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GHJP and SWP Handbook Assists Advocates and District Attorneys to Navigate the Possibilities and Impacts of Non-Prosecution Policies in the Context of Sex Work Criminalization

The [Yale Global Health Justice Partnership](#) (GHJP) and the [Sex Workers Project](#) (SWP) of the Urban Justice Center have released a joint handbook focused on District Attorneys (DA)'s policies of non-prosecution of sex work-related charges. The handbook seeks to support sex worker rights advocates, prosecutors, policy makers and other stakeholders to develop, influence, track and assess the operation and impact of DA non-prosecution policies so that they protect and promote sex workers' rights and health, and mitigate the harms of the criminal law, to the greatest extent possible in the context of sex work criminalization.

The handbook, [Exercising Discretion: A Handbook for Advocates and District Attorneys Navigating the Possibilities and Impacts of Non-Prosecution Policies in the Context of Sex Work Criminalization](#), defines sex work as the exchange of sexual services for goods, services, and/or money. In most of the United States, with few exceptions, criminal laws prohibit certain forms of sex work involving the exchange of sexual conduct and related activities entirely, and authorize policing, arrest, and conviction for these acts.

In recent years, candidates for District Attorney in several jurisdictions across the country have run on platforms that included a commitment not to prosecute some sex work-related charges. These proposals and established policies have been driven by years of community organizing by sex workers that paved the way for an increasing understanding of the arguments supporting the full decriminalization of sex work: police and state surveillance, arrests, court cases, criminal penalties, incarceration, and criminal records all contribute to making sex work less safe, limiting access to a stable livelihood for sex workers, and making it harder if not impossible for sex workers to seek protection from violence and report it when it occurs.

"As massage workers, sex workers, and grassroots allies, we witness the devastating impact of the criminal legal system on those who are simply trying to make a living," said Esther K., Core Organizer with Red Canary Song, a grassroots organization of migrant sex workers and massage workers engaged in mutual aid, outreach, and community organizing. The adoption of non-prosecution policies by DAs is "a step in the right direction to securing the basic labor rights and protections that every worker deserves."

Prosecutors have what is known as *prosecutorial discretion*: the authority to make choices regarding what enforcement actions to take, both as a matter of charging in individual cases and



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policy-setting for their office, for prosecutions within their jurisdiction. Because DAs operate at the state and county level, their policies particularly impact sex workers because much of the law criminalizing sex work, including prostitution offenses and laws like loitering for the purpose of prostitution, is found in state law and municipal codes.

RJ Thompson-Rodriguez, Esq., Human Rights Lawyer and Sex Worker and Managing Director of SWP, emphasized that “prosecutors have an ethical duty to use their broad discretion to stop criminalizing adult consensual activities including adult consensual sex work. The prohibitions against sex work are hypocritical, outdated, and based in gendered patriarchal norms to control our bodies, and to disrespect our inherent human rights to work, freedom of movement, housing, health, family, life, bodily autonomy and self determination.”

The handbook presents several recommendations regarding the scope of charges that DAs should decline to prosecute under a Model Policy, underscoring the importance of not prosecuting the range of offenses that may be used to surveil, control, and punish sex workers, clients and third parties. This includes laws against vagrancy, obscenity, drug use, and other quality of life offenses that target public space and those working in street economies, including street-based sex workers, and facilitate class-based discrimination against poor people, racism, and gender-based discrimination, including against trans and gender non-conforming people.

The scope of non-prosecution policies has been influenced by movements aligned with different model legal frameworks for sex work, most notably the full decriminalization of sex work (both selling and buying sex, and other criminal penalties) or a model focused on imposing formal criminal penalties for clients only. Non-prosecution policies mimic these different models by declining to prosecute both sex workers and clients, or declining to prosecute sex workers but continuing to prosecute clients, in the context of the continued criminalization of sex work. Policies that continue to prosecute clients and third parties, i.e., people such as personal assistants, drivers, security, web designers, and even other sex workers and/or friends and family, who work with, are paid by, support or are supported by sex workers, encourage police surveillance, reduce sex worker safety, facilitate the arrest of sex workers on other charges, and enable the targeting of low-income men and men of color.

In addition to these recommendations, the handbook also provides a series of Landscape Analysis Questions compiling issues or factors that have arisen in the implementation of existing policies to date, to support sex worker rights organizations in advocating for DA non-prosecution policies to support sex workers’ rights. “Incremental efforts such as the ones represented in this handbook will help advocates gain experience and achieve changes that pave the way for stronger criminal/legal systems reform,” said Savannah Sly, Co-Director & Founder of New Moon Fund, an organization dedicated to accelerating advancements for sex workers’ rights in the United States.



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The handbook was developed through the dedicated work of Yale law and public health students, as part of GHJP clinical projects in cooperation with SWP. “Public health literature provides clear evidence of the harms of sex work criminalization,” underscored Alice M. Miller, Co-Director of GHJP. “In integrating those insights with a nuanced understanding of the power of prosecutors and the practical functioning of the criminal legal system, this handbook emphasizes how research institutions can leverage interdisciplinary work in support of, and in collaboration with, change efforts led by sex worker rights movements.”

The handbook, and the information it contains, is intended to be used and shared widely by those engaged in advocacy for and implementation of DA non-prosecution policies. To this end, GHJP and SWP have included in the handbook a series of stand-alone *Information Sheets* that advocates may print or send as part of advocacy or education efforts with DAs or other stakeholders, exploring the [growing support for sex workers' rights](#), the [growing mainstream recognition of the harms of criminal law](#), and the [impact of COVID-19 on prosecutorial policies](#). The handbook is also accompanied by a printable [Community Guide](#) that provides an overview of the main findings and recommendations for model DA policies.

“Due to stigma and criminalization, sex workers, including those who have experienced human trafficking, face a myriad of harms from the criminal legal system,” said Mariah Grant, Director of Research and Advocacy at SWP. “This Handbook puts power in the hands of sex workers and sex worker rights advocacy organizations, to reduce the current harms of criminalization while continuing to pursue longer term solutions through full decriminalization. It also puts power in the hands of DAs to use their prosecutorial discretion to protect the safety and human rights of people involved in the sex trades, and to push back against unjust laws that do nothing to make communities safer but do infringe on individuals' rights.”

*The **Global Health Justice Partnership (GHJP)** is an initiative of the Yale Law School and Yale School of Public Health established in 2012 to promote interdisciplinary, innovative, and effective responses to key problems in health justice. It is a transformative collaboration integrating different fields in order to make critical policy interventions, develop new kinds of cross-cutting research, and provide educational opportunities straddling a variety of academic disciplines. Leveraging Yale's institutional assets, the GHJP trains students to undertake collaborative, real-world research and advocacy to promote health justice in the U.S. and globally. It also organizes conferences and events; builds partnerships with local NGOs and social movements in New Haven, the U.S. and around the world to move research and critical analyses into action; and nurtures a truly interdisciplinary brain trust dedicated to effecting social change. The cornerstone of GHJP is a practicum/clinic course fusing didactic and experiential*



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learning on critical topics at the intersection of public health, rights, and justice in the twenty-first century.

*The **Sex Workers Project of the Urban Justice Center** (SWP) is a national organization based in the U.S. that defends the human rights of sex workers by destigmatizing and decriminalizing people in the sex trades through free legal services, education, research, and policy advocacy. SWP aims to create a sexually liberated world where all workers have the autonomy and power to fully enjoy their human rights. In collaboration with and guided by impacted communities, SWP offers legal advocacy to survivors of human trafficking and people who engage in sex work, regardless of whether they do so by choice, circumstance, or coercion. SWP also engages in media advocacy, supports sex worker-led organizations, pursues local, state, and federal policy change, and conducts groundbreaking human rights research rooted in the real-life experiences of sex workers and survivors of trafficking.*

The handbook is one product of the long-standing collaboration between SWP and GHJP. This collaboration is supported by the Gruber Project for Global Justice and Women's Rights, and the Open Society Foundations.