

## **Ethical and Human Rights Issues in Coercive Interventions With Sex Workers**

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# Ethical and Human Rights Issues in Coercive Interventions With Sex Workers

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## Introduction

Sex work reemerged as a spotlight issue within feminist arenas in the 1960s. The interest in “prostitution” reform during the 1960s came about in much the same way it had in the past, that is, it rode on the coattails of other social movements (Hobson, 1987). As the civil rights movement led a heightened awareness of all human rights, individuals began to protest governmental interference in private sexual acts. Civil libertarian lawyers and feminist activists contested prostitution laws and social injustices against sex workers.

The relationship between some strands of feminism and sex work is often polarized and rocky at best. In fact, the contemporary feminist debates on sex work, which began in the 1960s related to pornography and prostitution, have often been referred to as the *feminist sex wars* (Hollibaugh, 2000; Lerum, 1998; Sloan & Wahab, 2000; Zatz, 1997). On one side of the debate are sex workers and feminists who emphasize the importance of sex workers’ rights and understand sex work as potentially liberating and empowering. On the other side are those who believe sex work is exploitive, casting sex workers as coerced victims.

Whether social workers think that sex work is a form of violence, legitimate work, or something much more complicated that cannot be reduced to the rhetoric of the feminist sex wars, it is time to seriously grapple with the ethical considerations involved with social work practice focused on people in the sex industry.

Social workers should be deeply troubled by social work interventions that target individuals for arrest as a means of providing services. Specifically, we call attention to social work collaborations with law enforcement that target or end in the arrest of sex workers. While specific events in Arizona during the week of May 16, 2013, sparked the writing of this editorial, the issues discussed below bring into question ethical social work practice with sex workers including practice with oppressed and marginalized individuals and groups. Specifically, we challenge the assumption that arresting (or participating

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in the arrest of) people “for their own good” constitutes good or ethical social work practice. Rather, we believe that targeting people for arrest under the guise of helping them violates numerous ethical standards as well as the humanity of people engaged in the sex industry. We are also concerned that this approach constitutes an act of structural violence against individuals who already frequently report negative, discriminatory, and often violent encounters with law enforcement including people with precarious migratory or citizenship status, poor, youth, transgender, and people of color. Structural violence is a form of violence perpetuated by institutions and systems that harms people such as racism, classism, sexism, heterosexism, and ableism, nationalism, and adultism (Galtung, 1969).

During the week of May 16, 2013,<sup>1</sup> Project Reaching Out to the Sexually Exploited (ROSE)—a collaboration between the Phoenix Police Department, Arizona State University (ASU) School of Social Work, and a number of local service organizations, conducted raids during two 12-hr periods targeting workers within the sex industry for arrest. Sex workers deemed eligible for services were offered, as an alternative to criminal charges, a 6-month prostitution diversion program. In order to access the program, the arrestee must have no prior arrests for sex work, no outstanding warrants, and cannot be found in possession of any drugs at the time of arrest. These requirements alone make a significant number of individuals targeted for arrest ineligible for services consequently placing them in a position where they face prosecution and jail time. It is here that the ethical and human rights questions begin to emerge.

### *Prostitution Diversion Programs*

While a full discussion (and critique) of prostitution diversion programs extends beyond the scope of the issue we raise in this editorial, it is worth mentioning that there is little empirical evidence that prostitution diversion programs “help” sex workers or reduce rates of prostitution (Quinn, 2006). Shdaimah and Wiechelt (2012) point out that, while diversion programs are often hailed as progressive alternatives to traditional criminal justice approaches to certain crimes, many legal scholars have questioned and critiqued diversion programs on the basis of equity and procedural concern (Orr et al., 2009), efficacy (Bolt, 2010), and constitutional concerns such as double jeopardy (i.e., when prosecution on the original prostitution charge is enacted and a conviction with punishment occurs as a result of an individual being unable to meet the program requirements) and lack of authority (*Brown vs. State of Maryland*, 2009). Specific critiques and problems with prostitution diversion programs argue that they tend to “encourage special interest control of criminal courts, foster undesirable police and judicial practices, and fail to meaningfully address societal problems, specifically the criminalization or prostitution” (Quinn, 2006, p. 145). Special interest control of prostitution diversion programs include, but are not limited to, politicians, police officers, business people, district attorneys, and social workers interested in suppressing sex work for religious, moral, social, and political reasons. These particular stakeholders stand to benefit from prostitution diversion programs, as they may be viewed as resolving a social problem, “tough on crime” and/or saviors of those incapable of helping or saving themselves. Social workers and social service organization stand to benefit from such programs through jobs, grants, funding, and yes. . . . publications.

While prostitution diversion programs with social work involvement are not unique to Phoenix (Wahab, 2005, 2006), this is the first highly publicized instance, we are aware of, where social workers and a School of Social Work advocated for targeting sex workers through law enforcement (City of Phoenix, 2013: KTVK, 2013a; 2013b).

### **Ethical Principles: Human Rights and Social Justice**

We now turn to the heart of our outrage. Programs like Project ROSE cause harm “under the cover of kindness” (Margolin, 1997). Despite claims made in 2012 after a similar sting that “clients received options for safe housing, crisis mental health counseling, medical services, options for

detox and drug treatment, food, clothes and their initial interview for the Diversion Program provided by Catholic Charities, and most significantly, the opportunity to change their life” (<http://phoenix.gov/police/R.O.S.E.ii.html>), targeting people for arrest in order to offer services is a grave form of coercion that violates numerous social work ethical standards across the National Association of Social Workers (NASW) Code of Ethics (Standards 1 and 6), Council on Social Work Education (CSWE) Educational Policy and Accreditation Standards (Policies 2.1.2 and 2.1.5), and the International Federation of Social Work (IFSW) Ethical Principles (Principles 4.1 [1 and 2] and 4.2 [3–5]). Furthermore, providing social supports and services through criminal courts, even if on a voluntary basis, assumes that participants in these programs should be under surveillance by the criminal justice system.

Under CSWE Ethical Standard # 1 and IFSW’s Ethical Principle #4 (Human Rights and Human Dignity), interventions like Project ROSE violate standards of informed consent and individuals’ rights to full participation. Since individuals are not consenting to being targeted by massive police (in this case 125 officers) sting operations (to be offered services or conversely jail time) where is the informed consent? In addition, if targeted sex workers (and people profiled as sex workers) reject the “offer” to enter the diversion program and/or if they fail to successfully complete a diversion program (their statistics report that successful completion of the program ranges between 24.7% (Project ROSE II) and 32.6% (Project ROSE I),<sup>3</sup> they face criminal prosecution. In addition, the only services offered to escape prosecution are through a particular diversion program further limiting the options for support and assistance (Wahab, 2005, 2006).

In Arizona, people arrested under antiprostitution statutes face a mandatory minimum sentence on their first charge and felony charges after the third arrest. Sex workers with precarious migratory and citizenship status face deportation. Best Practices and Policy Project (2013) report that Marcia Powell, a woman serving a 27-month sentence in Arizona for solicitation of prostitution, died in May 2009 after being left in a prison holding cage in the blazing sun without water. Not only would Marcia have been ineligible to receive services through Project ROSE had she been targeted by the sting, but she would have likely faced a prison sentence due to several prior arrests for prostitution. Ultimately, however, Marcia died in the “safety” of the Arizona prison system because she was a sex worker incarcerated for her own good.

Furthermore, we argue that social work participation in the creation and facilitation of police sting operations, including those designed from a stance of innocence (Rossiter, 2001), to “offer services” violates IFSW’s Ethical Principle #4 (Social Justice), CSWE’s Educational Policy 2.1.5 (Advance Human Rights and Social and Economic Justice), and NASW’s ethical standards concerned with Social and Political Action (6.04). This is especially problematic as there is no body of rigorous empirical evidence that indicates that prostitution diversion programs facilitate social justice for those enrolled in the programs. If an apprehended sex worker rejects the offer of diversion, or is denied entry into the diversion program, how is the project “ensuring that all people have equal access to the resource” (National Association of Social Workers, 2008)?

Finally, if we accept that many people who work in sex work do so because they are poor and/or have limited options for alternative employment (though this is certainly not the case for all those engaged in trading sexual services), how are social workers “[d]istributing resources equitably” or “[c]hallenging unjust policies and practices” (International Federation of Social Work, 2012) when they are advocating for and assisting in the arrest of sex workers who are mostly poor, people of color, and often identify as transgender? For some of the sex workers caught up in these sweeps, Project ROSE with its additional 125 officers hastens the path toward a felony charge.

## **Structural Violence Against Minoritized Individuals and Groups**

It is well documented that the most marginalized of sex workers are the ones who are most targeted by the intersections of oppression within the social, medical, and legal systems (e.g., see any of the

following literature on the prison industrial complex, state violence, and marginalization of sex workers: Brooks, 2007; Davis & Brooks, 1999; INCITE!, 2011; Stanley & Smith, 2011; Stern, 2012). We also know that “the stigma and criminalization surrounding sex work do not befall everyone equally” (A SISTAH IN STRUGGLE & Kirby, 2011). Numerous scholars, activists, and news sources provide proof that sex workers working on the streets are the most targeted for arrest. Consequently, some have argued for an anticriminalization movement among sex work rights advocates (Koyama, 2011) that would more effectively target the oppression that enforces criminalization and the targeting of sex workers because of their actual or perceived social identities.

to those of us who are street-based, immigrants, youth, transgender, etc. this agenda appears to be based on the naïve premise that people engaging in prostitution are targeted by the state because the legislature passed laws to criminalize prostitution. Those of us who live under pervasive surveillance and criminalization know that the cause and effect run the other way around: we are just targeted and criminalized for who we are, and the laws are passed by the legislature to justify it and make it more efficient. (Koyama, 2011)

Social work collaborations that encourage and support the targeting of marginalized and oppressed individuals must be questioned, if not stopped. Collaborations like the one between ASU’s School of Social Work and the Phoenix Police Department, despite proclamations of good intentions, perpetuate racism, classism, sexism, transphobia, and xenophobia; all forms of social injustice and human rights violations that social workers are bound to by numerous ethical standards to work against.

It is no wonder that some sex workers fear social workers as much if not more than the police, as we are legitimately seen as the service gatekeepers as well as the ones who take their children away (Weiner, 1996). Social work has a long history of engagement and practice with sex workers, which reinforces notions of social workers as agents of social and moral control (Wahab, 2002). While many social workers have worked hard through policy and practice arenas over the years to repair and reconfigure social work’s relationship (characterized by mistrust, disempowerment, social, and moral control) to the sex industry, social work efforts geared toward arresting sex workers “for their own good” violate the ethical codes while enacting structural violence in the name of helping. Whether you believe that sex work = sex trafficking or whether you believe that there is no universal sex work experience and that sex workers can make their own decisions about what they need and when they need it, Schools of Social Work and social work in general should not be in the business of arresting people for their own good. If we believe that arresting people in order to coerce them into “treatment” and services is our only option for engagement, then we need to critically examine our relationships with sex workers and sex worker groups. The challenges social workers face in “reaching” sex workers with our offers of help speak to the serious limitations of our approaches and attitudes toward sex workers rather than problems inherent to sex work and sex workers.

Finally, we need only to look at the history of social work to learn and relearn important lessons from the profession about paternalism and gender bias in the name of intervening on behalf of others “for their own good.” The paternalistic viewpoint (saving people, coercing into treatment, etc.) has been repeated throughout the profession with various marginalized groups. Friendly visitors in the earlier days of social work intervened with the “poor” perhaps because of altruism, but also because we thought poverty was a result of individual shortcomings. Also, social workers removed children from indigenous communities because we misunderstood parenting practices that were not the same as a white culture. We must remember that any attempt toward competent social work practice should be multidimensional along individual, community, and systems change, and we see no evidence of Project ROSE engaged in macro-level work. Let us learn from our historical mistakes, rather than repeat them.

## Notes

1. Three other similar sweeps have been conducted in September 2011, April and October 2012.
2. While the title of this article states “by not arresting prostitutes,” another news report both shows a woman in handcuffs and has Phoenix Police Officer James Homes stating that they are arrested. See <http://www.azfamily.com/home/Project-Rose-targets-Valley-sex-trafficking-207979971.html>. Sex workers caught up in the stings have also reported to sex workers’ rights groups that they were indeed arrested.
3. These statistics come from a personal communication with Dr. Dominique Roe-Sepowitz on July 19, 2013.

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