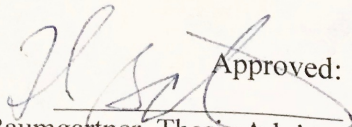
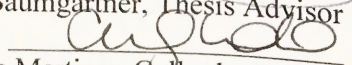
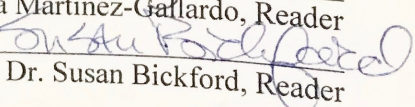


Shifting the Burden of Blame: How Human Trafficking and Prostitution Laws Harm Women

By  
Olivia O'Malley

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University of North Carolina at Chapel Hill

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Approved:  
  
Dr. Frank Baumgartner, Thesis Advisor  
  
Dr. Cecilia Martinez-Gallardo, Reader  
  
Dr. Susan Bickford, Reader

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## **Introduction**

Somewhere in the North Carolina court system, a woman is arrested for prostitution. She was caught in the act by a police sting, and they have direct evidence of her crime. At her trial, she is convicted easily by the judge. He has seen thousands of these cases before and makes a rational decision in light of the compromising evidence. If she is arrested for prostitution again, it will mean a felony conviction. Meanwhile, a man arrested for human trafficking on the other side of town is turned free, following in the footsteps of hundreds of men before him acquitted of the same charge. Upwards of 80-90% of prostitutes report being controlled by a pimp or trafficker (WHISPER 1987, Farley et al., 2014), yet it is prostitutes who have the highest arrest and conviction rates within all the players in the commercial sex industry. It is clear these charges are intrinsically linked, but the legal system doesn't acknowledge the origin of the problem. In short, traffickers, pimps, and sex buyers are usually men, and prostitutes are usually women. Is there something about the nature of these crimes that explains for their starkly different conviction rates, or does this data reveal something more about how the criminal justice system perceives and polices women?

In North Carolina, from 2012 to 2017, an arrest like the first scenario occurred 2005 times, of which 594, or 29.63%, led to a conviction. The second arrest situation occurred 376 times of which only 28, or 7.78% led to a conviction. The female arrested for prostitution was almost 4 times as likely to receive a conviction, although human trafficking is the exploitative force behind most acts of prostitution and endangers public safety to a greater degree. Taking into consideration 80-90% of prostitutes report being controlled by a promoter or trafficker, how can we reconcile the high amount of women being arrested and convicted for prostitution?

Beyond the lack of accountability for perpetrators of promoting prostitution (trafficking), prostitution laws also fail to take into account those who purchase sex acts. From 2012 to 2017, almost 800 people were convicted for selling sex acts, while only about 20 people were convicted for buying them. The high likelihood of arrest and conviction for prostitution in comparison to other predominantly male crimes leads me to believe police view the eradication of human trafficking and prostitution through the lens of short-term female discipline, rather than recognizing and targeting the patriarchal nature of this practice. The 2000 federal law on human trafficking acknowledges and emphasizes that the human trafficking industry targets and exploits vulnerable low-class women, yet policing patterns are inconsistent with this national framework.

First, I analyze the intention and framework of the Trafficking Victims Protection Act enacted by Congress and President Clinton in 2000. In order to get a snapshot of how this law has manifested on the ground, I analyze 5,089 arrests relating to the areas of prostitution and human trafficking in North Carolina. North Carolina is one of the top ten human trafficking hubs in the United States, so their arrest and conviction rates are likely to give insight into larger policing patterns. I found powerful evidence that the likelihood of conviction in this area of the law is largely contingent on who the law targets. In female targeted crimes such as prostitution and solicitation, females of both races are more likely to be found guilty than males of their same race and opposite race. In male targeted crimes such as promoting and trafficking, males lead in convictions by a small margin, but the overall number of convictions is dramatically smaller than in female targeted crimes. I supplement my quantitative analysis through a series of interviews with professionals involved in different aspects of the fight against human trafficking and prostitution in North Carolina.

I am careful to note the non-linear characteristics in the complex relations between prostitution and the legal system. For example, while prostitution has much higher arrest rates than human trafficking, an initial prostitution charge only constitutes a misdemeanor, so a judge may be more inclined to convict the defendant for this low level charge. That being said, this data still gives insight into how the criminal justice system fails to prioritize female autonomy and safety through their method of policing prostitution and trafficking. Additionally, there are gaps in the quantitative part of the study due to a lack of absolute knowledge of the overall number of prostitutes, pimps, and buyers in the North Carolina, as well as information about number of prostitutes, pimps, and buyers within each race. I also don't have data on the number of transgender people involved in the commercial sex industry, although they are known to be highly vulnerable to prostitution and trafficking. Much of this information is not available to the public as these are criminalized and stigmatized acts, but I attempt to use literature and expert opinions to give an idea of how the system is stacked against certain demographics.

In all, my study highlights the complexity of the criminal justice system and the way in which different areas of law target different identities. Understanding the way in which our legal system attempts to address issues in society can give much insight into the power structure of that society.

### **Theories of Disparate Treatment**

The theoretical legal framework surrounding human trafficking openly recognizes trafficking as a crime against those trafficked. Within this framework, it is accepted that the buyers and sellers of sex constitute the criminals and those trafficked are without a doubt the victims. In comparison, within the prostitution laws in the United States, states currently criminalize the

sellers of prostitution acts as well as the buyers. Prostitution laws allot the assumption of equivalent consent to those who are paid for sex acts as they do for those who purchase sex acts. Despite the contradiction within the two legal structures, there is a large consensus by academic and legal communities that there is a close, overlapping relationship between the human trafficking industry and the prostitution industry. Both root from systems of deep gender inequality and are perpetuated due to an incessant demand for the commodification of women's bodies worldwide by men. Both industries are extremely profitable due to the low risk for traffickers and buyers of sex within the policing framework of the United States. In this analysis, I seek to understand the extent to which long standing structures of gender impact if and how the government takes into consideration the deep linkage between trafficking and prostitution when policing these crimes.

## **Gender**

Many prominent scholars and activists have documented the gender bias within the way the United States approaches prostitution and human trafficking. One of the important differences between prostitution laws and human trafficking laws is the demographics they target. Because trafficking presumes non-consent for those trafficked, the framework of the law intends to target males, who are the primary perpetrators of trafficking others (UNODC 2015). As a contrast, prostitution laws mainly targets females in an attempt to eradicate the practice, as females make up the majority of prostitutes (Fondation Scelles 2018). In this section, I briefly overview studies that demonstrate gender-bias within the current methods of perceiving and policing prostitution and human trafficking.

### ***Prostitution (and Solicitation)***

There are two dominant schools of feminist thought surrounding prostitution. Prominent abolitionist feminist literature argues for reframing prostitutes to be seen as “victims of coercion in a society that services men by objectifying and subordinating women” (Freeman 1989). Abolitionist feminists seek to abolish prostitution by punishing the behavior of men purchasing prostitution and trafficking services. (Farley et al., 2003) On the other hand, liberal feminists hold the view that prostitution is a respectable job that should be legalized and sex work should be treated as any other job in the economy (Freeman 1989). Advocates for legalization see the stigma surrounding prostitution as prostitutes’ biggest challenge. The key problem underlying the argument for legalization is that it treats purchase of women’s bodies by men as inevitable and doesn’t address the larger system of abuse against women that exists within all commercial sex interactions. Renowned researcher Melissa Farley offers evidence of the physical, emotional, and social harms of prostitution to demonstrate how prostitution is not a “victimless crime” as commonly believed. In reality, prostitution of women is one of the most lethal forms of violence against women; as they typically are harrassed, dominated, hunted, assaulted, and battered on a daily basis (Farley 2004). HIPS Survey on Violence asked over 100 women in prostitution if they had ever experienced violence while working and 90% said yes (2006). A non-profit named Different Avenues similarly found 85% of prostitutes surveyed stated violence as their number one concern on the job (2006). Because of the clear harm that exists against women within prostitution, I utilize the abolitionist theoretical framework in this research.

In order to understand how prostitution is inherently violence against women, it is vital to understand the type of sex that takes place within prostitution. In the words of Farley, “Prostituted sex is coercive sex by its nature. The cash is the coercive force” (Moran & Farley 2019). The service provided in prostitution almost always consists of violent, degrading, abusive acts (Raymond et al 2002) where prostitutes exercise little if any autonomy over the situation. In the words of one sex buyer, “She has no rights because you are paying for a sex act- she gives up the right to say no” (Farley, 2017). Currently, legal frameworks in the United States argue women have the freedom to “consent” to prostitution. In order to understand why any prostitution act should be considered intrinsically sexually exploitative and dangerous, it helps to think about the structure of the industry as a whole. Within the industry, consent of the seller is besides the point because, “How or why [female] bodies get into the [male] consumer market is irrelevant to the market” (O’Connor and Healy, 2006). If the coercive force of money is needed to create sexual submission, this submission should not be confused with consent (Moran & Farley 2019).

In 2002, the U.S. Government took up a strong position against prostitution in a National Security Presidential Directive based on, “evidence that prostitution is inherently harmful and dehumanizing, and fuels trafficking in persons, a form of modern-day slavery.” Despite this statement, the United States currently criminalizes the behavior of women in prostitution. The structure of this legislature sets up a standard in which women are held to different rules of sexuality than men and blamed for male immorality (D’Cunha 2002). More importantly, this method of policing has not proven to be particularly effective in decreasing prostitution rates, and instead has resulted in an increase of female arrests (Carmen and Moody 1985). Pfeffer,

Pablo, and Engleman (2018) found in Houston, Texas, women were disproportionately arrested for prostitution and more likely to receive a jail sentence as well. These prostitution arrests are usually followed by no provision of services despite a high need (Dank, Yahner, Yu 2017). In Washington D.C. law enforcement attempted to implement “Move Along” policies, where police targeted certain neighborhoods to “cleanse” them of sex workers. Research has shown this method of policing poses serious threats to the health and safety of prostitutes and forces them to move to areas where they are more vulnerable to violence (Alliance for a Safe & Diverse DC, 2006). In sum, the prostitution industry systematically imposes physical and psychological violence against women, yet US legal enforcement treats those same women as perpetrators.

### ***Human Trafficking (and Promoting Prostitution)***

While I have detailed above the way policing prostitution and solicitation harms women, gender prejudices present themselves in different ways while analyzing male-targeted laws like human trafficking. Although trafficking laws technically presume nonconsent for those trafficked, determining what constitutes trafficking and what constitutes prostitution is up for debate. The definition of trafficking employs the subjective identifier of “deception, coercion, the giving or receiving of benefits, abuse of power, or abuse of another’s position of vulnerability” (Human Trafficking Protocol). Looking at this definition in conjunction with the fact that 80-90% of prostitutes report being controlled by pimps (a type of trafficker) (Helfgott 2008), it would be more logical to consider prostitutes and those trafficked in the same lane of criminality.

The illogical framework surrounding trafficking and prostitution carries over into the way in which the criminal justice system attempts to address the issue of human trafficking.

Although the US definition of trafficking created in 2000 is progressive and far-reaching in its nature (as it is the first federal law to address trafficking), enforcement of state and federal laws have not caught up with the new theoretical framework created. It is well known that new legislation rarely comes with explicit instructions on proper implementation (Pressman & Wildavsky 1979, Edelman 1992). One of the biggest issues with legal enforcement of human trafficking law is the way in which it often characterizes victims as complicit. For example, perpetrators of trafficking will compel victims to engage in illegal acts such as prostitution or migration across country borders, yet laws against trafficking do not contain provisions protecting victims from persecution for coerced criminal acts (Farrell, Owens, & McDevitt 2013). In their *Trafficking in Persons Report*, the U.S. Department of State openly states, “[D]espite increased trainings, laws, and regulations, NGOs noted that some federal, state, and local law enforcement officials were reluctant to identify individuals as trafficking victims when they have participated in criminal activity, facilitated their own smuggling, and/or were subjected to debt bondage or peonage by a smuggler.” It is clear the inconsistency in implementing the TVPA 2000 stems from the subjective and arbitrary legal difference between giving “consent” to be prostituted and being trafficked. This legal strategy fails to internalize the full definition of human trafficking, and instead still places blame on victims.

Because the criminal justice system still places so much blame on survivors of trafficking, it is difficult to convict perpetrators. This phenomenon has been well documented in other crimes that consist of violence against women, such as domestic abuse and sexual assault. Studies find prosecutors are hesitant to arrest and convict perpetrators when victims have engaged in “risky” behavior such as sexual relations with the perpetrator (Jenness & Grattet

2005, Spears & Spohn 1997, Stanko 1982). When you factor in the extremely high rates of trauma among trafficking victims (Farley 2003), it isn't surprising that it is also difficult to get victims to testify. Much of the evidence in human trafficking cases rest upon the testimony of the victim (UNODC 2017), which also explains the ineffectiveness of TVPA 2000. Similar to prostitution legislation, until police must implement a feminist perspective in their legal strategy, women will continue to bear the physical, emotional, and legal burden for the violence committed against them (Farrell & McDevitt 2014).

## **Race**

The violent forces of race and racism exist deep within the structures of the commercial sex industry due to their longevity as prominent ideologies in American society. Stereotypes of Black female and male sexuality have undermined effective social and legal response from the United States. It is well documented that Black women and girls have been particularly sexually exploited throughout American history, due to their specific intersection of race and gender. It is also widely understood that men of color have been demeaned and overpoliced as hypersexual and sexually degenerate since times of slavery, and still are today. It is vital to understand the history of race and sexual exploitation in the United States in order to reveal the ideological forces that perpetuate the industry today.

## ***Prostitution (and Solicitation)***

Many studies revolving around factors associated with a higher likelihood of prostitution cite race as a primary indicator. To view this association in its full scope, it is imperative to look

backwards as the history of Black women in the United States. It is largely known, though rarely internalized, that African-American women were systematically raped and forced to procreate while enslaved. African-American women were subject to a deeply patriarchal society, which was simultaneously violently racist. The intersection of these two identities, being female and being Black, enabled white men to justify extreme physical, sexual, and mental abuse towards enslaved females. Countless documents painfully detail congruent first hand accounts depicting the vile sexual abuse rampant on slave plantations (see *Incidents in the Life of a Slave Girl* (1861), *The History of Mary Prince* (1831), *Behind the Scenes: Or, Thirty Years a Slave and Four Years in the White House* (1868), *Narrative of Sojourner Truth, a Northern Slave* (1850)). Following the abolition of slavery, sexist and racist ideologies were still deeply entrenched within American society. Documentary *The Rape of Recy Taylor* brings to attention the common reality for Black women living in the Jim Crow era: systemic and racially motivated rape and sexual abuse by white men. The psychological trauma and physical abuse these women suffered due to their race in this time (Thompson-Miller and Picca 2017; Tillman, Bryant-Davis, Smith, & Mark 2010, Broussard 2013) compromised their ability to maintain a sense of identity and upward mobility for generations to come (Carter 2007, Bryant-Davis & Ocampo 2005).

The history of sexual abuse towards Black women in the United States is something that cannot be overlooked in properly assessing the nature of the prostitution industry today. Prominent feminist scholars have coined the term “gender entrapment” to explain how poor Black women are incarcerated at the intersections of race, gender, and violence due to web of social conditions over which they have no control (Woods 2012). These social conditions are created by a history of racialized sexual exploitation and make Black women and girls

particularly vulnerable to sexual exploitation exploitation (Nelson 1993, Lucas 1995, Carter 2007, Norwood 2018). Although prostitution exists due to male demand for purchasable sex acts, Black women are rendered particularly vulnerable due to their identity (Frye 1983, MacKinnon 2011).

Instead of acknowledging Black women's vulnerability due to an intersection of historic class, race, and gender inequalities, the US criminal justice system continued to harm Black women before they are even convicted of a crime. From an early age, girls of color who have been abused are more likely to be labeled as "offenders" and punished (in comparison to white girls), instead of being referred to mental health services (The Sentencing Project 2015). Black women are also arrested at a rate thirteen times higher than all races combined (The Sentencing Project 2015). Racial prejudice against African American women particularly comes into play in prostitution and solicitation charges. For example, in 2014 an African American actress Danièle Watts and her two friends were detained by the LA police department for solicitation of prostitution, just for kissing their boyfriends in public. That same year, a study found Black women faced 94 percent of charges on the offense of "loitering for the purposes of prostitution" in Brooklyn, NYC (The Red Umbrella Project 2014). Because loitering charges don't require any money to be exchanged for sexual acts and is based on officer opinion, it is clear racial prejudice has played a role in these arrest rates. To view this phenomenon in scale, 40.4 percent of documented human trafficking victims and 55 percent of prostitution arrests are African-American women, while African-Americans only make up 13% of the United States population (Lillie 2014). Widening the scope to all non-white females, women of color make up

40% of those involved in street prostitution, but 85% percent of those sentenced to jail (Lucas 1995).

It is difficult to separate the phenomenon of gender entrapment from racial bias within the policing system due to the stigmatized nature of prostitution. That being said, there is a history of sexual exploitation and legal prejudice against Black women in America. Law enforcement must account for the inherent vulnerability of Black women and girls while policing prostitution or Black women and girls will continue to be disproportionately harmed.

### ***Human Trafficking (and Promoting Prostitution)***

As with prostitution, the framework surrounding the prosecution of human trafficking relies heavily on racial prejudices and reinforces disparities in society. The overrepresentation of people of color in the human trafficking industry can be explained by the deep racial roots of human trafficking for both men and women. Racial ideologies constructed by whites during slavery and colonization were used to rationalize the sexual exploitation of people of color. Professor Mireille Miller-Young, a women's studies professor at University of Santa Barbara says, "Slavery existed as a sexual economy, and that Black bodies have always been (unintelligible) both breeders and concubines." Because the dehumanization and subjugation of Black women was so pervasive, it further fueled the ideology of Black women's role as the designated targets of sexual abuse (Tsesis 2012). The widely accepted belief that white women were the "True Woman" (Butler 2015) also rested upon the ideological denigration of Black womanhood.

Today, the history of sexual abuse and subjugation for Black women and other people of color in the United States is still a driving force in the modern day commercial sex industry. Both racialized sexual animus and racial fetish drive the supply of, and demand for paid sex with people of color. According to a Bureau of Justice Statistics Report, seventy-seven percent of victims in alleged human trafficking incidents reported in the U.S. were people of color (BJS 2019). In a 2013 report by the Office of Victims of Crime, 40.4% of sex trafficking victims were Black (NCVRW 2013). This is clearly much higher than the national average of reported by the US Census bureau which registers African-Americans as 13.1% of the total population (US Census 2019).

On the opposite end of the gender spectrum, black men have also been subjugated to deep racism and sexual exploitation since times of colonization. Throughout slavery, whites created a stereotype of Black men as “sexually deviant” in order to subjugate them further (Foster 2011). Even following slavery, a stereotype of Black men as “hypersexual, unfaithful, and prone to violence” persisted throughout popular culture (Perry, Smith, & Brooms 2014). A racist ideal of white women as the ideal of womanhood also deeply impacted treatment for Black men. Following slavery, thousands of innocent Black men were lynched based on the assumption that Black men couldn’t help themselves from raping white women (Feimster 2009). Disturbingly, in 2015 when a white man murdered nine African-Americans in Charleston, his reasoning for the murders was the same: “You rape our women” (Gray 2015).

For Black men today, a combination of hypersexual and hyper violent stereotypes in conjunction with legal prejudice leads to overrepresentation as promoters of commercial sex. According to an FBI report, 62 percent of those suspected of trafficking sex were black men

(BJS 2011). Within the human trafficking market, the reality is that the majority of those who drive the market demand for sex acts are white men (Giobbe 1993, McMillan 1986, UROC 2017). This is directly reflective of the racial hierarchy created by white people during times of slavery and after. While there is not concrete data on the number of African American men who participate in human trafficking, there is much concrete data on the high level of prejudice that they experience with other crimes in the criminal justice system. The Sentencing Project finds African American males are six times more likely to be incarcerated than white males (Cole 1999), and the Bureau of Justice Statistics found Black drivers were three times as likely to be searched during a traffic stop as white drivers (Eith & Durose 2008). Once convicted, sentences for Black males were 19.5 percent longer than those for whites (American Progress 2015). Due to this data, it is rational to assume the racial prejudices that impact African American men in all other parts of the criminal justice system play a role in trafficking crimes as well.

### **Intersectional Disadvantage**

Many of the characteristics that make women and girls of color especially vulnerable to prostitution and trafficking have a much greater impact when experienced simultaneously. Many scholars have detailed the cumulative disadvantage for persons who share numerous individual characteristics (Collins and Bilge 2016). Therefore, I expect the factors above increasing vulnerability to sexual exploitation to be cumulative in their affect, increasing disadvantage within the criminal justice system for Black women.

## Legal History

Human trafficking, which includes promoting prostitution, is a global issue that affects over 24.9 million people worldwide (Human Rights First 2017). It is a 150 billion dollar industry for the promoters and traffickers who profit from it each year (Human Rights First 2017) and one of the fastest growing criminal enterprises on earth. The crime of “human trafficking” involves “the recruitment, receipt, or harboring of another person for prostitution or exploitative work, by means of threat, force, abduction, deception, coercion, the giving or receiving of benefits, abuse of power, or abuse of another’s position of vulnerability” (Human Trafficking Protocol, UN).

Until October of 2000, there existed no comprehensive federal legislation on the subject of human trafficking in the United States, nor an international framework to draw from. While the UN did create a *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* about a month later, the United States’s Trafficking Victims Protection Act of 2000 (TVPA) was the first of its kind and serves as the cornerstone of federal trafficking legislation to this day. While there is still debate over feasibility of fully implementing all parts of the TVPA, the symbolic victory of this legislation is powerful nonetheless. I choose to focus on the legal framework of federal human trafficking legislation, as prostitution legislation greatly varies state by state and year by year. Due to the intrinsic link between the two crimes, I believe the TVPA will give insight into how we perceive trafficked women *and* prostitutes.

The Trafficking Victims Protection Act passed unanimously in the Senate and was signed into law by President Bill Clinton on October 28, 2000. The Act defines trafficking in two forms: “(a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion,

or in which the person induced to perform such act has not attained 18 years of age; (b) or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” These definitions are significant due to the wide scope of crimes they have the potential to address.

Even more consequentially, the United States set a standard for the international community by including these far-reaching definitions of trafficking within the Act. One of the most comprehensive parts of United States’ Act is the intention to address trafficking through enhancing cooperation within the international community. It is clear from the UN protocol created shortly after the TVPA that the US served as the catalyst for increasing human trafficking legislation worldwide and continues to do so today. Within the UN Protocol on Trafficking, rather than obligating nations to support their protocol, they allow state parties to consider measures, “[i]n appropriate cases and to the extent possible under... domestic law” (p.3). The US government pledges to monitor nation’s attitudes towards trafficking, economically augmenting countries with populations vulnerable to trafficking and putting economic sanctions on countries who refuse to meet the minimum standard of cooperation (p.9). Even more consequentially, victims who have been trafficked from other countries are temporarily given resident status in the United States with the potential for permanent resident status under the T-visa (p.71). This component goes hand in hand with increased protections and restitution for trafficking victims, as well as harsher sentences for traffickers.

Overall, the TVPA can be categorized by three major objectives: prevention of human trafficking, protection of victims and survivors of trafficking, and prosecution of human

traffickers. Within the category of prevention (p.12), the bulk of the legislation focuses on international trafficking. As mentioned briefly above, the Act requires the U.S. State Department to thoroughly evaluate all foreign governments' individual attempts to combat trafficking as well as their overall cooperation within the international movement to combat trafficking (p.9). Within this evaluation, the department will decide if the country meets the standards set by the US legislation and implement sanctions if standards are not met (p. 10). In addition, the Act attempts to prevent human trafficking by increasing economic opportunities for populations vulnerable to trafficking in foreign countries. Finally, a Interagency Task Force to Monitor and Combat Trafficking was established to monitor this international process and evaluate progress made from the TVPA (p.11).

The second category found in the TVPA of 2000 focuses on protection and assistance for trafficking victims (p.12). As with the prevention focused part of the Act, the protection section also focuses on victims trafficked across international borders. The Act seeks to provide increased protections for victims of human trafficking to be seen legally as victims instead of illegal migrants and receive greater access to legal services and benefits without taking into consideration their immigration status. That being said, in order for victims to be deemed eligible to receive these benefits and services, they must meet one of the following specific requirements (p.13). They must be either under eighteen years old, the Attorney General has deemed their continued presence is necessary to prosecute the trafficker, or they are willing to assist in every way possible the legal prosecution of their traffickers. If they meet one of these requirements, then they can become eligible for one of the 5,000 T-visas issued each year which grant temporary resident status.

Lastly, the Act promises to pursue a new level of prosecution and punishment against traffickers (p.24) including harsher sentences, additional criminal charges, and a mandatory restitution clause that traffickers have to pay their victims. The sentence for a trafficker was increased to 20 years in prison and a fine. In addition, a clause was added that. “if death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both” (p.24).

There are number of ways in which the creation of this act indicated a very promising future for the eradication of human trafficking. The international focus of this act points to an understanding of the deeply systemic nature of human trafficking. Understanding that larger issues of poverty and sexism leave poor women in developing countries open to exploitation is vital to fighting human trafficking. The act holds other countries accountable in how they respond to human trafficking, and demands that they prioritize the physical and psychological safety of their most vulnerable citizens. Because the act attempts to address trafficking by increasing economic opportunity and awareness in developing countries, it is clear the United States understands the external conditions that leave victims open to exploitation, instead of blaming those trafficked for their misfortune. The act accurately paints those trafficked across international borders as victims instead of illegal immigrants. This is vital in fighting human trafficking, as often those who escape trafficking often still have no options due to strict immigration laws and the stigma around being trafficked.

In addition, within the Findings section of the TVPA, Congress states the trafficking industry, “involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services.” This is a promising finding and a progressive framework through which to view the scope of the trafficking and prostitution industries. It is important on a fundamental level that Congress states within the first section of this act that they believe, “Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts.” This finding by Congress again emphasizes they see humans who are trafficked as victims instead of perpetrators.

Since about twenty years have passed since the implementation of this federal law and international framework, we should expect to see correlating arrest patterns across countries in the United States. Because this law promises to treat victims of human trafficking as victims, we should hope see a great number of trafficking and promoting (prostitution) arrests and a lower number of prostitution arrests. Because 80-90% of prostitutes are controlled by pimps or traffickers, it is fair to allot the same framework of non-consent within prostitution cases as the TVPA does for those trafficked. The social conditions which leave those vulnerable to trafficking, are the same social conditions that leave many vulnerable to prostitution.

### **Implementation in North Carolina**

Despite the promise of the Trafficking Victims Protection Act of 2000 to enact international change on a systemic level, implementation of the Act has failed on many levels. The failure to fully implement TVPA can be attributed to the difference between the legal framework the

TVPA employs and the framework through which federal and state authorities perceive and police trafficking. The 2000 human trafficking legislation views those trafficked through “force, fraud, or coercion” as victims of an international system that targets vulnerable populations. In contrast, the main population prosecuted within the human trafficking legal framework are the victims themselves. Generally, victims of trafficking are prosecuted on the charges of prostitution or instead of receiving the benefits the TVPA promises. In order to understand the failure of the TVPA, I analyze data from the state of North Carolina regarding arrests and convictions in crimes relating to prostitution and human trafficking.

North Carolina makes for a great case study for looking at the commercial sex industry as it has the eighth highest amount of reported human trafficking cases in the United States (NC Administration). There are a few reasons for the prevalence of this crime including the larger number of major highways that run through the state, a shifting military population with a demand for commercial sex services, many agricultural areas with a demand for labor, and increasing gang activity (NC Administration).

That being said, North Carolina is equally optimal to study due to the amount of work the North Carolina government and various organizations have undertaken to combat the commercial sex industry. This work includes the Human Trafficking Commission, which is a commission set up by the Governor of North Carolina to examine and combat human trafficking in North Carolina (NC Administration). Governor Roy Cooper also recently instituted a Human Trafficking Awareness month and the state enacted its own legislation against trafficking in 2016 (NC Courts 2019). Due to large, public efforts made by North Carolina citizens and officials to

combat this extremely prevalent crime, it should prove telling to analyze the reality of outcomes for citizens of North Carolina charged with crimes relating to the commercial sex industry.

### *Hypotheses*

Overall, with consideration to the literature review above, I expect a number of patterns to emerge once citizens are arrested for prostitution and related crimes. Regarding gender, I expect higher convictions rates and a higher number of people arrested for female targeted crimes (such as prostitution and solicitation) in comparison to male targeted crimes (such as trafficking, promoting, or patronizing) relating to prostitution. This hypothesis is based on the lack of feminist theory I see present within current American policing tactics, and I believe this will carry over into conviction rates in North Carolina. I also believe females will have higher conviction rates and arrest numbers within female targeted crimes, due to the patriarchal nature in which America perceives prostitution. In addition, I believe Black women will receive harsher outcomes than white women in female targeted crimes due the history of sexual exploitation of black women. I believe Black men will be arrested in greater numbers and have higher rates of conviction than white men in male-targeting crimes. Beyond gender, race, and criminal history, I expect those with multiple disadvantages to be targeted and experience the highest likelihood of convictions. In all, this leads to the following testable hypotheses, with greater harshness meaning conviction instead of acquittal.

H1: Female targeted crimes (prostitution and solicitation) will have higher conviction rates than male targeted crimes (trafficking, promoting, patronizing).

H2: Female targeted crimes (prostitution and solicitation) will have a higher number of arrests than male targeted crimes (trafficking, promoting, patronizing).

H3: Within female targeted crimes, women will be arrested in higher numbers and will have higher conviction rates than men arrested of the same crime.

H4: Within male targeted crimes, females will have a higher likelihood of conviction.

H5: Black female defendants will have a higher number of arrests and high conviction rates than white female defendants within female targeted crimes.

H6: Black male defendants will have a higher number of arrests and higher conviction rates than white male defendants within male-targeted crimes.

### ***Data and Research Approach***

North Carolina has a 2018 population of about 10.4 million, of which approximately 70.8% are white and 22.2% are African Americans (US Census Bureau). Using data from the North Carolina Administrative Office of the Courts Database, I have received records of the entirety of North Carolina arrests and convictions relating to crimes of prostitution and sexual exploitation from 2012 to 2017. I eliminated any arrest records for defendants who still have a pending court date.

The Statutes I choose to focus on are prostitution, solicitation, promoting (pimping), patronizing and trafficking. I choose to include crimes related to both prostitution and human trafficking as so often prostitution and trafficking go hand in hand. It is often difficult for advocates and law enforcement to determine what constitutes trafficking, as many prostitutes might not be physically trafficked, but are compelled to prostitution by psychological, emotional, financial, and trauma-informed factors so they cannot leave. In a UN Convention for the

Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the final resolution states, “Prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual” (United Nations Human Rights Commission).

For these reasons I choose to focus on statute 14-204 to study Prostitution. Prostitution is the act of engaging in sexual activity for money or payment (FindLaw). Statute 14-204 includes offense codes 4010 (Aid and Abet Prostitution), 4011 (Prostitution), 4012 (Prostitution), 4013 (Solicit for Prostitution), 4014 (Loitering for Prostitution), 4015 (Maintain Place for Prostitution), and 4016 (Transport for Prostitution). All of these offense codes fall under the same statute and solely apply to the person who is being paid for sex acts. Of these offense codes, about 68% of those arrested for Statute 14-204 are female. Due to the high rate of females arrested for Statute 14-204, I classify it as a female-targeted crime within my data analysis.

I focus on statutes 14-205.1 in order to analyze the crime of solicitation. Solicitation is the act of seeking and/or engaging in sexual services for hire (FindLaw). Within North Carolina, it can apply to both the person seeking to pay for sexual activity and the person seeking to be paid for sexual activity. Within Statute 14-205.1, I look at offense codes 4020 (Solicit Prostitution - Misdemeanor), 4021 (Solicit Prostitution 2nd/Sub), 4022 (Solicit Prostitution Minor), 4023 (Solicit Prostitution Mental Disability - Misdemeanor). Of those arrested for these offense codes, over 55% percent are female, leading me to classify it as a female-targeted crime in my data analysis as well (particularly given the reported disparity in number of buyers versus number of prostitutes).

I look at statute 14-205.2 to analyze patronizing prostitution, or the act of paying for sex acts. Within Statute 14-205.2, I look at offense codes 4024 (Patronize Prostitute Engage-Misdemeanor), 4025 (Patronize Prostitute Engage - Felony), 4028 (Patronize Prostitute Minor), and 4029 (Patronize Prostitute Minor). Of those arrested for these offense codes, about 94% of those arrested are male, leading me to classify the buying of sex acts as an overwhelmingly male-targeted crime.

I focus on statute 14-205.3 to analyze promoting prostitution, colloquially known as pimping. I look at offense codes 4030 (Promote Prostitution - Advance), 4031 (Promote Prostitution - Profits), 4032 (Promote Prostitution - Advance Prior), 4033 (Promote Prostitution - Profits Prior), 4034 (Promote Prostitution Minor/Mental Disability Advance), 4035 (Promote Prostitution Minor/Mental Disability Prior), 4036 (Promote Prostitution Confinement Minor/Mental Disability), and 4037 (Promote Prostitution Prior Conviction). Of those arrested for these offense codes, about 76% percent are male, leading me to classify it as a male-targeted crime in my data analysis.

Finally, I analyze statutes 14-43.11, 14-43.13, 14-43.14 to study human trafficking. I study offense codes 1150 (Human trafficking adult victim), 1151 (Human Trafficking Child Victim), 1152 (Involuntary Servitude Adult Victim), 1153 (Involuntary Servitude Child Victim), 1154 (Sexual Servitude Adult Victim), and 1155 (Sexual Servitude Child Victim). Of those arrested for these offense codes, about 81% are male, leading me to classify it as a male-targeted crime in my data analysis.

These statutes are powerful indicators of the way in which our legal system perceives the problem of prostitution and who it targets in an attempt to eradicate the problem. The

summation of these statutes results in 5,089 arrests in total. Note that the North Carolina Database does not include punishment type, and sentence severity, as measured by probation length, jail sentence length, and/or fine amount. In a study done in Houston, Texas, Pfeffer et al. (2018) found women were disproportionately arrested for prostitution and more likely to receive a jail sentence as well. In comparison to men, they were less likely to receive a punishment consisting solely of probation or a fine. The present study is limited solely to the likelihood of receiving a conviction or being acquitted.

### **Quantitative Results**

Table 1 gives a summary of variations in percentage of defendants convicted by the type of crime and by their gender.

(Insert Table 1 about here)

Overall, solicitation has the highest rate of convictions at 29.35 percent. The next highest conviction rate is patronizing, which has a 27.85 percent rate. I will come back to this finding below. Closely following solicitation is prostitution, at 26.84 percent. After prostitution comes promotion of prostitution, at 13.48 percent and then human trafficking at 7.94 percent. This table clearly shows dramatic differences in likelihood of conviction based on the type of crime you commit. Someone who is arrested for a crime of solicitation is 3.69 ( $29.35/7.94$ ) times more likely to be convicted than someone who is arrested for human trafficking. These findings lend support to Hypothesis 1 (with the exception of patronizing as an anomaly).

(Insert Figure 1 here)

Something else striking about these results is the high disparity in the number of arrests per crime. Prostitution has highest number of arrests, with 2,962 people arrested. The second

highest is solicitation, in which 1,148 were arrested. Next is promoting prostitution, with 564 people arrested, followed by 466 people were arrested for trafficking. Only 79 people were arrested for patronizing a prostitute. The extremely low number of arrests for patronizing prostitutes may explain the higher than normal conviction rate within male targeted crimes. Having such high standards for arrest may lead to a likelihood of conviction once arrested. There are over 4 times more prostitutes than traffickers arrested and 37.49 times more prostitutes arrested than buyers arrested. These numbers directly support Hypothesis 2.

(Insert Figure 2 about here)

Table 1 shows dramatic differences in rate of conviction and number of arrests based on if the crime is female-targeted or male-targeted. This is clear. That being said, although female targeted crimes have a higher number of arrested and a high number of convictions, there is still a very high acquittal rate among all crimes. This is unique to prostitution related crimes as much of the legal framework surrounding prostitution and human trafficking is subjective in nature.

Table 2 shows the number of prostitution arrests and convictions by offense code and gender.

(Insert Table 2 about here)

There are three compelling pieces to these results. The first is that almost all defendants arrested for prostitution, are either acquitted or convicted for the offense code with which they were charged. There weren't enough defendants who were convicted of different offense codes to include them in the analysis. This is rare in comparison to other crime Statutes, as judges do have the option to reduce your offense or convict you of a different crime. The second outcome is women who are arrested for prostitution have a 29.63 percent chance of being convicted, while

men arrested of the same crimes have a 21.11 percent chance of being convicted. Finally, there are twice as many women arrested as men. This confirms Hypothesis 3.

Table 3 shows the number of solicitation arrests and convictions by offense code and gender. It has very congruent results to Table 2.

(Insert Table 3 about here)

Again, almost all defendants were convicted of the offense code in which they were charged, or acquitted. Within gender, women had about a 9% higher rate of conviction than men, 33.26 to 24.66. The number of solicitation arrests differs somewhat from prostitution arrests in the number of men and women arrested. Women have only slightly higher arrest numbers: 887 to 738. That being said, the difference in arrests very incongruent with national estimates of 10:1 clients to prostitutes. For this reason and the overall higher amount of women arrested, I can continue to confirm hypothesis 3.

Table 4 shows the number of patronizing arrests and convictions by offense code and gender.

(Insert Table 4 here about here)

Patronizing is a very male targeted crime with only 5 women being arrested for purchasing sex, in comparison to 74 men. That being said, the comparison between 79 people arrested for buying sex acts and the 2,963 people arrested for selling sex acts is very stark. It further confirms Hypothesis 2. Although only 5 women have ever been arrested for patronizing, 60% were convicted compared to only 27% of men convicted for the same crime. This confirms Hypothesis 4.

Table 5 shows shows the number of promoting prostitution arrests and convictions by offense code and gender. Here is where conviction rates and gender results start to differ starkly.

(Insert Table 5 about here)

Similar to the female targeted crimes, almost all of the defendants are convicted of the offense code they were arrested for or acquitted of the crime altogether. Next, there are about 4 times as many men arrested for promoting prostitution as women: 429 to 135. That being said, these numbers are starkly lower than the numbers of people arrested for female-targeted crimes. The total number of people arrested for prostitution is 5.22 times larger and the total number of people arrested for solicitation is 2.88 times larger. This confirms Hypothesis 2. Finally, men do have a higher rate of convictions in this crime in comparison to women: 15.52% to 6.67%. This doesn't support Hypothesis 5. This is the opposite result found among the female-targeted crimes, but again, these rates of conviction are still much about 2 times lower overall.

Table 6 shows shows the number of trafficking arrests and convictions by offense code and gender. Table 6 shows similar results to Table 5.

(Insert Table 6 about here)

Within trafficking offense codes, almost all of the defendants are convicted for the arrest code they were arrested for or not convicted at all. The gender disparity in arrests here is the largest with 376 men to 90 women. That being said, the rates of conviction almost exactly the same at 7.78 for females and 7.98 for men. This is a positive result, showing equitable conviction rates based on gender. Despite this, similar to promoting prostitution, these conviction rates are starkly lower than the female-targeted offense code conviction rates. There

are much less people arrested for these crimes and much less people convicted, confirming Hypothesis 1 and 2.

Table 7 shows the arrests and convictions per type of crime, based on demographic information.

(Insert Table 7 about here)

This table is an intersectional analysis attempting to study the effect of gender and race on conviction rates. Overall for all crimes, white females have the highest number of arrests and the highest conviction rates at 29.79 percent convicted out of 1,816 people arrested. The second highest conviction rate is Black females close behind at 27.59 percent. That being said, Black females have a much lower number of people arrested at 1,120 people. Although Black females have a lower number of people arrested, the percentage of Black females in North Carolina is  $\frac{1}{3}$  that of white females, meaning Black females are most likely still being overrepresented in arrests. The third highest conviction rate is white men, who have a 22.5 percent conviction rate. White men have the lowest number of arrests out of all four demographic groups at 745. Finally, Black men have the lowest conviction rate at 18.39 percent. They have the second highest number of people arrested at 1,408. Therefore, white women have the highest percentage of convictions, then Black women, white men and finally Black men.

(Insert Figure 3 about here)

In absolute number of arrests, white women have the highest number of arrests, followed by Black men, then Black women, then white men.

(Insert Figure 4 about here)

Table 7 continues with the number of arrests and convictions for prostitution, based on demographic information. Within prostitution, Black females have the highest rate of conviction at 30.15 percent. White females are close behind at 29.41 percent. White males were convicted 25.83 percent of the time and Black males were convicted 22.18 percent of the time. These conviction rates reflect the female-targeted nature of the crime. This lends support to Hypothesis 5, although the margin is small. In number of arrests, white women have the most arrests at 1,146, and Black women are second highest at 743 arrests. Black males have 478 arrests and white males have the least at 271 arrests.

Table 7 also has the number of arrests and convictions for solicitation, based on demographic information. Within solicitation, white females have the highest percentage of convictions at 35.47 percent. Black males have the second highest percentage of convictions at 29.05 percent. Black females have the next highest amount of convictions at 28.13 percent. White males have the lowest rate of conviction at 22.61 percent. These rates should be equal regardless of gender and race.

The numbers for arrests of solicitation are a little more equitable across race and gender lines than other crimes. White females have the highest number of arrests at 547 people. Black males come next with 346 arrests. Black females have the third highest with 288 arrests and white males have the lowest with 283 arrests.

Table 7 continues with the number of arrests and convictions for promoting prostitution, based on demographic information. White males have the highest percentage of convictions at 23.53 percent. Black males have the second highest at 11.60 percent. This doesn't confirm Hypothesis 6. White females have the third highest rate at 8.11 percent and Black females have

the lowest rate at 3.7 percent. It is worth noting that the lowest conviction rate for solicitation is almost equitable to the highest conviction rate for promoting: 22.61% and 25.53%.

The gender disparity for arrests here is much greater with Black men having the greatest number of arrests at 293. White men are the second most arrested at 119 arrests. White females are the third most arrested at 74 and Black females are the fourth most arrested with 54 arrests. Although there are a higher number of men arrested in comparison to women, it is worth noting how much lower overall the number of arrests are compared to female-targeted crimes. This lends further support for Hypothesis 2.

Table 7 continues with the number of convictions and arrests for patronizing, based on demographic information. Although this sample size is very small, there is a higher number of arrests and a higher conviction for white men in comparison to black men. This doesn't not support Hypothesis 6.

Table 7 ends with the number of arrests and convictions for human trafficking, based on demographic information. Within human trafficking, the conviction rates are very similar. The highest conviction rate is white male at 8.33 percent. White females follow close behind at 8.16 percent. Black males have a 7.56 percent conviction rate and then Black females have a 5.71 conviction rate. These rates are very low in comparison to the conviction rates for female-targeted crimes. This further confirms Hypothesis 1.

Looking at the total number of arrests is where gender and racial disparities really come into play for trafficking, and I find partial support of Hypothesis 6. There were 291 Black men arrested for human trafficking from 2012-2017. The second highest category is white men, with

72 arrested. White females are the third highest demographic to be arrested with 49 arrested, and then 35 Black women were arrested for trafficking during this time.

Finally, looking at the crimes overall, there are about three times as many women arrested for crimes relating to trafficking and prostitution. Given that the majority of clients and traffickers in this crime are men and the majority of female prostitutes are controlled by a (male) pimp, women are vastly overrepresented.

### **Qualitative Results**

In this section, I interview members across the entire spectrum of the human trafficking community to supplement my quantitative results. Within these interviewees, there is a clinical psychologist, a community outreach coordinator, an executive director of a private non-profit, an executive director of a public non-profit, the head of the North Carolina Human Trafficking Task Force, and a Human Trafficking Project Administrator in the North Carolina government. These professionals all encompass different aspects of the fight against human trafficking, yet their viewpoints on the subject of human trafficking and prostitution vary very little.

All of the interviewees pointed to education as the primary reason for low conviction rates among traffickers, and substantially higher rates for prostitutes. They emphasized the need for this education to range from law enforcement to the general public to the victims themselves. More often than not, victims are blamed instead of the perpetrators. Many of the interviewees spoke about the “myth” behind prostitution and trafficking, which paints prostitution as a separate and consensual act in relation to human trafficking and harms women. Others emphasized legal frameworks that failed to take into consideration the long-term psychological damage victims often suffer. Overall, all of these interviewees acknowledged an irrefutable link

between prostitution and human trafficking that has yet to be recognized by general society. In the section ahead, I summarize my findings with each professional in the human trafficking field.

### **Carl Wall**

Carl Wall is on his twenty-sixth year in law enforcement. Before being appointed the Special Agent in Charge of the Human Trafficking Unit at North Carolina State Bureau of Investigations (NCSBI), he spent eight years as a supervisor in the training section of the NCSBI. He also spent ten years of his career working on the Drug Enforcement Task Force. Put simply, he has a wide breadth of experience within the law enforcement field. Despite his wide-ranging experience, as we began our interview he quickly made clear that although, “he’s seen a lot of different stuff... the human trafficking space is different than anything [he’s] ever done.”

When Carl was appointed the Special Agent in Charge of the NCSBI, the Bureau had just been given original jurisdiction over human trafficking cases. This means they went from prosecuting an extensive set of crimes to purely focusing on human trafficking cases. The goal of this change was to, “demonstrate the value of a statewide Human Trafficking Task Force (HTIF) and the benefit of practicing not just espousing the sharing of resources and expertise across organizational lines.” The Task Force is only 2 years old, so its impact cannot be fully studied yet. That being said, Carl was acutely aware of how low current conviction rates are for traffickers and able to give insight into the dire need behind the bureau’s creation in the first place.

In his words the answer is, “education, it’s as simple as that.” He adds that the need for this education ranges from the local police departments to the sheriffs to the chiefs to the judges. He paints a story of a local police officer who doesn’t understand the full structure of human

trafficking. In this story, the local police officer encounters somebody on the street attempting to prostitute themselves. If the officer is not fully trained on the prevalence of pimps and traffickers controlling prostitutes, they will simply arrest the prostitute for the crime in front of them instead of addressing the root of the problem: the traffickers and promoters of prostitution. Carl points to his own experience in law enforcement to explain why officers often arrest prostitutes instead of traffickers or johns. He says all levels of law enforcement are trained to operate with a “take what you can get” mentality, or the idea that you should make arrests based on your likelihood of conviction. Officers are trained to “look at the facts at hand and go after the easiest and most convictable offense” when in fact it would do them well to “dig a little deeper.” Although the women who has prostituted herself may have technically committed a crime, policing culture needs to internalize that there is often more to the story.

Carl also spoke of the psychological trauma for victims of trafficking while undergoing a legal trial. He spoke of two different issues in obtaining the victim testimony needed for a human trafficking prosecution. In one type of situation, the victim can be “groomed to go back to their trafficker” and won’t be willing to testify. In the other type of case, victims are in a mental place where they just don’t want to be a part of the legal process. Both of these situations leave little room for the legal system to convict the perpetrators. He ended our interview with the actuality that very rarely does he see prostitutes who have consensually choose to prostitute themselves. He believes that the majority of women who commit acts of prostitution are by legal definition trafficked in some way, and that we must open society’s mind to see this.

## **Dr. Pat Krikorian**

In her own words, Dr. Pat Krikorian has spent her career, “advocating and working for women.” She has a law degree, is a licensed clinical social worker, and currently resides as the executive director of Lily Pad Haven: a nonprofit that provides housing for survivors of trafficking. Lily Pad Haven works with community partners to provide the services and housing needed for survivors of trafficking to transition back into society.

Pat outlines two major myths among the public regarding human trafficking. The first myth directly reflects previous literature (Moran & Farley 2019) outlining the links between prostitution and human trafficking. Krikorian said much of the public, including law enforcement, think women who are trafficked have consensually chosen to prostitute themselves instead of acknowledging that 80-90% of women (WHISPER) in prostitution are controlled by a pimp or trafficker. She emphasizes that those who are victims of trafficking or coerced prostitution acts are already the most vulnerable in society, be that members of the LGBTQ community, homeless population, people of color, or victims of previous trauma, and this myth only causes more damage. The second myth is that people think only illegal immigrants are impacted by human trafficking. In Dr. Pat Krikorian’s experience, 80% of trafficking victims are American born. This myth contributes to an idea that human trafficking is an isolated, unlikely event unconnected to other crimes like prostitution. This myth makes it harder to recognize more common forms of trafficking.

She attributes the low number of trafficking convictions to the severe mental issues that exist among trafficking survivors. She states that about 95% of her clients would qualify for a diagnosis of some level of PTSD. She says the mental health that stems from the trauma of

being trafficked results in two ways in court. The first is that women are too afraid to testify against their traffickers. The second is that women have been coerced into going back to their traffickers, and therefore unable to recognize themselves as victims. Because so many victims of trafficking will be arrested for their own crimes of “prostitution” acts, they often feel the weight of the blame instead of the perpetrators.

Finally, Dr. Krikorian’s opinion echoes that of Carl Wall’s when she talks about the need for “education and information to permeate all levels.” In her eyes, this education begins in schools educating young people to look out for signs of trafficking. She highlights that technology has made this crime even worse and harder to spot. Traffickers will use social media, online channels, and media sites for personal acts in order to lure young girls into trafficking. Without human trafficking education and awareness women either will not recognize trafficking in others or those trafficked will not recognize it in their own situations. Dr. Krikorian ends our interview with a strong quote that she wishes to reach the ears of all young women. She tells me that, “Even if you’ve never been sexually assaulted or trafficked by a man, you still need to be aware of the widespread oppression women are still experiencing in this country in the 21st century.” Bringing trafficking to the public consciousness is the first step in spreading that awareness.

### **Melinda Sampson**

Melinda Sampson spent seven years as an investigative journalist before deciding to transition fulltime to the fight against human trafficking. She currently serves as the Community Outreach Coordinator at Eastern North Carolina Stop Human Trafficking Now. The organization works to create a community that understands the tragedy of human trafficking and seeks to be part of the

solution through community empowerment. Perhaps it is this passionate mission that informs Melissa's opinion on the solution to trafficking. In her words, "compassion" is the answer. She believes society and law enforcement culture needs to become more compassionate so that victims of trafficking are looked at as victims instead of the perpetrators. She says many victims of trafficking are looked at as consenting prostitutes, or a "problem" in society. Because most people aren't educated enough to understand the "manipulative and terrifying cycle of abuse" victims of sexual exploitation endure, they don't know how to recognize victims. Particularly within law enforcement, Sampson says that victims can be "re-victimized over and over" because of a lack of compassion for their stories.

Sampson believes the lack of identification for victims *as* victims, is what leads to low conviction rates for traffickers. Sampson's thoughts echo Dr. Pat Krikorian in identifying two different outcomes for the victims in court. Either they are too afraid and traumatized to testify, or they have been coerced to the extent that they feel loyalty towards their trafficker. Some victims erroneously believe that being trafficked is what a relationship looks like and won't come forward. Sampson notes that this phenomenon is very common in other crimes of violence against women such domestic violence or sexual assault. She says that often trafficked women don't want to get their trafficker in trouble, so they are willing to suffer a smaller charge of prostitution instead of their trafficker being arrested for the felony of trafficking.

Because ENC Stop Trafficking Now knows that this is often the phenomenon for victims in court, they make sure to take a victim-centered approach in their legal advocacy. The organization recognizes that many victims of trafficking have a criminal record that prohibits them moving forward with their life. To combat this predicament, ENC Stop Trafficking Now

(ENCSTN) focuses on widening the use of expungement for victims instead. Currently, it is very hard to get more than one charge expunged in North Carolina, so ENCSTN works to widen the use of expungement for trafficking victims.

### **Kelly Twedell**

Kelly Twedell works in the county with the highest number of human trafficking arrests in the state of the North Carolina. Within Cumberland County, she is the executive director of the Fayetteville Dream Centre, a center that houses the non-profit 5 Sparrows. 5 Sparrows seeks to, “practically demonstrate love, mercy, and justice to those scarred by human trafficking.” Although Cumberland County has the highest human trafficking rates, Kelly says this statistic points to paradigm shift within law enforcement and citizens in the county. She says that instead of immediately assuming those who prostitute themselves have chosen to do so consensually, members of the community are beginning to assume that vulnerable women are the victim of trafficking and looking for evidence to this fact. Twedell adds that an equally helpful effort has been made on law enforcement’s part to arrest male buyers who are driving the demand for commercial sex instead of targeting prostitutes.

In terms of legal efforts, 5 Sparrows takes issue with the victim testimony that is required for human trafficking cases to be prosecuted. In North Carolina, Kelly explains, the accused has the right to face their accuser. So if a man is being tried of human trafficking, the victim has to take the stand in front of him and repeat all of the traumatic details of her experience being trafficked. In the words of Kelly, this experience is a “mirror for the shame and guilt” of being trafficked. She advocates for a victim-impact statement where the victim doesn’t have to show up to the court house or the opportunity to teleconference in testimony in from another court

house at the very least. Beyond this traumatic experience itself, Kelly agrees with the other interviewees that often the victim has been so thoroughly brainwashed by their trafficker they don't identify as a victim. They only know what the perpetrator has told them, which is that they will face criminal charges themselves if they testify. Twedell says live-in rehabilitation programs for mental health or drug issues can be helpful for the victims, but that they must identify as a victim first in order to consent to the healing program.

Finally, Kelly Twedell agrees with the professionals above about the importance of education in the fight against human trafficking. At 5 Sparrows, they do a lot of prevention awareness programs dispelling the myths around trafficking to help bring to light what it actually looks like in the modern day and age. Twedell reiterates that "just arming people with information about what they can do to help is so powerful... And then their views are changed as they dig into it and educate themselves a little bit more about the crime."

### **Kirika Smith**

Kirika Smith has been the chair of the North Carolina Coalition Against Human Trafficking since 2014. About 2 weeks ago, she stepped down to focus on the two other time-consuming projects she heads. The first is project C.O.P.E (Communication, Outreach, Protection, Empowerment), a project under the council for women and youth involvement office in the North Carolina government that aims to increase awareness about human trafficking and the factors that make youth susceptible to trafficking. Kirika works personally with school systems and individuals in the human trafficking advocacy space to teach them about modern day human trafficking and how to recognize and respond to it. The second project she heads is called

Community Leaders Assisting Change Through Collaboration (Project CLICC), which aims to foster collaboration among domestic violence, sexual assault, and human trafficking service providers, so that there can be a more holistic response to violence against women. In this project, she attempts to target the communities most vulnerable to trafficking in order to connect them with resources.

Falling in line with the other interviewees, Kirika Smith thinks that educating the public is the most important aspect of human trafficking prevention. She thinks we need to change the public's view of trafficking survivors by reframing the issue into a public health perspective. She says that because we view it as a crime currently we see everyone involved as a criminal, including the victim. When we view it as a public health issue, we can begin to recognize the vulnerable populations that traffickers target and the impact of trafficking on those populations. Smith also addresses the "myth" of human trafficking, and says that many in law enforcement have a false view of what constitutes a victim. She mentions similar experiences with coerced victims as previous interviewees, where the victim has psychologically bonded to their trafficker so they refuse to testify against him despite the harm he has done. In other circumstances, she says survivors of trafficking will become addicted to drugs either because of the trafficker or as a coping mechanism to deal with the trauma. In this instance, they may be willing to testify, but they don't come across as a reliable witness on the stand. Kirika thinks the believability of these witnesses, regardless of their level of coercion or drug use, would be improved if the public learned to identify them as victims of a crime.

When we ended our interview, Kirika explained her personal hope for the future of human trafficking prevention and response. She thinks the most important aspect in fighting

human trafficking in the future is to look at human trafficking from an intersectional perspective, instead of an isolated issue. She compares her model to the model that family justice centers use, where there are law enforcement, medical and mental health professionals, and advocates for survivors of domestic violence, abuse and assault all in one building. Instead of making survivors of traumatizing crimes (such as trafficking and assault) have to travel all over their county to receive the services they need, they could receive wraparound services within a single building. She stresses that we need to look at the issue of trafficking as an issue of violence against women, as they are the largest group of people trafficked by far. By using the same model of family justice centers, survivors of trafficking can too have a space where they can access all services necessary for healing.

### **Melissa Farley**

Since 1993, Melissa Farley has researched prostitution and trafficking in 14 countries. She is one of the leading researchers in the anti-prostitution and trafficking field, a clinical psychologist, as well as a lifelong advocate against violence of any kind against women. She is the founder and director of the San Francisco-based organization, Prostitution Research and Education. Her research has been used all over the world to help craft policy on prostitution and trafficking. Her research also makes up the majority of the literature review in the first section of this paper.

When I reached out to Melissa Farley, her long-lasting career in the trafficking and prostitution advocacy sphere led her to sum up the answer my questions within a few sentences. She had a straightforward opinion as to how you stop trafficking and prostitution laws from harming women. It consisted of three main policy proposals. The first was to provide funds for

exit services for anyone in prostitution who wishes to escape. The second part of her proposal was to decriminalize the person prostituting themselves. The final aspect was to criminalize the sex buyer, along with the traffickers and pimps. She ended our short interview with the strong sentiment, “That is how you stop trafficking. The Swedes, and many other countries have figured this out. The US is way behind the times.” Farley’s proposal echos the exact ideas of all of the other professionals in the policy field. It is clear she has already internalized the idea of prostitutes and those trafficked as victims, and understands the need to target the men who are violently responsible for the system

## **Discussion**

At the beginning of this article, I presented two scenarios: one in which a female had a 29.63 percent chance of being convicted for prostitution, and one in which a male had a 7.78 percent chance of being convicted for human trafficking. Our data shows that the massive discrepancies in these conviction rates are significant and consistent across North Carolina.

My findings are consistent with prior research on policing prostitution and trafficking. Those who prostitute themselves are arrested in much higher numbers and have a higher chance of being convicted than those who promote sex acts, or traffick humans. This suggests that our legal system does target females for crimes of prostitution in regards to the issue of eliminating human trafficking and does not apply a feminist framework. In addition, buyers of sex are rarely ever arrested. Thus, our data provides empirical support for theories of gender bias within the criminal justice system relating to prostitution and trafficking (Moran & Farley 2019, Dank, Yahner, & Yu 2017; Farley 2004; Pffefer, Pablo, & Engleman 1973; Tillman 2010). Existing prostitution and trafficking law fails to acknowledge the harm of prostitution (sexual and

physical abuse) as a "crime" that is being committed. It is therefore unable to distinguish between the victims of the crime (prostitutes) and the perpetrators (clients and pimps). This data supports prior research that suggests the lack of a victim-centered framework when policing prostitution and trafficking leads to much higher prostitution arrest numbers and rates and barely any trafficking arrests or convictions (Stanko 1982; Jenness & Grattet 2005; Spears & Spohn 1997).

As evidenced in my interviews the myth that prostituting oneself and being trafficked is consensual has far-reaching implications in court as well. Women are unable or unwilling to give testimonies against their traffickers, and often when they are, they are not believed. Because legal structures fail to take into account the deep-seated link between prostitution and human trafficking, women pay the price in court. In addition, many of my interviewees spoke of the mental health impact trafficking takes on a person. If women are not in a mental space to identify their trafficker or identify themselves as a victim, it will be very hard to get a conviction.

In terms of race, not all my hypotheses were confirmed. Black women did have the highest conviction rates for prostitution (a female targeted crime), but white females led in solicitation. Within the number of arrests, white women led by a small margin in both crimes. That being said, the demographics of North Carolina (70.8% white: 22.2% Black) lead me to infer that Black females could still be overrepresented in arrests for female targeted crimes. Until we have absolute data on the amount of women engaging in prostitution per race, we cannot make a definite conclusion. Black women may still be disproportionately harmed by prostitution and trafficking laws, yet the data is so far inconclusive.

Although not all of my interviewees touched on race, many mentioned that traffickers target the same vulnerable populations that are most vulnerable to prostitution. One of my interviewers mentioned homelessness as a large factor that makes people vulnerable to prostitution. According to the Annual Homeless Assessment Report given to Congress in 2017, all minorities are overrepresented in homelessness. In particular, African-Americans make up 40% of those experiencing homelessness and only 13% of the general population.

Within solicitation conviction rates, white women have the highest rate of convictions and the highest number of arrests. This leads me to believe that stereotypes may play a larger role in policing prostitution than previously thought. Ideals of “white purity” may lead officers to arrest more white women for prostitution crimes, due to the “purity” they are perceived to naturally have. This high conviction rate most likely relates back to the “myth” behind prostitution and trafficking, where women are presumed to have consented to criminal acts like prostitution.

On the opposite spectrum, while all of those arrested for human trafficking had very similar conviction rates, Black males outnumbered all other demographics substantially in number of arrests overall. This lends support to my theory that the historical perception of Black males as hypersexualized and violent lead to greater arrest rates for them (Perry, Smith, & Brooms 2014). Although the exact numbers for the demographic breakdown of “pimps” in North Carolina isn’t available, it seems unlikely to me that there are about thirty percent less Black men than white men in North Carolina, but two times as many Black traffickers. Black males also had the highest number of arrests for promoting prostitution, again lending to the theory that the culture surround ideals of Black men as “pimps” is much more pervasive than

previously thought. Within the interviewees, it was clear that much of law enforcement and the public did not have the right idea as to what constitutes a “trafficker.” For this reason, it may explain why stereotypes may play a large role in the number of trafficking arrests for Black men.

Finally, the largest finding from this analysis is that the overall conviction rate for all crimes studied is very low. The vast majority of defendants arrested for crimes related to prostitution and trafficking are acquitted. Regarding trafficking (and pimping), this supports the theory that the legal theoretical framework of human trafficking has yet to be successfully executed within the criminal justice system. Police officers, other members of the justice system, and the general public have yet to fully comprehend the full scope of human trafficking, and properly target perpetrators instead of further harming victims. In addition, it is clear from my qualitative research that the process for prosecuting traffickers is unable to function on in-person witness based testimony in the future. The legal system needs to come up with innovative ways to simultaneously prosecute traffickers without re-traumatizing victims in the process.

Regarding low conviction rates for prostitution and solicitation, I think that it points to vague and gender-neutral language in prostitution laws that don’t address the full scope of the problem. At the same time, these rates could point to progress being made in North Carolina. Judges may be beginning to comprehend the full scope of exploitation that exists behind prostitution and giving those arrested for prostitution a second chance. We will not know for sure until an extensive longitudinal study is done. What we do know is that female targeted crimes (prostitution and solicitation) have a much higher amount of arrests and higher conviction rates than male targeted crimes. We also know that within female targeted crimes, females are

arrested in higher numbers and have a higher likelihood of conviction than males arrested of the same crimes. This data points to a gender-biased analysis of the problem of trafficking and prostitution and an inability of the US legal system to address the root of the problem.

## **Conclusion**

Prostitution has long been coined the “world’s oldest profession” (Salmon 2008). This phrase normalizes the inherent harm of prostitution and exists due to long-held views about the burden of blame in prostitution and trafficking. Women are normalized to expect sexual exploitation and violence from men. Women in the all parts of the commercial sex industry experience victim blaming from police officers, to buyers, traffickers, and society at large. As feminist theory progresses, we are finally gaining the language and data analysis to address the the harms of trafficking *and* prostitution towards women. Many scholars are arguing to shift the framework regarding prostitution towards to address the root of the problem: the clients and traffickers (including pimps). My findings have only touched on prostitution and human trafficking crimes in North Carolina, however they speak to larger issues within the United States’ perception and treatment of this issue.

As this issue has gained more national attention, many prominent feminists have called for different solutions. Because human trafficking and prostitution are global problems, many different countries have tried to implement different solutions of their own. Germany legalized prostitution, yet abuse and sex trafficking remained serious problems (Aleem 2015). New Zealand tried decriminalizing it, yet failed to lower the number of sex workers or substantially improve their working conditions (New Zealand Parliament 2012). Finally, Sweden has created a system in which buying sex (as well as promoting it) was criminalized, but those who were

found selling sex were given social services instead of jail time. One journalist writes, "What the Nordic model and its proponents are saying is that men are not entitled to access the bodies of women and girls, even if they pay" (Aleem 2015). Within these different methods of policing, Sweden has proven to be the most impactful in addressing the needs and safety of those trafficked or prostituted. We must criminalize the demand for the commodification of women's bodies and simultaneously give social support to women in the most vulnerable position in our society in order to fully address this problem. The current legal perspective on prostitution does not accurately describe the institution or its impact on victims.

Although I don't have exact numbers on the amount of prostitutes and traffickers in the United States from different demographics, there is no doubt all demographic groups should experience the same rates of conviction. In addition, the violent crimes of trafficking and pimping shouldn't be three times less likely to find a conviction. Nor should the state of North Carolina have arrested 3,000 people for selling sex over the past five years, and only 70 people for buying it. Our legal system needs to allot sufficient services and resources to help rehabilitate those negatively impacted by the sex industry and punish the men who have perpetrated it. Our findings give added credibility to assertions of gender bias in policing prostitution and trafficking, and this should concern us all.

## Tables and Figures

Table 1. Variation in Percent of Citizens Convicted by Type of Crime, 2012-2017.

	Arrests	Convictions	Percent Convicted
<b>Overall</b>	5,089	1,277	25.09
<b>Area of Crime</b>			
Prostitution	2,962	795	26.84
Solicitation	1,546	477	30.05
Patronizing	79	22	27.85
Promoting Prostitution	564	76	13.48
Trafficking	466	37	7.94
<b>Gender</b>			
Male	2153	427	20.01
Female	2936	850	28.95

Table 2. Prostitution Arrests and Convictions by Offense Codes and Gender  
2012-2017.

	Arrests	Convictions	Percent Convicted
<b>Overall</b>	2,962	831	28.05
<b>Offense Codes</b>			
4010 (Aid and Abet Prostitution)	225	49	21.77
4011 (Prostitution)	758	216	28.49
4012 (Prostitution)	339	87	25.66
4013 (Solicit for Prostitution)	1,182	293	24.78
4014 (Loitering for Prostitution)	295	81	27.45
4015 (Maintain Place for Prostitution)	132	18	13.63
4016 (Transport for Prostitution)	31	4	12.9
<b>Gender</b>			
Male	952	201	21.11
Female	2,005	594	29.63

Table 3. Solicitation Arrests and Convictions by Offense Codes and Gender  
2012-2017.

	Arrests	Convictions	Percent Convicted
<b>Overall</b>	1,625	498	30.64
<b>Offense Codes</b>			
4020 (Solicit Prostitution- Misdemeanor)	1,395	377	27.61
4021 (Solicit Prostitution 2 <sup>nd</sup> /Sub)	110	10	9.09
4022 (Solicit Prostitution Minor)	40	5	12.5
4023 (Solicit Prostitution Mental Disability – Misdemeanor)	1	0	0
<b>Gender</b>			
Male	738	182	24.66
Female	887	295	33.26

Table 4. Patronization Arrests and Convictions by Offense Codes and Gender  
2012-2017.

	Arrests	Convictions	Percent Convicted
<b>Overall</b>	79	22	27.85
<b>Offense Codes</b>			
4024 (Patronize Prostitute Engage- Misdemeanor)	28	3	10.71
4025 (Patronize Prostitute Engage- Felony)	26	13	5
4028 (Patronize Prostitute Minor)	21	1	4.76
4029 (Patronize Prostitute Minor)	4	0	0
<b>Gender</b>			
Male	74	19	25.68
Female	5	3	60

Table 5. Promoting Prostitution Arrests and Convictions by Offense Codes and Gender 2012-2017.

	Arrests	Convictions	Percent Convicted
<b>Overall</b>	564	80	14.18
<b>Offense Codes</b>			
4030 (Promote Prostitution – Advance)	243	31	12.75
4031 (Promote Prostitution - Profits)	177	24	13.56
4032 (Promote Prostitution – Advance Prior)	15	3	2
4033 (Promote Prostitution – Profits Prior)	4	0	0
4034 (Promote Prostitution Minor/Mental Disability Advance)	66	0	0
4035 (Promote Prostitution – Minor/Mental Disability Prior)	132	18	13.63
4036 (Promote Prostitution – Confinement Minor/Mental Disability)	16	0	0
4037 (Promote Prostitution Prior Conviction)	1	0	0
<b>Gender</b>			
Male	135	9	6.67
Female	429	67	15.52

Table 6. Trafficking Arrests and Convictions by Offense Codes and Gender  
2012-2017.

	Arrests	Convictions	Percent Convicted
<b>Overall</b>	466	38	8.15
<b>Offense Codes</b>			
1150 (Human Trafficking Adult Victim)	152	6	3.94
1151 (Human Trafficking Child Victim)	129	13	10.07
1152 (Involuntary Servitude Adult Victim)	5	0	0
1153 (Involuntary Servitude Child Victim)	7	0	0
1154 (Sexual Servitude Adult Victim)	87	5	5.74
1155 (Sexual Servitude Child Victim)	86	9	10.46
<b>Gender</b>			
Male	376	30	7.98
Female	90	7	7.78

Table 7. Arrests and Convictions per Crime, Based on Demographic Information 2012-2017.

<i>Race and Gender by Crime</i>	Arrests	Convictions	Percent Convicted
<b>Overall</b>			
White Male	745	168	22.55
White Female	1,816	541	29.79
Black Male	1,408	259	18.39
Black Female	1,120	309	27.59
<b>Prostitution</b>			
White Male	271	70	25.83
White Female	1,146	337	29.41
Black Male	478	106	22.18
Black Female	743	224	30.15
<b>Solicitation</b>			
White Male	241	51	21.16
White Female	544	191	35.11
Black Male	323	93	28.7
Black Female	287	81	28.22
<b>Patronizing</b>			
White Male	42	13	30
White Female	3	3	100
Black Male	23	4	17.39
Black Female	1	1	0

**Promoting Prostitution (Pandering)**

White Male	119	28	23.53
White Female	74	6	8.11
Black Male	293	34	11.60
Black Female	54	2	3.70

**Trafficking**

White Male	72	6	8.33
White Female	49	4	8.16
Black Male	291	22	7.56
Black Female	35	2	5.71

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## Percent Convicted by Crime

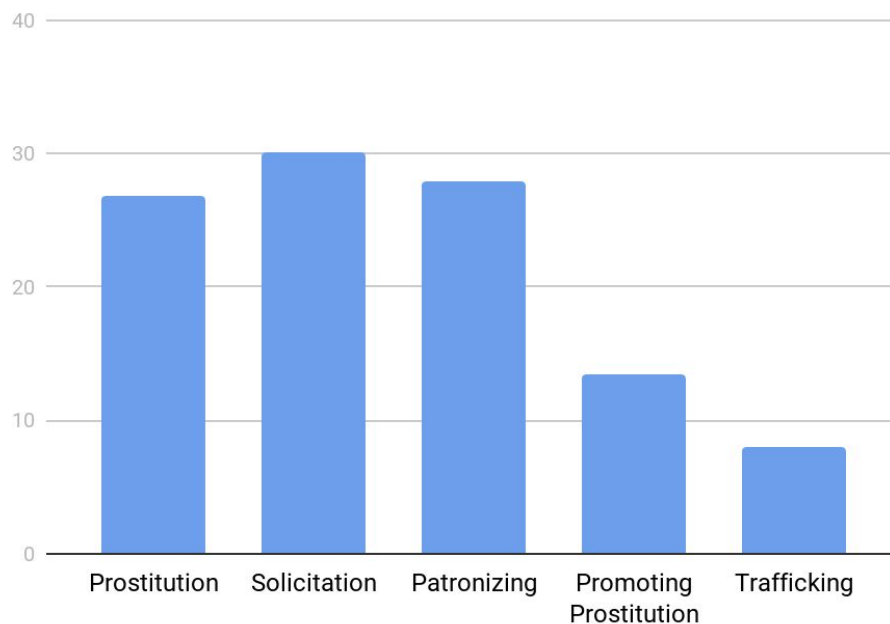


Figure 1. Overall Percent Convicted by Crime

## Overall Number of Convictions vs Number of Arrests

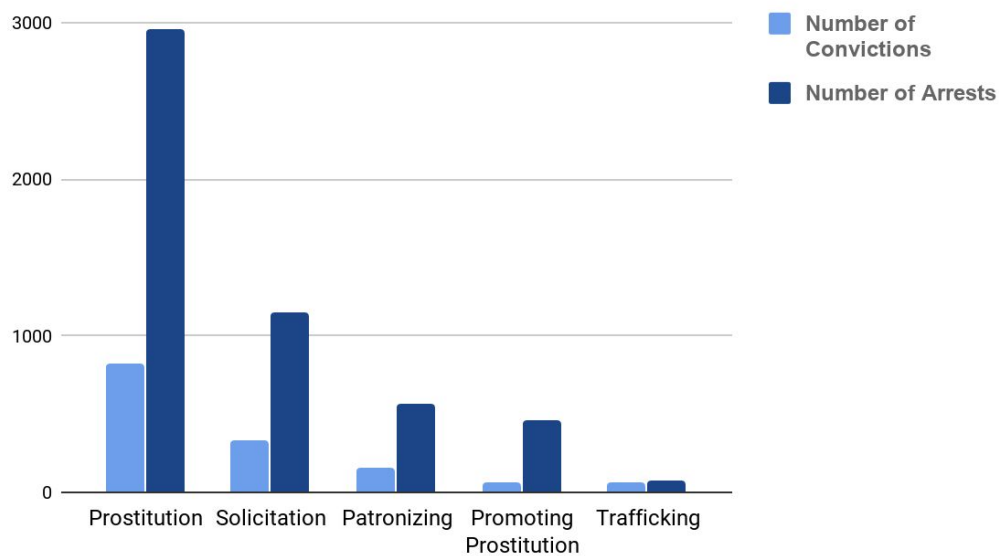


Figure 2. Overall Number of Convictions versus Number of Arrests

Percent Convicted by Demographic Information

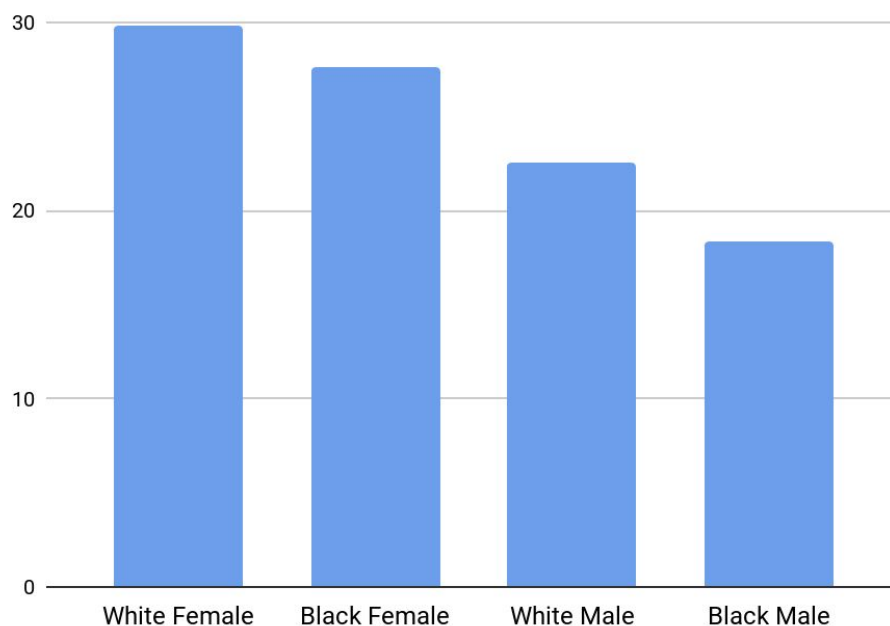


Figure 3. Percent Convicted by Demographic Information

Overall Number of Arrests vs Number of Convictions by Demographic

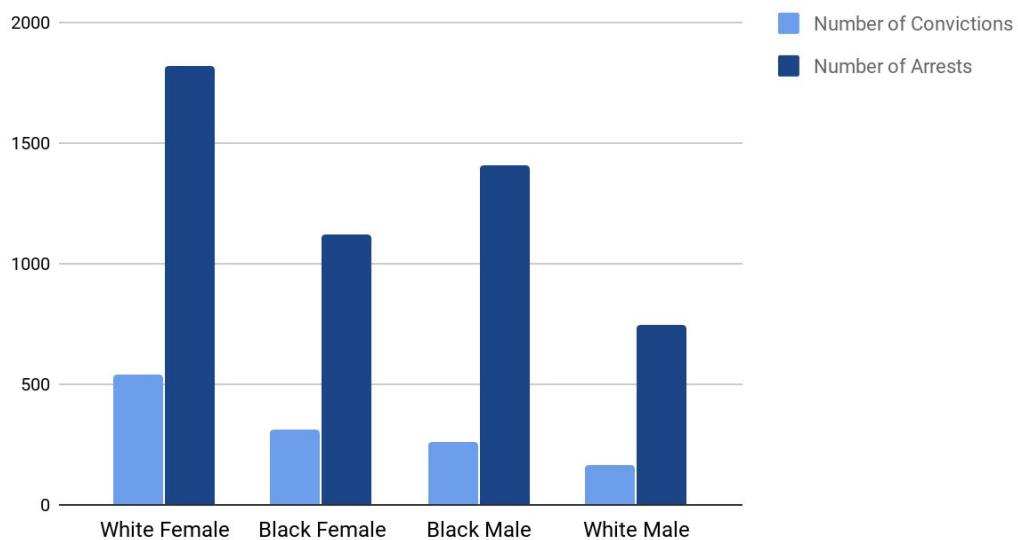


Figure 4. Number of Convictions Overall by Characteristics of Defendant in Comparison with the Number of Arrests Overall by Characteristics of Defendants

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