWC, taking over duties as Treasurer as well as several responsibilities for the event, such as creating the slide show and bringing in key supporters and witnesses to make the event a success.

In the meantime, our committee grew to include over 60 sex workers and even more allies. Sex workers took the lead, and in the form of a non-hierarchical workers' collective planned out each detail of the event and took the steps to make it happen. Our activities were numerous. We wrote letters to the editor and press releases; we recruited and collaborated with all thirteen of the Commissioners; we encouraged other sex workers to join the committee; we made banners and did event promotion; we recruited, screened, scheduled and collaborated with 75 witnesses with both written and verbal testimony; we found a location, selected menus, arranged for security, and put together an AV team; we made a web page to

support our work (www.oregonsexworkers.com); we approached potential Oregon allies by writing to over 500 Oregon organizations and key opinion leaders; we arranged for child care and on-site mental health care; and we produced an outstanding slide show and a prodigious 100+ page document of scientific studies and resources to support our arguments.

With six weeks left before our event we received some surprisingly good news. Chair Janelle Bynum decided to grant us a 15-minute informational hearing before the House Judiciary Committee on June 3rd, 2021, during the final days of the legislative session. The informational hearing was successful in helping us gain more publicity for our event: our arguments were now out to the public and entered into the official legislative record for future policy considerations.

Our five witnesses--Alex Andrews, Elle Stanger, Nicole Gilliland, Amy-Marie Merrell, and Dr. Angela Jones--offered testimony and took questions from Chair Bynum. A passionate follow up press conference was held afterwards with many speakers including:

- State Representative Rob Nosse, Chief Sponsor of HB 3088
- Elle Stanger, Certified Sex Educator and Sex Worker Activist
- Bella, Sex Worker Activist
- Kristina, Sex Worker Activist
- Corinne Hawk, (Dis)abled Activist
- Dame Catherine Healy, National Coordinator New Zealand Prostitutes' Collective (NZPC)
- Bianca Beebe, Sex Worker Activist and Co-Chair of the OSWC
- Alex Andrews, International Human Rights Advocate, Executive Director of SWOP Behind Bars (Sex Worker Outreach Project Behind Bars), Former BOD member of SWOP-USA and Global Sex Work Projects
- Melissa Sontag Broudo, Attorney, SOAR Institute & Decriminalize Sex Work
- Amy-Marie Merrell, Executive Director, The Cupcake Girls
- Barbara G. Brents, Ph.D., Professor of Sociology at University of Nevada, Las Vegas
- Angela Jones, Ph.D., Professor of Sociology at Farmingdale State College, State University of New York
- Storm Large of the band Pink Martini
- Charles Newlen of the Pacific Green party

The press conference produced positive coverage to multiple media outlets including the Portland Tribune, The Oregonian, The Willamette Weekly, and Oregon Public Broadcasting.

The Oregon Sex Workers Human Rights Commission hearing took place on the evening of July 15, 2021, recorded and currently publicly accessible for viewing at oregonsexworkers.com; we encourage readers to view that recording to understand the full scope of the testimony. It was a night of moving personal testimony, compelling scientific data, and a passionate evaluation of the intricacies and intersections of sex work. There was great music thanks to the talents of Storm Large, and much joy and love because of each sex worker and ally present.

Of those many who labored so diligently, we must acknowledge with our deepest thanks the great amount of work done by our fellow sex worker activists: Elle Stanger (current Committee Co-Chair), Bianca Beebe (current Committee Co-Chair), EM (current Communications Co-Chair), Corinne Hawk (current

Communications Co-Chair), Alex Andrews (current Treasurer), Kathrine Dire, Brandi, Kate and Jessie Marquez, Blair, Stoney Faye, Nicole Gilliland, Bonnie, KM, JM, JD, Kristina, Lisa, Carla, and Savannah Sly. We would also like to thank our many allies for their tireless work, particularly our lobbyist Ted Blaszak, who introduced and championed the idea of the Commission and offered invaluable support in navigating the intricacies of legislative action. We could not have pulled this off without the support of dedicated allies like Storm Large, Lee Vance, Brint Ingersoll, and Amy-Marie Merrell. Finally, we want to thank the experts who served as Commissioners for the event, whose names and insightful scholarship are detailed in this report.

The OSWC continues to meet and focus its attention towards the stated mission of destigmatization and decriminalization of sex work. In the immediate future we will be engaged in multiple public campaigns in Oregon, but are committed to being part of the multifaceted, international movement fighting for sex workers' rights. We have focused our efforts on our college campuses in order to make them open and affirming to sex workers with statements of formal university policy, and are currently engaged in a number of initiatives to defund prostitution sting operations, particularly in Multnomah County. If we are successful, half of our state's population will be positively impacted by the defunding of sting arrests of consenting adults. We consider these initiatives groundwork as we build toward decriminalizing sex work in Oregon, the USA, and the rest of the world.

Throughout all of our efforts, we continue to reach out and empower our fellow sex workers in Oregon and everywhere else. Any former or current sex worker is welcome at our sex workers' meetings, and all are welcome at our allies' meetings. Please continue to support our cause via our web page at www.oregonsexworkers.com.

The OSWC would like to graciously thank Frances Steele, Rebecca Cleary, and Melissa Sontag Broudo for their contributions to this outstanding and exceptionally helpful document.

This statement was voted on and approved by the OSWC on September 20, 2021.

Appendix B: Relevant Laws from Oregon Revised Statutes

Title 16. Crimes and punishments

Chapter 167. Offenses against general welfare and animals

Prostitution and related offenses

167.002. Definitions

As used in ORS 167.002 to 167.027, unless the context requires otherwise:

- (1) “Place of prostitution” means any place where prostitution is practiced.
- (2) “Prostitute” means a male or female person who engages in sexual conduct or sexual contact for a fee.
- (3) “Prostitution enterprise” means an arrangement whereby two or more prostitutes are organized to conduct prostitution activities.
- (4) “Sexual conduct” means sexual intercourse or oral or anal sexual intercourse.
- (5) “Sexual contact” means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party.

Laws 1971, c. 743, § 249; Laws 1973, c. 699, § 5; Laws 2017, c. 318, § 14, eff. Jan. 1, 2018.

Or. Rev. Stat. Ann. § 167.002 (West)

167.007. Prostitution

- (1) A person commits the crime of prostitution if the person engages in, or offers or agrees to engage in, sexual conduct or sexual contact in return for a fee.
- (2) Prostitution is a Class A misdemeanor.
- (3) It is an affirmative defense to prosecution under this section that the defendant, at the time of the alleged offense, was a victim of the crime of trafficking in persons as described in ORS 163.266 (1)(b) or (c).

Laws 1971, c. 743, § 250; Laws 1973, c. 52, § 1; Laws 1973, c. 699, § 6; Laws 2011, c. 151, § 1, eff. Jan. 1, 2012; Laws 2017, c. 246, § 1, eff. Jan. 1, 2018.

Or. Rev. Stat. Ann. § 167.007 (West)

167.008. Commercial sexual solicitation

- (1) A person commits the crime of commercial sexual solicitation if the person pays, or offers or agrees to pay, a fee to engage in sexual conduct or sexual contact.
- (2) Commercial sexual solicitation is a Class A misdemeanor.

Added by Laws 2011, c. 151, § 3, eff. Jan. 1, 2012. Amended by Laws 2013, c. 720, § 2, eff. Aug. 1, 2013; Laws 2015, c. 98, § 1, eff. Jan. 1, 2016.

Or. Rev. Stat. Ann. § 167.008 (West)

167.012. Promoting prostitution

- (1) A person commits the crime of promoting prostitution if, with intent to promote prostitution, the person knowingly:

- (a) Owns, controls, manages, supervises or otherwise maintains a place of prostitution or a prostitution enterprise;
- (b) Induces or causes a person to engage in prostitution or to remain in a place of prostitution;
- (c) Receives or agrees to receive money, goods, property, services or something else of value, other than as a prostitute being compensated for personally rendered prostitution services,

pursuant to an agreement or understanding that the money, goods, property, services or something else of value is derived from a prostitution activity; or

(d) Engages in any conduct that institutes, aids or facilitates an act or enterprise of prostitution.

(2) Promoting prostitution is a Class C felony.

Added by Laws 1971, c. 743, § 251. Amended by Laws 2016, c. 10, § 1, eff. Jan. 1, 2017.

Or. Rev. Stat. Ann. § 167.012 (West)

167.017. Compelling prostitution

(1) A person commits the crime of compelling prostitution if the person knowingly:

(a) Uses force or intimidation to compel another to engage in prostitution or attempted prostitution;

(b) Induces or causes a person under 18 years of age to engage in prostitution;

(c) Aids or facilitates the commission of prostitution or attempted prostitution by a person under 18 years of age; or

(d) Induces or causes the spouse, child or stepchild of the person to engage in prostitution.

(2) Compelling prostitution is a Class B felony.

(3) In a prosecution under subsection (1)(b) or (c) of this section, the state is not required to prove that the defendant knew the other person was under 18 years of age and it is no defense that the defendant did not know the person's age or that the defendant reasonably believed the person to be older than 18 years of age.

Laws 1971, c. 743, § 252; Laws 2011, c. 334, § 1, eff. June 14, 2011; Laws 2013, c. 271, § 1, eff. June 4, 2013.

Or. Rev. Stat. Ann. § 167.017 (West)

167.027. Evidence; marital privilege

(1) On the issue of whether a place is a place of prostitution as defined in ORS 167.002, its general repute and repute of persons who reside in or frequent the place shall be competent evidence.

(2) Notwithstanding ORS 136.655, in any prosecution under ORS 167.012 and 167.017, spouses are competent and compellable witnesses for or against either party.

Laws 1971, c. 743, § 254.

Or. Rev. Stat. Ann. § 167.027 (West)

Title 16. Crimes and Punishments

Chapter 163. Offenses Against Persons

Kidnapping and Related Offenses

163.266. Trafficking in persons

(1) A person commits the crime of trafficking in persons if the person knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person and:

(a) The person knows that the other person will be subjected to involuntary servitude as described in ORS 163.263 or 163.264;

(b) The person knows or recklessly disregards the fact that force, fraud or coercion will be used to cause the other person to engage in a commercial sex act; or

- (c) The person knows or recklessly disregards the fact that the other person is under 18 years of age and will be used in a commercial sex act.
- (2) A person commits the crime of trafficking in persons if the person knowingly benefits financially or receives something of value from participation in a venture that involves an act prohibited by subsection (1) of this section or ORS 163.263 or 163.264.
- (3) As used in this section, “commercial sex act” means sexual conduct or sexual contact, as those terms are defined in ORS 167.002, performed in return for a fee or anything of value.
- (4) Violation of subsection (1)(a) or (2) of this section is a Class B felony.
- (5) Violation of subsection (1)(b) or (c) of this section is a Class A felony.

Added by Laws 2007, c. 811, § 4, eff. July 17, 2007. Amended by Laws 2013, c. 720, § 1, eff. Aug. 1, 2013; Laws 2017, c. 395, § 1, eff. Jan. 1, 2018.
Or. Rev. Stat. Ann. § 163.266 (West)

Title 14. Procedure in Criminal Matters Generally

Chapter 137. Judgment and Execution; Parole and Probation by the Court

Judgment

(Post-Judgment Procedures)

137.221. Vacation of judgment of conviction for prostitution

- (1) Notwithstanding ORS 138.540, a court may vacate a judgment of conviction for the crime of prostitution under ORS 167.007 or for violating a municipal prostitution ordinance as described in this section.
- (2)(a) A person may request vacation of a judgment of conviction for prostitution by filing a motion in the county of conviction. The motion may be filed at least 21 days after the judgment of conviction is entered.
 - (b) A copy of the motion shall be served on the district attorney.
 - (c) The motion must contain an explanation of facts supporting a claim that the person was the victim of sex trafficking at or around the time of the conduct giving rise to the prostitution conviction. The motion must further contain an explanation of why those facts were not presented to the trial court.
- (3) Upon receiving the motion described in subsection (2) of this section, the court shall hold a hearing. At the hearing, the person has the burden of proof and may present evidence that, at or around the time of the conduct giving rise to the prostitution conviction, the person was the victim of sex trafficking. The court shall consider any evidence the court deems of sufficient credibility and probative value in determining whether the person was a victim of sex trafficking. The evidence may include, but is not limited to:
 - (a) Certified records of a state or federal court proceeding demonstrating that the person was a victim of sex trafficking;
 - (b) Certified records from federal immigration proceedings recognizing the person as a victim of sex trafficking; and
 - (c) A sworn statement from a trained professional staff member of a victim services organization, an attorney, a member of the clergy or a medical or other professional, certifying that the person has sought assistance addressing trauma associated with being a sex trafficking victim.
- (4) If the court finds, by clear and convincing evidence, that the person was the victim of sex trafficking at or around the time of the conduct giving rise to the prostitution conviction, the court shall grant the motion.
- (5) If the court grants a motion under this section, the court shall vacate the judgment of conviction for prostitution and may make other orders as the court considers appropriate.

(6) If the court grants a motion under this section while an appeal of the judgment of conviction is pending, the court shall immediately forward a copy of the vacation order to the appellate court.

(7) As used in this section:

(a) “Municipal prostitution ordinance” means a municipal ordinance prohibiting a person from engaging in, or offering or agreeing to engage in, sexual conduct or sexual contact in return for a fee.

(b) “Sex trafficking” means the use of force, intimidation, fraud or coercion to cause a person to engage, or attempt to engage, in a commercial sex act.

Added by Laws 2017, c. 245, § 1, eff. Jan. 1, 2018. Amended by Laws 2018, c. 120, § 7, eff. April 13, 2018.

Or. Rev. Stat. Ann. § 137.221 (West)

Title 16. Crimes and Punishments

Chapter 161. General Provisions

Disposition of Offenders

161.605. Maximum terms of imprisonment; felonies

The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

- (1) For a Class A felony, 20 years.
- (2) For a Class B felony, 10 years.
- (3) For a Class C felony, 5 years.
- (4) For an unclassified felony as provided in the statute defining the crime.

Laws 1971, c. 743, § 74.

Or. Rev. Stat. Ann. § 161.605 (West)

161.615. Sentences for misdemeanors

Sentences for misdemeanors shall be for a definite term. The court shall fix the term of imprisonment within the following maximum limitations:

- (1) For a Class A misdemeanor, 364 days.
- (2) For a Class B misdemeanor, 6 months.
- (3) For a Class C misdemeanor, 30 days.
- (4) For an unclassified misdemeanor, as provided in the statute defining the crime.

Laws 1971, c. 743, § 75. Amended by Laws 2017, c. 706, § 22, eff. Aug. 15, 2017.

Or. Rev. Stat. Ann. § 161.615 (West)

161.625. Felonies; fines

(1) A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding:

- (a) \$500,000 for murder or aggravated murder.
- (b) \$375,000 for a Class A felony.
- (c) \$250,000 for a Class B felony.
- (d) \$125,000 for a Class C felony.

(2) A sentence to pay a fine for an unclassified felony shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3)(a) If a person has gained money or property through the commission of a felony, then upon conviction thereof the court, in lieu of imposing the fine authorized for the crime under subsection (1) or (2) of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the crime.

(b) The provisions of paragraph (a) of this subsection do not apply to the felony theft of a companion animal, as defined in ORS 164.055, or a captive wild animal.

(4) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the felony, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority before the time sentence is imposed. "Value" shall be determined by the standards established in ORS 164.115.

(5) When the court imposes a fine for a felony the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding the court may conduct a hearing upon the issue.

(6) Except as provided in ORS 161.655, this section does not apply to a corporation.

Laws 1971, c. 743, § 76; Laws 1981, c. 390, § 1; Laws 1991, c. 837, § 11; Laws 1993, c. 680, § 36; Laws 2003, c. 615, § 1; Laws 2003, c. 737, § 86, eff. Sept. 1, 2003.

Or. Rev. Stat. Ann. § 161.625 (West)

161.635. Misdemeanors; fines

(1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:

(a) \$6,250 for a Class A misdemeanor.

(b) \$2,500 for a Class B misdemeanor.

(c) \$1,250 for a Class C misdemeanor.

(2) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3) If a person has gained money or property through the commission of a misdemeanor, then upon conviction thereof the court, instead of imposing the fine authorized for the offense under this section, may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply.

(4) This section does not apply to corporations.

Laws 1971, c. 743, § 77; Laws 1981, c. 390, § 2; Laws 1993, c. 680, § 30; Laws 1995, c. 545, § 2; Laws 1999, c. 1051, § 44; Laws 2003, c. 737, § 87, eff. Sept. 1, 2003.

Or. Rev. Stat. Ann. § 161.635 (West)

Title 14. Procedure in Criminal Matters Generally

Chapter 137. Judgment and Execution; Parole and Probation by the Court

Judgment

(Minimum Fine)

137.286. Minimum fines; waiver

(1) Unless a specific minimum fine is provided by law, the minimum fine for a misdemeanor is \$100.

(2) Unless a specific minimum fine is provided by law, the minimum fine for a felony is \$200.

(3) A court may waive payment of the minimum fine established by this section, in whole or in part, if the court finds that requiring payment of the minimum fine would be inconsistent with justice in the case. In making its determination under this subsection, the court shall consider:

- (a) The financial resources of the defendant and the burden that payment of the minimum fine will impose, with due regard to the other obligations of the defendant; and
 - (b) The extent to which that burden can be alleviated by allowing the defendant to pay the monetary obligations imposed by the court on an installment basis or on other conditions to be fixed by the court.
- (4) This section does not affect the manner in which a court imposes or reduces monetary obligations other than fines.
- (5) During any period of supervision that is part of the defendant's sentence, the court retains jurisdiction under this subsection for the limited purpose of waiving any unpaid portion of a fine previously imposed if the defendant is able to establish a financial hardship that prevents the defendant from completing an alcohol or drug treatment program that was required as a condition of supervision. Any moneys received in payment of the fine prior to the waiver may not be returned to the defendant.

Added by Laws 2011, c. 597, § 10, eff. July 1, 2011, operative Jan. 1, 2012. Amended by Laws 2015, c. 186, § 1, eff. Jan. 1, 2016.
Or. Rev. Stat. Ann. § 137.286 (West)

Title 14. Procedure in Criminal Matters Generally
Chapter 136. Criminal Trials
Evidence

136.437. Crime reporting; evidence of prostitution

- (1) If a person contacts an emergency communications system or a law enforcement agency to report the commission of a person felony, any statements or other evidence relating to the crime of prostitution under ORS 167.007 obtained as a result of the person making the report may not be used in the prosecution of the person for prostitution or attempted prostitution.
- (2) The prohibition on the use of statements or other evidence described in this section does not apply to evidence relating to a criminal offense other than prostitution, or to the prosecution of an offense other than prostitution or attempted prostitution.
- (3) As used in this section:
- (a) “Emergency communications system” has the meaning given that term in ORS 403.105.
 - (b) “Person felony” has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

Added by Laws 2019, c. 179, § 1, eff. Jan. 1, 2020.
Or. Rev. Stat. Ann. § 136.437 (West)

Appendix C: Glossary of Terms

Sex workers - Adults of all genders who receive something of value (such as money or goods) in exchange for sexual services.

Sex work - An umbrella term for all kinds of consensual adult work involving various types of sexual services. *Full service sex work* refers specifically to adults who provide in-person sex services; this form of sex work is punishable under prostitution laws. Sex work can also refer to stripping, porn acting, phone and webcam services, and more; for the purpose of this report, “sex work” refers to the adult consensual work currently illegal under Oregon law.

Prostitution - The legal term for the purchase and sale of sex.

Human trafficking - Involves the exploitation of people through force, fraud, coercion, threat, and deception. It includes human rights abuses such as debt bondage, deprivation of liberty, and lack of control over freedom and labor. Forced labor and sexual exploitation are both under the umbrella of human trafficking.

Sexual exploitation of children - The sexual exploitation of children includes the exploitative use of children in prostitution and child pornography.

Decriminalization - The removal of criminal penalties and laws prohibiting and regulating adult consensual sex work, including those against facilitating and buying. Other laws prohibiting human trafficking, child exploitation, and public indecency still apply under the decriminalization model. Clients and sex workers need to follow health and safety protocols, but individual sex workers are not licensed or registered; any associated businesses that involves the management of workers would be regulated by business licensing offices, rather than the criminal legal system. Decriminalization is seen in New Zealand and several states in Australia; it is the only model widely endorsed by sex workers.

Criminalization - The prohibition of prostitution and placement of criminal penalties on individuals who buy or sell sexual services. Sex work is criminalized not only through prohibitions on selling sexual services, but also through laws that prohibit the solicitation of sex, living off the earnings of sex work, brothel-keeping, or the purchase of sexual services. Criminalization is seen in the United States, Russia, China, throughout the Middle East, and in much of Africa.

Abolitionism - The actual exchange of sexual services for remuneration is neither illegal nor regulated, but almost all activities related to the exchange are criminalized, such as soliciting, sex workers working together, or any kind of third party facilitation, such as venue management or pimping. There is no widespread movement promoting this model of legislation, though it is seen throughout the world in South America, Africa, India, and a few states in Australia.

Neo-abolitionism - Commonly called the Nordic, End Demand, or Entrapment model. It is sometimes erroneously called “partial decriminalization,” a designation we reject as being purposefully misleading because decriminalization is not possible in half measures: sex work is either in the criminal code or it is

not. The End Demand model aims to shift legal penalties onto the buyer rather than the worker by classifying workers as victims to protect them from legal penalties. Supporters of the model, who often refer to themselves as prohibitionists or abolitionists (nomenclature we also reject as being misleading), seek to eradicate sex work and “free” sex workers by criminalizing the purchase of sex to end economic demand. Research on End Demand shows that it not only fails to stop the existence of the sex trade, it increases sex workers’ social isolation and deepens health and safety inequities seen due to race, socioeconomic status, and immigration status. Neo-abolitionism was initiated in Sweden, and is now found in a few other Western European countries as well as Canada.

Legalization - Refers to the government regulation of prostitution regarding where, when, and how prostitution can take place. Under the legalization model, the government sets specific conditions, such as licensing and registration requirements, under which the trade of sexual services can occur. Sex work that occurs outside of these conditions remains criminalized. Legalization is the only non-criminalization model that exists in the United States as of this writing; prostitution is legal and regulated in certain counties in Nevada but is criminalized in the rest of that state and in every other state in the country. Academic and grassroots research is clear that legalization increases inequality within the sex working community by providing legal safety only for people privileged enough to be ‘within’ a bureaucratic system, which increases vulnerability for people outside it (which, in every system of legalized sex work around the world, is the majority of workers). Legalization further endangers sex workers by frequently requiring licensing and registration under the workers’ legal name, exposing them to serious risks of stalking and other violence. In addition to a few counties in Nevada, legalization is seen in several countries in South America, Europe, and one Australian state.