

MARCH 2025

DECRIMINALIZING SEX WORK



SEX WORK: MODEL POLICY

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Given the demonstrated public-safety and public-health benefits of decriminalizing sex work, this office will [presumptively]¹ decline to bring criminal charges that are based solely on the consensual exchange, between adults, of sex for money or other resources. This office, however, will continue to vigorously pursue criminal charges involving violence in the sex trade, trafficking, or the victimization of children.

Policy Directive

1. Consensual Sex Work and Solicitation: Absent extenuating circumstances warranting an exception (as discussed herein), this office will not file criminal charges based solely on:

- (a) the consensual exchange, between adults, of sex for (i) money or (ii) another thing of value, or
- (b) the solicitation of such an exchange.

For purposes of this Policy, an “adult” is someone 18 years of age or older. A “minor” is someone under the age of 18.

2. Violence and Sexual Assault: This office will continue to file — and to vigorously pursue — criminal charges in cases where violence or sexual assault arises out of a planned exchange of sex for money. By way of example, criminal charges are appropriate where the evidence indicates:

- (a) A buyer, or a prospective buyer, physically assaulted a sex worker;
- (b) A buyer, or a prospective buyer, sexually assaulted a sex worker;
- (c) A buyer refused to use a condom despite a sex worker’s expressed wishes;
- (d) A buyer engaged in a sexual act to which a sex worker did not consent; or
- (e) A buyer engaged in sexual activity with a sex worker, but refused to pay. In such a case, the evidence may indicate that consent for the sexual act was obtained via “coercion,” including the buyer’s “concealment” of the fact that the buyer had no intention to pay.

Note that in all of the foregoing examples, *the sex worker is the victim of a crime*. In such instances, pursuant to this Policy, charges should be filed only against the buyer/assailant — not against the sex worker who was the victim of physical or sexual assault.

This office will not prosecute the sex worker independent of the victim's willingness to participate in an investigation or prosecution and the threat of prosecution should not be used to incentivize or encourage cooperation.

3. Human Trafficking and Third-Party Involvement: This Policy does not prohibit or discourage the filing of charges related to human trafficking.² This office will continue to charge human traffickers — and those who knowingly seek to purchase sex from a trafficked person — wherever the evidence dictates. This Policy, however, prohibits prostitution and solicitation charges against individuals who were the victims of human trafficking, and who were forced to engage in sex work.

4. Purchase and Solicitation of Sex from Minors: This Policy does not prohibit or discourage the filing of charges against individuals who purchase sex, or seek to purchase sex, from minors. In such circumstances, however, charges related to the exchange of sex for money should be brought only against the buyer or the prospective buyer, not the minor.

5. Charges Should Be Supported by Evidence and in the Interests of Justice: Nothing in this Policy shall be interpreted to mandate or encourage the filing of charges that are not covered by this Policy. If the line prosecutor believes that filing charges other than those covered by this Policy are not supported by the evidence, or are not in the interest of justice, that prosecutor should not file those charges.

6. Criminal Record Relief: This office will not contest any application for expungement, record sealing, non-disclosure, or vacatur where the underlying charge arose solely from the consensual exchange of sex for something of value, or the solicitation of such an exchange.

7. No Substantive Rights Created: This Policy is an exercise of discretion by the prosecutor. Nothing in this Policy shall be interpreted to create substantive or enforceable rights.

8. Exceptions: Requests for deviations from this Policy shall be made in writing, and require supervisory approval. The rare and exceptional circumstances in which charges may be approved outside of the parameters of this Policy include situations in which charges would have a direct impact on preventing trafficking, or where necessary to protect the safety and health of a victim. A deviation from this Policy will be granted only in exceptional circumstances, and where public safety requires that deviation.

1. Note that an office will want to decide based on local laws and practices whether or not to include this bracketed option.

2. Human trafficking, according to federal law, involves “the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act” in which the “commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age.” 22 U.S.C. § 7102(11), (12). We encourage offices, however, to include in their policy the definition of trafficking based on their jurisdiction's laws.



FOR MORE INFORMATION:
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