

Washtenaw County decriminalizes sex work

Hannah Davis, special to the WJN

On January 14, Washtenaw County's new prosecutor, Eli Savit, announced his office is decriminalizing "consensual sex work." This means that the office will decline to bring charges related to sex work, both involving buyers and sellers, though it will continue to charge sex-work-adjacent crimes, such as human trafficking, violence, and offenses involving children. "Sex work" is a broad term which can include anyone whose work involves sexually explicit behavior, including prostitutes, escorts, exotic dancers, and pornography actors (in this case the policy is focusing on prostitution, and this article uses the two terms interchangeably).

Prostitution is still technically a crime; however, the county prosecutor has latitude to decide which crimes to bring charges for. Savit's office has been enacting a number of similar policy changes recently, announcing that it will also decline to charge certain offenses related to cannabis, the use of entheogenic plants (i.e. natural psychedelics), buprenorphine, and contraband cases arising from "pretext stops" (situations where a police officer stopped a person supposedly for a minor infraction, but was really trying to find drugs or other contraband). The broad theme of these policies has been to address the disproportionate effects the justice system has had on marginalized populations. They also aim to reduce the risk and harm of drug use and sex work, without placing judgment on someone for taking part.

Savit pledged to enact many of these policies during his election campaign, and has been working with a transition team of community members and subject matter experts. In addition, he and several other members of the Washtenaw County justice system organized listening sessions last year to hear from members of the community about their priorities.

Decriminalization is still a fairly new idea: while it is gaining interest worldwide, most countries still view prostitution as a crime. However, there are some case studies which support the move. The state of Rhode Island, in an attempt to crack down on prostitution, accidentally legalized indoor sex work for several years until the law was reversed in 2009. A study of the effects of this change has shown that during that period, female gonorrhea rates dropped 40% statewide and reported rapes dropped 30%, while levels of other crime or violence stayed the same and there were no corresponding changes in neighboring states.

New Zealand enacted a law in 2003 to "decriminalize prostitution ... ; create a framework to safeguard the human rights of sex workers and protect them from exploitation; promote the welfare and occupational health and safety of sex workers; contribute to public health; and prohibit the use in prostitution of persons under 18 years of age." A report five years later looked at the outcomes of the law in terms of the number of sex workers as well as their reported safety and working conditions. It concluded that "On the whole, the PRA [Prostitution Reform Act] has been effective in achieving its purpose, and the Committee is confident that the vast majority of people involved in the sex industry are better off under the PRA than they were pre-

viously." It did caution that many sex workers were still vulnerable to "exploitative employment conditions" and that there had been reports of some sex workers being forced to take clients against their will. The committee looked at underage prostitution as well, and concluded that while it was still an extant issue, the law had not increased the number of underage prostitutes. It appears that the law on its own has limited effect on many issues in the space of prostitution, despite improvements.

The new Washtenaw county policy continues in this vein, aiming to make sex workers safer in advocating for themselves, remove the risk of getting arrested in the course of their work, and make it easier for them to leave sex work. Sex workers, some of whom make the choice to enter the profession out of desperation and only want to do so for a limited time, frequently encounter hurdles in attempts to find other work due to their criminal records; trafficking victims may escape only to be arrested for something they were forced to do. Without the need to operate in a black market, sex workers should experience less risk.

While a policy like this can have an impact, Savit emphasized that there is a limit to the difference law enforcement can make overall. As shown in New Zealand, decriminalization did not eliminate the dangers of sex work, and the work of the prosecutor is mainly reactive, not preventative. Other organizations or areas of government, says Savit, need to take steps to support survivors and prevent trafficking from occurring in the first place. They should also work to increase options and accessibility to the things vulnerable people need to survive, so that sex work is engaged in consensually and not as a last resort.

There has been some pushback to the new Washtenaw policy. The Michigan H.E.A.T. Coalition, along with members of the Michigan Abolitionist Project and the SOAP (Save Our Adolescents from Prostitution) Project, have started a petition stating that the policy is harmful and will increase sex trafficking in the county by increasing overall demand for prostitution, and that Savit should have included survivors of trafficking in his policy development. The organizers, including several who are themselves trafficking survivors, are advocates for the Equality Model, which specifically criminalizes the buyers of sex while protecting sex workers themselves. They argue that with less demand, the supply of sex work will also drop, and trafficking along with it.

Many discussions on how to best tackle trafficking focus on whether it is moral to buy sex and whether it is possible to practice sex work safely at all. These questions are outside the scope of this article, which instead focuses on the outcomes of various policies. One key outcome-based argument from support-

ers of the Equality Model is that it is incredibly difficult to define "consensual sex work." Many times, victims of trafficking will not identify as such, whether because they don't believe they're being trafficked or because they do not feel safe saying so. In practice, this makes it hard to prosecute the perpetrators of trafficking. In addition, Equality Model advocates argue that almost all prostitutes are trafficked, in which case it makes sense to target buyers directly. However, this statistic is difficult to validate: some studies show that between 10–20% of sex workers are trafficked. In addition, while many adult sex workers were trafficked as children, and many say they would like to leave sex work, the barriers they face are often economic, not coercive.

The Equality Model is similar to policies enacted in Sweden criminalizing sex buyers, where some sources state that the laws reduced the number of street sex workers in the country by 50%, although the accuracy of these claims has been challenged. Research is unclear overall on the effects of either full decriminalization or the Equality Model on the demand for prostitution or the amount of trafficking, as accurate counts of the size of the sex trade before and after policies are enacted are difficult to obtain.

Criminalizing buyers may have unintended negative effects on safety, due to the growing incidence of sex work being arranged online. Buyers who fear legal consequences may be more likely to disguise their identity, which makes it harder for sex workers to vet them and may make the sex worker more vulnerable to violence and less able to insist on condom usage. In addition, punitive approaches may not be a deterrent at all: an East London study of sex buyers found that few men held criminal sanctions as relevant to their decision.

being forgiven, that his office has "never aggressively gone out and pursued this debt in terms of sending information to creditors or damaging people's credits rating" and the "likelihood of collecting this money is minimal." Instead, this resolution is being framed as a public notice to "ease people's angst and anxiety around having this debt hang over their head."

Washtenaw County commissioners support forgiveness of jail debt

Stephanie Glass, special to the WJN

Moving quickly ahead into a new year and Board term, the Washtenaw County Board of Commissioners met virtually on February 3 to approve a series of five resolutions, including supporting the County Sheriff's Office plan to forgive the debt of certain jail accounts.

County Sheriff Jerry Clayton was present at the meeting to share further context regarding his office's decision to forgive jail debts incurred between January 1, 2013 and December 31, 2020, which account for around thirty one thousand individuals and half a million dollars. Clayton shared, perhaps in anticipation of heard or unheard criticism regarding how this money could be brought into the county as opposed to

Despite these differing approaches and research conclusions, there is considerable room for agreement amongst all parties. Most groups involved in the issues of sex work and trafficking agree that policies that avoid arresting sex workers are good. They also agree that this is not a problem which can be addressed solely with police and courts. There are many reasons people enter and stay in sex work: they may have few options to earn money otherwise; children with unstable home lives may be more vulnerable to being trafficked; and many people who want to leave have difficulty doing so. Both Savit and the members of the Michigan H.E.A.T. Coalition emphasize the need for broader social support for women and other marginalized groups vulnerable to trafficking or likely to enter sex work, including providing housing, counseling for victims, training and support for those trying to leave sex work, and education in recognizing and preventing trafficking. Savit emphasized an open offer to work with community partners on next steps in this space.

Some innovative approaches outside of the legal space show promise, as well. An experiment in West Bengal, India, where sex workers themselves organized collectively into a committee covering about 85% of sex workers in the state, showed remarkable success in combating the issue of underage and coerced prostitution. The sex worker collective was able to quickly identify new entrants in the community, give them counseling and interview them to determine whether they were there willingly, and help them return home or to a safe location if they were trafficked. They also have a number of community development projects to reduce dependence on sex work and create security for those who choose to stay in the profession. The results of the experiment are dramatic: since the program has been in place, the proportion of minors in the district has declined over 90%, condom use increased from <3% to 87%, and syphilis and HIV prevalence are drastically lower in that state than elsewhere in India. This suggests that the most powerful approaches are not punitive but rather are driven by sex workers themselves, focusing on their needs first. ■