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Members of the Rhode Island Senate Judiciary Committee:

I am writing to strongly oppose S. B. 810, a bill to decriminalize the entire sex industry in Rhode Island.

As a professor (now retired) at the University of Rhode Island, I have done extensive research on the impact of decriminalized prostitution, particularly in Rhode Island.

I have published numerous reports, peer-reviewed papers, and opinion editorials on the harm and exploitation of prostitution and sex trafficking. I am the co-author, along with Melanie Shapiro (Attorney and Adjunct Professor of Law at Roger Williams University School of Law), of a law review paper specifically on what happened in Rhode Island when prostitution was decriminalized ("Decriminalized Prostitution: Impunity for Violence and Exploitation." *Wake Forest Law Review*, 2017). We documented the criminal environment that was created by the lack of prostitution laws in Rhode Island. A copy of this paper follows this letter.

I have also done research and published a peer-reviewed paper that disproved the false claims made about decriminalized prostitution in Rhode Island between 1980 and 2010. One such claim is that decriminalization reduced the incidence of rape. It did not. ("Does the Decriminalization of Prostitution Reduce Rape and Sexually Transmitted Disease? A Review of Cunningham and Shah Findings." *Dignity: A Journal of Analysis of Exploitation and Violence*, 2019.) A copy of that paper follows this letter.

Previously, when Rhode Island had decriminalized prostitution, the former mayor of Providence and now the Rhode Island Representative to the U.S. House of Representatives, David Cicilline, recommended the ending of decriminalization of prostitution. He said the lack of prostitution law created a criminal environment in Rhode Island that was a "true wild west" ("Time to End Legalized Prostitution in R.I." *Providence Journal*, May 19, 2009, Commentary p. 6).

Removing the criminal penalties for buying sex, pimping, and running a brothel or a massage parlor that offers prostitution will return Rhode Island to those days and worse. Rhode Island will quickly become the sex tourism capital of New England, with violence against women, sex trafficking, and organized crime. To prevent this from happening, criminal penalties against sex buyers, pimps and traffickers must remain.

In particular, SB 810 requires suspicion of human trafficking before an investigation can proceed. In 2008, it became apparent that prostitution, as a predicate offense, was needed to investigate human trafficking. Removing prostitution offenses will make it harder to investigate human trafficking.

The people involved in selling sex are often victims of adverse childhood experiences, and they are controlled by individual pimps or traffickers in organized crime groups who hold debts over their heads to facilitate and profit from their exploitation. The victims frequently suffer from substance abuse and addiction.

Individuals, primarily women and girls, but also men, boys, and transgender people, need relief and support. Instead of creating an environment in which they can be further abused and exploited, I recommend that you create services to assist themand urge the enforcement of laws to hold the sex buyers, pimps, and traffickers who are harming them accountable.

Respectfully,

Donna M. Hughes

DECRIMINALIZED PROSTITUTION: IMPUNITY FOR VIOLENCE AND EXPLOITATION

Melanie Shapiro, Esq. and Donna M. Hughes, Ph.D.***

INTRODUCTION

From 1980 to 2009, prostitution in Rhode Island was decriminalized.¹ Prostitution was not prohibited or regulated by law if it was performed indoors.² The lack of laws or regulations created a unique and permissive legal, economic, and cultural environment for the growth of sex businesses.³ Although a few counties in Nevada have legalized prostitution,⁴ no other state or county has decriminalized prostitution in recent decades.⁵ During the twenty-nine year period from 1980 to 2009, sexual exploitation and violence against women and girls were integrated into the economic development of Rhode Island's urban areas.⁶ The growth of sex

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1. Edward Achorn, *New Landscape of the Sex Biz*, PROVIDENCE J., Dec. 22, 2009, at B7.

2. *Id.*

3. See W. Zachary Malinowski, *The Sex Business in Providence: "Why Here,"* PROVIDENCE J., Apr. 21, 2002, at A1.

4. Michael Martinez, *What to Know About Nevada's Legal Brothels*, CNN (Oct. 19, 2016, 6:50 AM), <http://www.cnn.com/2015/10/14/us/lamar-odom-nevada-brothels/>.

5. *See id.*

6. Donna M. Hughes, *Top U.S. Official on Trafficking Says Lack of Prostitution Law Creates a "Zone of Impunity" for Traffickers*, DIGITALCOMMONS@URI 1 (Aug. 14, 2009), https://works.bepress.com/donna_hughes/56/.

businesses led to the capital city of Providence being called the “red light district” of New England.⁷

The lack of laws controlling prostitution impeded police from investigating and stopping serious crimes and prevented officials from arresting pimps, traffickers, and sex buyers.⁸ According to Luis CdeBaca, former Ambassador at Large to Combat Human Trafficking and Director of the Office to Monitor and Combat Trafficking in Persons in the U.S. State Department, decriminalized prostitution created a “zone of impunity in which police [could not] go, and where traffickers [could] exploit their prey.”⁹

This Article describes the growth of sex businesses in Rhode Island from 1980 to 2009 and the harmful activities—particularly violence against women, sexual exploitation, and slavery—that were endemic to it. It describes how individual criminals, organized crime groups, and mainstream business people, such as landlords and lawyers, exploited women and girls for profit and pleasure.

For over a decade, from 1998 to 2009, the violent nature of these businesses became increasingly known to law enforcement, other government officials, and the public.¹⁰ With increased awareness, momentum grew for legal reform to prohibit prostitution, sex trafficking, and the employment of underage teens in sex businesses.¹¹ In 2009, the Rhode Island General Assembly passed three unprecedented laws to end these practices.¹²

This Article on decriminalized prostitution is important for contemporary debate. Around the world, there are both small groups and large agencies, such as UN Women¹³ and Amnesty International, that advocate for the decriminalization of prostitution.¹⁴ One such group is suing the state of California to decriminalize prostitution using the same legal argument and strategy that created decriminalized prostitution in Rhode Island in 1980.¹⁵ The authors of this Article believe the findings reported

7. W. Zachary Malinowski, *Sex Industry Expands at Startling Pace*, PROVIDENCE J., Apr. 23, 2002, at A1.

8. Hughes, *supra* note 6, at 1.

9. *Id.*

10. *See infra* Subparts I.C–I.D.

11. *See infra* Subpart I.G.

12. 11 R.I. GEN. LAWS §§ 11-34.1-1 to -14, 11-67-1 to -18 (2009); 28 R.I. GEN. LAWS § 28-3-9.1 (2009); 2009 R.I. Pub. Laws 185 (repealing provisions that decriminalized prostitution).

13. UN Women, *Note on Sex Work, Sexual Exploitation, and Trafficking*, NSWP (Oct. 9, 2013), <http://www.nswp.org/sites/nswp.org/files/UN%20Women%27s%20note%20on%20sex%20work%20sexual%20exploitation%20and%20trafficking.pdf>.

14. Darren Geist, *Amnesty International's Empty Promises: Decriminalization, Prostituted Women, and Sex Trafficking*, 1 DIGNITY: J. ON SEXUAL EXPLOITATION & VIOLENCE 1, 1 (2016).

15. Brief for Plaintiffs-Appellants at 13–14, *Erotic Serv. Provider Legal, Educ. & Res. Project v. Gascón*, No. 16-15927 (9th Cir. Sept. 30, 2016).

herein on Rhode Island's twenty-nine year experience with decriminalization are an important contribution to the debate.

Methods

This Article is a descriptive case study—its historical analysis of three decades of decriminalized prostitution is based on court records, police records, interviews, and media reports on crimes and other activities in Rhode Island's sex businesses. Information was collected about spa-brothels from print and online advertisements, publicly available corporate records from the Office of the Secretary of State, and municipal tax assessment records. Shapiro conducted extensive research on the brothels and developed a database to analyze patterns of activities.

During the twenty-nine-year history of decriminalization, there were no empirical studies of prostitution or the sex businesses. The most comprehensive and analytical stories on the subject were written by local investigative reporters for the *Providence Journal*, the largest newspaper in Rhode Island.¹⁶ This case study includes exhaustive research into local newspaper stories on prostitution-related reporting.

There is no other comparable legal model of complete decriminalization of indoor prostitution in contemporary western countries. Therefore, this Article only focuses on the decriminalization of indoor prostitution in Rhode Island.

I. DECRIMINALIZATION OF INDOOR PROSTITUTION

In Rhode Island, from 1980 until 2009, engaging in prostitution in an indoor location was decriminalized and unregulated.¹⁷ This unusual legal status resulted from two converging actions in the 1970s.

In the late 1970s, residents in some areas of Providence (the capital city of Rhode Island) were calling for the city to act on the problem of street prostitution.¹⁸ Residents complained about the harassment of female residents and the impact on their community.¹⁹ At the time, prostitution was a felony that resulted in complicated and drawn out prosecutions and appeals.²⁰ While

16. See, e.g., Malinowski, *supra* note 7, at A1.

17. Achorn, *supra* note 1.

18. Matthew J. Smith, *How I Advanced the Cause*, PROVIDENCE J., June 20, 2009, at Commentary 6.

19. Michael A. Hiltzik, *Prostitution Not a Victimless Crime in West End*, PROVIDENCE J., Sept. 30, 1979.

20. The applicable statutory section at the time read as follows:

It shall be unlawful for any person to secure, direct or transport. or offer to secure, direct or transport another for the purpose of prostitution, or for any other lewd or indecent act; or to loiter in or near any thoroughfare or public or private place for the purpose of

awaiting trials, prostitutes returned to soliciting on the streets.²¹ A member of the West Broadway Council on Crime commented that the law was "as useful as a screen door in a submarine."²² To more effectively curb street prostitution, law enforcement, judges, and residents advocated for the penalty to be reduced from a felony to a misdemeanor to streamline the judicial process.²³

In 1976, Margo St. James, founder of COYOTE ("Call Off Your Old Tired Ethics"), a prostitutes' rights organization, began a legal campaign to decriminalize prostitution.²⁴ COYOTE, COYOTE Rhode Island, and Jane Doe (an anonymous prostitute) sued the Providence Police Chief and the Rhode Island Attorney General on behalf of all Rhode Island prostitutes.²⁵ The plaintiffs claimed that the prostitution law was unconstitutional on a number of grounds but primarily based their claim on sex discrimination.²⁶ Jane Doe testified on behalf of female prostitutes.²⁷ She claimed they were discriminated against because the Providence Police arrested more women than men for prostitution violations.²⁸ The arrest records showed that COYOTE's claim that more women were being arrested than men was accurate.²⁹

In May 1980, the Rhode Island General Assembly amended the state prostitution law.³⁰ The publicly stated intent was to decrease the penalty for soliciting for prostitution from a felony to a misdemeanor in order to make the court process faster and easier.³¹

inducing, enticing, soliciting, or procuring another to commit lewdness, fornication, unlawful sexual intercourse or any other indecent act; or to commit or in any manner induce, entice, or solicit, or procure a person in any thoroughfare, or public or private place or conveyance to commit any such act; or to receive or offer or agree to receive any person into any place, structure, house, building, room, or conveyance for the purpose of committing any such acts, or knowingly permit any person to remain therein for any such purposes, or to, in any way, aid or abet or participate in any of the acts or things enumerated herein.

Any person found guilty under this section, shall be subject to imprisonment in the adult correctional institutions not to exceed five (5) years.

11 R.I. GEN. LAWS § 11-34-5 (1956) (amended 1980 and repealed 2009).

21. Thomas E. Walsh, *Smith Bill Would Speed Decisions on Prostitutes*, PROVIDENCE J., Mar. 19, 1980, at B1.

22. Thomas E. Walsh, *Legislators Get Message from West Enders and 'Yea' Bill to Change Prostitution Laws*, PROVIDENCE J., Mar. 22, 1980, at A8.

23. Hiltzik, *supra* note 19.

24. See *COYOTE v. Roberts*, 502 F. Supp. 1342, 1344 (D.R.I. 1980).

25. *Id.*

26. *Id.* at 1344-45.

27. See Transcript at 14-46, *COYOTE*, 502 F. Supp. 1342.

28. See *COYOTE*, 502 F. Supp. at 1344-45.

29. *Id.* at 1352-53.

30. 11 R.I. GEN. LAWS § 11-34-8(a) (1980) (repealed 2009).

31. See Walsh, *supra* note 21, at B1.

The resulting new law banned loitering for prostitution, which was defined as standing or wandering “in or near any public street,” or stopping or attempting “to stop motor vehicles, for the purpose of prostitution.”³² The new law made the offense—loitering for indecent purposes—a misdemeanor instead of a felony.³³ In addition, apparently without the full awareness of many of the legislators, the same bill repealed the laws pertaining to soliciting or engaging in prostitution.³⁴ In fact, the legislation removed all reference to soliciting to engage in prostitution, except for loitering along a street.³⁵ This deletion effectively decriminalized prostitution as long as it was performed indoors.

The new prostitution law legally separated indoor and outdoor prostitution: loitering for prostitution became known as “outdoor prostitution,” and prostitution off the street or inside a building became known as “indoor prostitution.”³⁶ Following the revision of the prostitution law, if a commercial sex act took place indoors, no laws or regulations—including zoning regulations—applied to it. As a result, from 1980 to 2009, indoor commercial sex acts were legal and unregulated.

A. *Growth of Prostitution in Rhode Island*

The lack of law criminalizing or regulating commercial sex acts allowed for the growth of sex businesses in Rhode Island. By 2002, Providence was known as “New England’s red-light district.”³⁷ There were “strip clubs, gay bathhouses, an under-21 strip club, a private swinger’s club, massage parlors and sex video stores,” and a club for bondage and other fetishes.³⁸ Commercial sex was a form of economic development for the city of Providence.³⁹ An investigative reporter described it this way: “In recent years, the sex industry has exploded in [Providence], and a dreary industrial strip along Allens Avenue has become the most densely concentrated red-light district in New England.”⁴⁰

32. 11 R.I. GEN. LAWS § 11-34-8(a).

33. *Id.*

34. *COYOTE v. Roberts*, 523 F. Supp. 352, 357–58 (D.R.I. 1981).

35. See 11 R.I. GEN. LAWS § 11-34-8; *COYOTE v. Roberts*, 502 F. Supp. 1342, 1348 (D.R.I. 1980) (noting the new legislation added the phrase “for pecuniary gain” to section 11-34-5 but seemed “to have decriminalized the sexual act [of prostitution] itself,” and thus it appeared “to the Court that § 11-34-5 now outlaw[ed] only certain preliminary or preparatory activities . . . and then only when pecuniary gain [was] somehow involved”).

36. *R.I. Looks to Close Prostitution Loophole*, CBS NEWS (June 18, 2009, 1:37 PM), <http://www.cbsnews.com/news/ri-looks-to-close-prostitution-loophole/>.

37. See Malinowski, *supra* note 3, at A1.

38. *Id.*

39. *Id.*

40. *Id.*

With the growth of sex businesses, Rhode Island cities, and particularly Providence, became sex tourist destinations.⁴¹ Although it is a small state, three interstate highways—Interstates 95, 195, and 295—run through Rhode Island.⁴² In 2002, a *Providence Journal* investigative report on the growth of the sex industry described a typical night at a local strip club named Cheaters:

Chartered buses pull up to the curb outside the gaudy pink building on Allens Avenue with the flashing police light on the roof. Hundreds of cars pack the lots and side streets. Next door, dozens of pedestrians, almost all men, venture into a windowless brick warehouse. The visitors, many from Massachusetts and Connecticut, are in pursuit of a common goal: sex.⁴³

After it was decriminalized, indoor prostitution became well known. Rhode Island saw a proliferation of brothels that advertised as “spas,” or “health centers” and offered “acupressure,” “body work,” “table showers,” or “body rubs,” performed, for the most part, by Asian women.⁴⁴ For example, some of these ads, found online or in the *Providence Phoenix’s* “Adult Entertainment” section, featured photos of scantily clad, young Asian women and suggestive phrases, such as “Top Class Orient Beauty,” “New Young Asian Girls,” “Have a tantalizing Asian woman will ease your stress” and “Hot Asian Girls.”⁴⁵ A senior Providence Police officer from the Investigative Division commented on the number of men visiting the Asian spa-brothels, “[W]hen we sent a detective [to an Asian brothel] to go in and get propositioned, it’s eleven o’clock in the morning and he’s waiting in line. They’re packed at 11 am.”⁴⁶

The prostitution industry became so normalized that on one occasion when Providence Police raided a Korean spa-brothel, they found an ATM inside that allowed men to get cash on site.⁴⁷

41. *Id.*

42. *Travel Information*, R.I. DEPT TRANSP., www.dot.ri.gov/travel/ (last visited Mar. 28, 2017).

43. Malinowski, *supra* note 3, at A1 (emphasis omitted).

44. See Amanda Milkovits, *Crackdown Leads to Closing of Providence ‘Spas,’* PROVIDENCE J. (Feb. 28, 2015), <http://www.providencejournal.com/article/20150228/NEWS/150229286>.

45. Advertisements on file with authors.

46. Rebecca Johnson, *Sex Trafficking and Prostitution in Rhode Island: Brothels Busted 21* (Fall 2005) (unpublished student course paper, University of Rhode Island) (on file with author).

47. *Id.* at 24.

Businesses or individuals could openly advertise their services, although many still used euphemisms and code terms.⁴⁸

Although many of the sex businesses were located in Providence, there were many others in cities and towns throughout the state.⁴⁹ In suburban Middletown, Rhode Island, where two spa-brothels advertised services and sex buyers wrote online reviews about whether the women had performed to their satisfaction, a town official tried to maintain a normalized view of the brothels.⁵⁰ He told a city employee not to call them “brothels.”⁵¹

Other than a few investigative journalism articles, there was no research on the burgeoning sex industry at the time. One recent, unpublished study documented the increase in the size of the sex industry in Rhode Island while prostitution was decriminalized.⁵² The study used two sources to measure the increase in prostitution.⁵³ The researchers counted the number of advertisements for “massage parlors” in a local weekly newspaper, the *Providence Phoenix*, from January 1, 2000, to December 31, 2008.⁵⁴ The “Adult Entertainment” section was the main venue for Asian brothel advertisements.⁵⁵ There were also advertisements for strip clubs, “modeling agencies,” dominatrices, and other types of prostitution, but the researchers did not count these commercial sex services in their study.⁵⁶ The study found that the number of advertisements for “massage parlors” doubled during a six-year period.⁵⁷

The researchers also counted the number of reviews by men for female prostitutes on the *Erotic Review*.⁵⁸ They collected 90,000 records from this online site from 1998 to 2008.⁵⁹ They found that the number of reviews increased twelve-fold during the

48. Melanie Shapiro, *Sex Trafficking and Decriminalized Prostitution in Rhode Island* 54 (Apr. 2009) (unpublished Senior Honors thesis, University of Rhode Island), <http://digitalcommons.uri.edu/srhonorsprog/135>.

49. *Id.* at 51.

50. Melanie Shapiro, *Media Attention Gets Inspections at Middletown Spa-Brothel*, DIGITALCOMMONS@URI (July 27, 2009), https://works.bepress.com/donna_hughes/65/.

51. *Id.*

52. See generally Scott Cunningham & Manisha Shah, *Decriminalizing Indoor Prostitution: Surprising Implications for Sexual Violence and Public Health* (Nat'l Bureau of Econ. Research, Working Paper No. 20281, 2014), <http://papers.nber.org/tmp/10223-w20281.pdf> (finding that the decriminalization of indoor prostitution increased the size of the indoor prostitution market).

53. *Id.* at 11.

54. *Id.*

55. Shapiro, *supra* note 48, at 54.

56. Cunningham & Shah, *supra* note 52, at 34.

57. *Id.* at 11.

58. *Id.*

59. *Id.* at 12.

measurement period—from an average of 3.6 to 44.8 per week.⁶⁰ The number of unique prostitutes reviewed increased from an average of 2.6 to 37.4 per week.⁶¹ Between 2003 and 2007, there was a 200% increase in the number of prostitutes being reviewed on this site.⁶² In 2009, the Providence Police estimated that there were about forty brothels in Providence.⁶³ It is not clear if they counted strip clubs and “gentlemen’s clubs.” Based on Shapiro’s own findings, most brothels counted by police were spa-brothels advertising Asian women.⁶⁴ And even though indoor prostitution was not illegal, many other brothels operated underground.⁶⁵

Men on the sex buyer forums reported that they traveled from other states to Rhode Island because they did not fear being arrested for buying sex in Rhode Island. For example, one sex buyer from a town in Massachusetts close to the Rhode Island border wrote, “No reason to visit [a brothel in Massachusetts] when you are just 5 miles away from the safety of the RI border.”⁶⁶ Another sex buyer referred to Rhode Island as “a buyer’s paradise.”⁶⁷ A sex buyer from New York wrote, “I decided to take the 3 hour trip yesterday Very nice.”⁶⁸ One man from China, who had a layover at the local airport, wrote that he took the time to come to Providence to buy sex.⁶⁹ Shapiro observed many sex buyers arriving at the brothels in cars with out-of-state license plates.⁷⁰

As the number of sex businesses increased, they sometimes impinged on the safe operation of other businesses around them. In 2008, owners of a children’s toy store in Middletown, Rhode Island,

60. *Id.*

61. *Id.*

62. *See id.* An earlier version of this study notes the 200% increase specifically. *See* Scott Cunningham & Manisha Shah, *Decriminalizing Prostitution: Surprising Implications for Sexual Violence and Public Health* 15 (Aug. 2013) (unpublished manuscript), <http://frihetspartiet.net/dokumenter/decriminalizing-surprising.pdf>

63. Simmi Aujla & Jennifer Levitz, *Legal Prostitution Under Pressure in Rhode Island*, WALL ST. J., Sept. 5, 2009, at A5.

64. *See* Shapiro, *supra* note 48, at 51.

65. *Id.* at 52–54.

66. Guest123, *Massage Parlor Reports: Rte 1A Wellness AMP in Plainville*, USA SEX GUIDE (Oct. 23, 2008, 10:22 PM), <http://www.usasexguide.infoforum/showthread.php?4067-MassageParlorReports&p=718491&viewfull=1#post718491>.

67. DaddysLookin, *Massage Parlor Reports: A New One?*, USA SEX GUIDE (Oct. 24, 2008, 8:32 AM), <http://www.usasexguide.infoforum/printthread.php?t=4067&pp=15&page=137>.

68. Torq465, *Massage Parlor Reports: Dt.* USA SEX GUIDE (May 29, 2006, 11:45 AM), <http://www.usasexguide.infoforum/showthread.php?4067-Massage-Parlor-Reports/page887>.

69. *See* Lao Ma, *Massage Parlor Reports: Asian Fantasies*, USA SEX GUIDE (Feb. 1, 2009, 09:01 AM), <http://www.usasexguide.infoforum/showthread.php?4067-Massage-Parlor-Reports&p=762696&viewfull=1#post762696>.

70. Shapiro, *supra* note 48, at 136.

were driven out of their retail location because of a spa-brothel next door.⁷¹ Middletown is a medium-sized, suburban town in Rhode Island, distant from the dense sex-industry area of Providence.⁷² The police were unable to shut down the brothel that was operating next to the toy store, and the landlord was unwilling to evict it.⁷³ The toy store owners, who found drug paraphernalia in the parking lot, were worried about the reputation of their child-centered business.⁷⁴ Additionally, one of the store owners, an Asian woman, was often mistaken for a prostitute by men seeking to buy sex.⁷⁵ In one frightening incident, an Asian woman fled the brothel and came into their store looking for help.⁷⁶ She could only speak a few words of English, but indicated through hand gestures and use of the word “fuck” that she was being forced to engage in prostitution.⁷⁷ She warned the store owners about the danger the spa-brothel posed to their little girl, who often was with them in the store.⁷⁸ The owners had her wait in a back room while they called the police, but when they went to check on her, she had disappeared.⁷⁹

Most of the Asian brothels advertised as mainstream businesses, such as health clubs, spas, or massage parlors.⁸⁰ Shapiro noted many connections between the brothels and other, more mainstream, business people, such as lawyers, property owners, landlords, and public officials.⁸¹ During the political discussion about ending decriminalized prostitution, the authors often heard comments that business people in the state liked the large number of commercial sex venues because they enhanced the convention business for Providence.⁸² Men liked coming to meetings and conventions in Rhode Island because they could buy sex legally while they were in the state.⁸³ One *Providence Journal* columnist

71. Aujla & Levitz, *supra* note 63, at A5.

72. See R.I. HISTORICAL PRES. COMM'N, HISTORIC AND ARCHITECTURAL RESOURCES OF MIDDLETOWN, RHODE ISLAND: A PRELIMINARY REPORT 1 (1979).

73. Melanie Shapiro & Donna M. Hughes, *Middletown Loses Children's Science Center Due to Inaction Against Brothel*, DIGITALCOMMONS@URI (July 17, 2009), https://works.bepress.com/donna_hughes/66/.

74. *Id.*

75. *Id.*

76. Melanie Shapiro & Donna M. Hughes, *Asian Woman Fled Brothel in Middletown Last Year*, DIGITALCOMMONS@URI (July 16, 2009), https://works.bepress.com/donna_hughes/58/.

77. *Id.*

78. *Id.*

79. *Id.*

80. Shapiro, *supra* note 48, at 52.

81. See *id.* at 120–46 (discussing a variety of information regarding various brothels, including ownership, registration, and history).

82. See Johnson, *supra* note 46, at 25.

83. Melanie Shapiro & Donna M. Hughes, *Behavior and Attitudes of Johns*, DIGITALCOMMONS@URI (Sept. 12, 2009), https://works.bepress.com/donna_hughes/59/.

referred to prostitution as the “under-the-table sector of the state economy.”⁸⁴ These interconnections showed the sex businesses were sources of money for more mainstream, even well-known, business people and public officials.

Many of the brothels retained the same lawyers to serve as their registered agents and to defend them against licensing, building, or health code violations.⁸⁵ One of the lawyers had real estate dealings with the owner of one of the brothels.⁸⁶ A former Providence mayor owned at least one building with space leased to a brothel—a brothel that was part of a major federal smuggling and sex trafficking investigation.⁸⁷ Although many people may have viewed the Asian spas as separate from the mainstream community, in fact, local business people worked with and derived profit from the sex businesses.⁸⁸

The open commercial environment for prostitution attracted sex industry businesses, pimps, madams, traffickers, and organized crime.⁸⁹ Asian spa-brothels were the focus of the limited amount of research done on decriminalized prostitution.⁹⁰ There has been no contemporary or historic research done on other types of prostitution, such as the prostitution occurring at strip clubs, private clubs, hotels, and residential brothels. After the new prostitution and human trafficking laws were passed, sex traffickers who were arrested told police they came from out-of-state and brought victims with them because indoor prostitution was legal in Rhode Island.⁹¹

B. Increase in Asian Spa-Brothels

New brothels opened at an increasing pace as brothel operators learned that Rhode Island lacked laws prohibiting or regulating indoor prostitution.⁹² Concurrently, sex buyers learned about decriminalized prostitution, and the demand for sex businesses

84. Edward Fitzpatrick, *Prostitution Has No Place in R.I. Economy*, PROVIDENCE J. (Jan. 15, 2009, 9:06 AM), <http://archive.li/KQJ9T>.

85. See Shapiro, *supra* note 48, at 120–46 (listing the registered agents for the brothel business).

86. *Id.* at 66.

87. See Lynn Arditi, *Providence Journal: “Paolino Versus the Spa,”* KELLY & MANCINI, P.C. (Dec. 2, 2009), <http://kellymancini.com/paolino-versus-the-spa/>; see also Affidavit of Won Yoon at 12–13, *United States v. Kim*, No. 1:06-cr-00605-CBA-RLM (E.D.N.Y. Aug. 14, 2006).

88. See Shapiro, *supra* note 48, at 55–56.

89. See Amanda Milkovits, *Two Men Indicted for Trafficking in Providence*, N. PROVIDENCE, PROVIDENCE J., Dec. 11, 2010, at A4.

90. See Shapiro, *supra* note 48, at 51.

91. See Milkovits, *supra* note 89, at A4.

92. W. Zachary Malinowski, *Busloads Come to Providence for New England’s ‘XXX’ Haven*, (The Providence Journal), HIGHBEAM RES. (May 2, 2002), <https://www.highbeam.com/doc/1G1-85599917.html>.

increased.⁹³ The most visible expansion was in Asian spa-brothels.⁹⁴ The commanding officer of the investigative division of the Providence Police commented on the increase of Asian brothels from 1999 to 2005 and the nature of their business:

In Providence, . . . there has been a number of what we call "oriental spas" that have popped up. [Also in] Johnston, [and] Cranston, but mainly in Providence. All of them, in my experience, have women who are Korean who are in these so-called massage parlors that are not actually massage parlors. They are houses of prostitution, brothels . . . [T]hey are performing sex acts for money, so its [sic] prostitution.⁹⁵

Shapiro documented the increase in the number of Asian brothels from 1998 until 2009.⁹⁶ She found that in 1998, there were two or three Asian spa-brothels.⁹⁷ Eight years later, in 2006, there were ten to twelve.⁹⁸ By the end of 2008, there were twenty-two.⁹⁹ Then over just a five-month period from January 2009 until April 2009, ten new spa-brothels opened, bringing the total to thirty-one.¹⁰⁰ This rapid and accelerating growth occurred during a period when decriminalized prostitution was being discussed in the media.

C. *Organized Crime and the Sex Businesses*

Crimes ranging from assault, sexual slavery, and murder, to extortion and racketeering occurred in connection with the decriminalized sex business in Rhode Island. The perpetrators ranged from individual criminals to regional mafia groups and international, organized crime networks.

Even before the passage of the Trafficking Victims Protection Act in 2000, and the awareness raising campaigns about human trafficking that followed,¹⁰¹ Rhode Island police officers, who had

93. *Id.*

94. Shapiro, *supra* note 48, at 51.

95. Johnson, *supra* note 46, at 18–19.

96. Shapiro, *supra* note 48, at 51.

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.*; Melanie Shapiro & Donna M. Hughes, *Brothel List by Senate District, Rhode Island, May 2009*, DIGITALCOMMONS@URI (May 31, 2009), https://works.bepress.com/donna_hughes/61/.

101. *Trafficking Victims Protection Act*, FIGHT SLAVERY NOW! (Nov. 29, 2009), <https://fightslaverynow.org/why-fight-there-are-27-million-reasons/the-law-and-trafficking/trafficking-victims-protection-act/trafficking-victims-protection-act/>.

contact with the prostitution businesses, recognized the slavery-like conditions in which the women lived and worked.¹⁰²

In 1998, Providence Police raided an Asian brothel disguised as a health club.¹⁰³ Police exposed the fraudulent nature of the business when they found that the exercise machines in the club were not plugged in.¹⁰⁴ During the raid, officers seized \$14,000 and a bag of pink condoms.¹⁰⁵ The commander of the Providence Police Special Services Division said, "This was like slavery [The women] worked 16- to 18-hour days. They didn't get paid. They just got tips."¹⁰⁶ The investigation found that the traffickers brought victims from Southeast Asia to Flushing, New York, and then transported them to Providence.¹⁰⁷ The traffickers forced the women to pay their travel and living expenses and only permitted them to keep cash tips.¹⁰⁸ The police noted that one of the women had cigarette burn marks on her forearm, a possible sign of torture.¹⁰⁹

In 2005, the head of the investigative division of the Providence Police commented on what he had observed in the Asian brothels:

The Koreans have limited [English] language [skills] and no support from family and friends. They are isolated; they live and eat in these places. Everything is provided for them. They just don't walk out the door [I]t seems to me that they are more restrained and less free to leave. Although they do leave to go to the store, walk a dog. They usually go in pairs. But where are they going to go? . . . They don't take their ID's [sic] with them. They only take small amounts of money When I see girls that are watched over, transported, told what to do, provided for, I think there is some restraint there.¹¹⁰

As awareness of the likely trafficking of women in the Asian spa-brothels grew, the Providence Police wanted to be able to speak to the women and offer them services instead of arresting them.¹¹¹ The head of the investigative division explained, "We went to the International Institute and we got a Korean woman who could translate for us [during the raid]. [The translator] was visibly upset

102. Jonathan D. Rockoff, *Police Allege Club Was a Brothel; the Providence Police Say That Women from Southeast Asia Were Brought to Club Osaka to Work as Prostitutes to Pay Off Their Passage to the United States*, PROVIDENCE J., Nov. 24, 1998, at B1.

103. *Id.*

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

108. *Id.*

109. *Id.*

110. Johnson, *supra* note 46, at 19–20.

111. *Id.* at 25–26, 29.

to see [women from her country] trapped in this situation.”¹¹² The translator also explained the many challenges to assisting women in the Asian brothels. She told the police, “[The Asian women in the brothels are] not going to readily and willingly speak to you because the women in my country are not as valued as the men. They are subservient and they have a different role”¹¹³

Shapiro found that women in the Asian brothels were often moved from state to state, as part of a larger network.¹¹⁴ They were usually at one location for a couple of weeks to a few months.¹¹⁵ The head of the investigative division of the Providence Police made the same observation about one spa-brothel they raided, which was “probably the biggest massage parlor in the state.”¹¹⁶ Following a raid on the brothel, he said,

“We went in yesterday There were six girls, three of them I knew from past encounters there. Three of them I didn’t, and I learned they had only been there for three days. One was from Georgia; others were from NY, New Jersey. One had no ID; one had Korean currency mixed in with her American, U.S. currency. They all have their bags packed—they’re always ready to go. They don’t set up residence or stay for a long time. So they move from place to place. Is that trafficking? It seems to me [it is].”¹¹⁷

During the raid, the police found an Asian woman on a couch with a serious untreated foot infection.¹¹⁸ They took her to the hospital for treatment.¹¹⁹

Several Asian spa-brothels were also part of a regional, organized crime network with international connections.¹²⁰ In 2006, two spa-brothels in Rhode Island were included in a federal investigation regarding women being smuggled from Korea into the Northeast United States.¹²¹ The regional network of brothels, which stretched from Massachusetts to Georgia, was managed from a base in New York.¹²² Using a wiretap, investigators caught a Rhode

112. *Id.* at 22.

113. *Id.*

114. Shapiro, *supra* note 48, at 60, 74–75.

115. *Id.* at 59.

116. Johnson, *supra* note 46, at 19.

117. *Id.* at 19–20.

118. Phillip Gara, *Managers of Spa Prostitution Fronts Arrested for Unlicensed Massage*, BROWN DAILY HERALD (Nov. 28, 2005), <http://www.browndailyherald.com/2005/11/28/managers-of-spa-prostitution-fronts-arrested-for-unlicensed-massages/>.

119. *Id.*

120. See Rockoff, *supra* note 102, at B1.

121. See Affidavit of Won Yoon, *supra* note 87, at 3, 6, 12–13.

122. *Id.* at 6–7.

Island brothel manager ordering women with green cards for her spa-brothel.¹²³

Traffickers in this network coerced women into prostitution.¹²⁴ The traffickers targeted women in Korea who wanted to come to the United States to work and support their families.¹²⁵ The traffickers used legal or fraudulent documents to get the women into the United States through immigration.¹²⁶ In some cases, the traffickers smuggled the women into the country.¹²⁷ The traffickers charged inflated fees for travel, food, and rent for women staying at the brothels.¹²⁸ The women usually had to live in squalid conditions.¹²⁹ The U.S. Attorney's Office stated, "In some instances, the women were threatened or led to believe that if they left the prostitution business before paying off their debts, they would be turned over to United States law enforcement or immigration authorities, or that their families in Korea would be harmed."¹³⁰

In the regional investigation, federal agents arrested thirty-one people, closed twenty brothels, and freed seventy women.¹³¹ This case demonstrated that spa-brothels in Rhode Island were involved in large-scale smuggling and trafficking organized crime networks.

As awareness about the sex trafficking of Asian women grew, the *Providence Journal* became a strong, consistent voice against decriminalized prostitution.¹³² The *Journal's* editorials frequently condemned the exploitation of women in the brothels and advocated for new prostitution laws.¹³³ The deputy editorial pages' editor wrote about the condition of the women in the Asian spa-brothels:

[They are] trapped in dirty brothels, day and night, fearful of being beaten or killed if they try to leave [T]hey serve men with their bodies from the time they get up until they go

123. *Id.* at 12.

124. *See id.* at 7; Press Release, U.S. Attorney's Office, E. Dist. of N.Y., 31 Korean Nationals Arrested Throughout the Northeastern United States in Federal Human Trafficking Case (Aug. 16, 2006), <https://www.justice.gov/archive/usao/nye/pr/2006/2006Aug16.html>.

125. *See* Press Release, U.S. Attorney's Office, E. Dist. of N.Y., *supra* note 124.

126. *See id.*; Affidavit of Won Yoon, *supra* note 87, at 6.

127. *See* Press Release, U.S. Attorney's Office, E. Dist. of N.Y., *supra* note 124.

128. *See* Shapiro, *supra* note 48, at 60–61.

129. *See id.* at 61.

130. *See* Press Release, U.S. Attorney's Office, E. Dist. of N.Y., *supra* note 124.

131. Amanda Milkovits, *Federal Sweep Shuttters City Spa*, *PROVIDENCE J.*, Aug. 18, 2006, at B1.

132. *See, e.g.*, Edward Achorn, *One Business R.I. Can Do Without*, *PROVIDENCE J.*, Apr. 10, 2007, at B5.

133. *See, e.g., id.*

to sleep. They sleep on filthy mattresses and cook from Sterno cans in a back room. They are essentially slaves.¹³⁴

The high-profit sex businesses were also targets for extortion by organized crime groups.¹³⁵ Rhode Island is the home of the largest Italian organized crime group in New England—La Cosa Nostra.¹³⁶ This mafia network has a long history of criminal involvement with Providence strip clubs going back decades.¹³⁷ The strip clubs in Providence were known hangouts for mafia figures.¹³⁸

In the mid-1990s, members of the Patriarca crime family of the La Cosa Nostra, including a known violent enforcer, targeted a local businessman and a restaurant owner for extortion.¹³⁹ They used the basement of the Satin Doll, a Providence strip club, to threaten and beat up the businessman.¹⁴⁰ In 1995, the Rhode Island U.S. Attorney's Office charged three men with extortion.¹⁴¹ Three dancers from the club witnessed the incident.¹⁴² The enforcer was called "one of the most ruthless mobsters ever to run the streets of Rhode Island."¹⁴³ At the enforcer's trial, the dancers testified.¹⁴⁴ Two of them were so frightened they wept and refused to point him out in the courtroom. The third woman misidentified the enforcer when asked.¹⁴⁵ The enforcer was sentenced to life imprisonment.¹⁴⁶

In 2011 and 2012, a multi-state federal investigation of organized crime resulted in charges against 127 people from seven crime families in four northeastern states.¹⁴⁷ According to U.S. Attorney General Eric Holder, the law enforcement sweep was "the

134. *Id.*

135. Press Release, U.S. Attorney's Office, Dist. of R.I., Longtime Rhode Island Mob Boss, Associate Among 91 Leaders, Members, and Associates of La Cosa Nostra Families in Four Districts Charged with Racketeering and Related Federal Crimes, Including Murder and Extortion: 127 Individuals Charged in Providence; Brooklyn, N.Y.; Manhattan, N.Y.; and Newark, N.J. (Jan. 20, 2011), <https://archives.fbi.gov/archives/boston/press-releases/2011/bs012011a.htm>.

136. *Id.*

137. Malinowski, *supra* note 3, at A1.

138. *Id.*

139. Tom Mooney, *Ouimette Accused of Shakedowns; The Mobster and Two Others Are Charged with Demanding Cash from Two Businessmen*, PROVIDENCE J., Mar. 21, 1995, at A1.

140. *Id.*

141. *United States v. DeLuca*, 137 F.3d 24, 30 (1st Cir. 1998); *United States v. DeLuca*, 945 F. Supp. 409, 411 (D.R.I. 1996).

142. W. Zachary Malinowski, *Mobsters Ouimette, DeLuca Are Convicted of Extortion Facing Life in Prison, Ouimette Tells Reporters: 'Just Another Day,'* PROVIDENCE J., Oct. 27, 1995, at A1.

143. W. Zachary Malinowski, *Three Strikes and He's in*, PROVIDENCE J., Feb. 2, 1996, at A1.

144. *Id.*

145. *Id.*

146. *Id.*

147. WPRI, *Mafia Bust Charged 127 People - 6pm Version*, YOUTUBE (Jan. 20, 2011), <https://www.youtube.com/watch?v=mCH8eAb8CoA>.

largest single day operation against the mafia in the FBI's history, both in terms of the number of defendants arrested and charged and the scope of the criminal activity."¹⁴⁸ Law enforcement charged leaders and members of the La Cosa Nostra, including the New England Patriarca crime family, with racketeering and extortion for coercing Providence strip clubs to pay \$2000 to \$6000 per month for "protection."¹⁴⁹ Federal investigators estimated that the organized crime groups extorted between \$800,000 and \$1.5 million from Providence strip clubs, including the Satin Doll, the Cadillac Lounge, Cheaters, Club Desire, and The Foxy Lady.¹⁵⁰

According to the federal indictment, the racketeering conspiracy in Rhode Island dated back to the mid-1980s.¹⁵¹ The New York-based Gambino crime family conspired with the Patriarca crime family to extort protection money from the strip clubs in Rhode Island.¹⁵² U.S. Attorney General Eric Holder called members of La Cosa Nostra "among the most dangerous criminals in our country."¹⁵³

In Rhode Island, the former and acting heads of the New England La Cosa Nostra crime families were convicted and imprisoned.¹⁵⁴ In total, nine leaders, underbosses, or members of this Rhode Island organized crime group were convicted of offenses related to extortion of adult entertainment businesses in Rhode Island.¹⁵⁵

These cases demonstrate that brothels were often run by organized crime networks,¹⁵⁶ and strip clubs, where there was

148. *Id.*

149. See Press Release, Office of Pub. Affairs, U.S. Dep't of Justice, New England Crime Boss Sentenced to 78 Months in Federal Prison (Nov. 14, 2012), <https://www.justice.gov/opa/pr/new-england-crime-boss-sentenced-78-months-federal-prison>; Press Release, U.S. Attorney's Office, Dist. of R.I., *supra* note 135; see also W. Zachary Malinowski, *Mobster Enters Plea in Racketeering Conspiracy*, PROVIDENCE J., Feb. 23, 2012, at A5.

150. Laura Crimaldi, *Ex-NE Mob Boss Gets 5 1/2 Years in RI Strip Club Plot*, MASS LIVE (May 11, 2012), http://www.masslive.com/news/index.ssf/2012/05/ex-ne_mob_boss_luigi_baby_shac_1.html.

151. Third Superseding Indictment at 5-6, *United States v. Dinunzio*, No. 11-004-02S (D.R.I. Sept. 22, 2011).

152. See Press Release, Office of Pub. Affairs, U.S. Dep't of Justice, Alleged Acting New England Crime Boss Anthony Dinunzio Charged in Racketeering and Extortion Conspiracy (Apr. 25, 2012), <https://www.justice.gov/opa/pr/alleged-acting-new-england-crime-boss-anthony-dinunzio-charged-racketeering-and-extortion>; see also Jess Bidgood, *Man Said to Be Acting Head of New England Mob is Held*, N.Y. TIMES, Apr. 26, 2012, at A14.

153. WPRI, *supra* note 147.

154. Press Release, Office of Pub. Affairs, U.S. Dep't of Justice, *supra* note 149.

155. *Id.*

156. See, e.g., Sentencing Memorandum at 2, *United States v. Kim*, No. 1:06-cr-00605-CBA-RLM (E.D.N.Y. Mar. 3, 2007) (No. 141) (noting the defendant

prostitution,¹⁵⁷ were often targeted by organized crime groups for extortion. Decriminalized prostitution facilitated the operation of crime networks and made sex businesses a soft target for traditional organized crime groups.

D. Murders, Assaults, and Armed Robberies

Women in prostitution are often victims of violent crimes by men other than pimps and traffickers.¹⁵⁸ They are targeted for robberies because they often have cash and are not likely to make police reports.¹⁵⁹

Serial killers often target women in prostitution because they are vulnerable, and some men have a particular hatred of prostitutes.¹⁶⁰ In Rhode Island, between 2003 and 2004, Jeffrey S. Mailhot killed three prostitutes.¹⁶¹ Though Mailhot visited a local strip club regularly, he picked up his victims on the street in an area known for prostitution in the city of Woonsocket.¹⁶² He strangled the three women at his apartment, dismembered them with a handsaw, and disposed of their bodies in garbage bags thrown into trash bins around the city.¹⁶³ Searchers found body parts from one of the victims in the local landfill.¹⁶⁴

Mailhot also assaulted and choked two other women who escaped.¹⁶⁵ One of the surviving victims said Mailhot did nothing to frighten her “until [they] got to the house.”¹⁶⁶ She added,

It doesn't justify whether [sic] I am a prostitute or I am walking the streets There are three women who were my friends who are dead right now And one of them could've

“was a member of a wide-ranging conspiracy that operated brothels along the East Coast” for two years).

157. Melanie Shapiro, *Prostitution at the Strip-Clubs in Providence*, DIGITALCOMMONS@URI (Aug. 7, 2009), https://works.bepress.com/donna_hughes/101/.

158. See WARWICK POLICE DEPT., NARRATIVE FOR SERGEANT ROBERT E AVIZINIS NO. 09-10479, at 2–3 (2009).

159. *Id.*

160. Kenna Quinet, *Prostitutes as Victims of Serial Homicide: Trends and Case Characteristics, 1970-2009*, 15 HOMICIDE STUD. 74, 81–82 (2011).

161. Cynthia Needham, *Guilty Pleas End Ordeal - Court Hears How Mailhot Dismembered 3 Women*, PROVIDENCE J., Feb. 16, 2006, at A1.

162. Cynthia Needham, *Woonsocket Man Indicted on 3 Counts of Murder*, PROVIDENCE J., Dec. 11, 2004, at A3.

163. Needham, *supra* note 161, at A1.

164. Cynthia Needham, *An Awful Search: Digging in the Dump for Body Parts*, PROVIDENCE J., Sept. 19, 2004, at A1.

165. See Cynthia Needham, *On Tape, Mailhot Describes Killings*, PROVIDENCE J., Feb. 23, 2006, at B1.

166. Tom Mooney, *She Survived Encounter with Suspect*, PROVIDENCE J., July 21, 2004, at A1.

been me Just because we have a drug problem doesn't mean we are bad people.¹⁶⁷

The body of one woman was found in a local landfill.¹⁶⁸ The bodies of two of the women were never found.¹⁶⁹ When arrested in 2004, Mailhot confessed to murdering three women. He was sentenced to life in prison. Mailhot was not the only individual to violently attack prostitutes in Woonsocket—prostitutes in the area were targeted by multiple perpetrators.¹⁷⁰ For example, one of the women Mailhot murdered had previously been kidnapped and beaten by another man.¹⁷¹

In the spring of 2009, there were two well-publicized, serious attacks and robbery attempts on women engaged in prostitution.¹⁷² The first was a robbery attempt in a Warwick hotel by Philip Markoff—known as the “Craigslislist Killer.”¹⁷³ In Boston, Markoff had robbed prostitutes to pay off gambling debts.¹⁷⁴ He murdered one woman and assaulted at least one other one, although there was evidence that he had robbed other victims.¹⁷⁵

In Rhode Island, Markoff attempted to rob a woman at gunpoint in a hotel room in Warwick.¹⁷⁶ The victim and her husband, who was previously arrested for pandering (pimping), traveled to Rhode Island from Nevada each month to work the strip clubs.¹⁷⁷ The

167. *Id.*

168. Cynthia Needham, *The Mailhot Chronology*, PROVIDENCE J., Feb. 16, 2006, at C1.

169. Cynthia Needham, *supra* note 161, at A1.

170. See Cynthia Needham, *Victim's Slaying Forces State to Drop Charges*, PROVIDENCE J., July 20, 2005, at D4 (describing an instance where one prostitute was victimized in two high-profile violent crimes, the latter of which was her murder at the hands of Jeffrey S. Mailhot).

171. *Id.*

172. See *Accused Craigslist Killer Faces Charges in Rhode Island*, CNN (May 4, 2009), <http://www.cnn.com/2009/CRIME/05/04/craigslist.hotel.assault/>; Debra Cassens Weiss, *Lawyer Tells Police She Was Assaulted While Working as an Escort*, ABA J.: DAILY NEWS (May 6, 2009, 11:22 AM), http://www.abajournal.com/news/article/lawyer_tells_police_she_was_assaulted_while_working_as_an_escort.

173. Karen Lee Ziner, *A Close Call with Craigslist Killer*, PROVIDENCE J., Apr. 1, 2011, at A1.

174. Michele McPhee et al., *Police Say Craigslist Killer Owed Gambling Debts*, ABC NEWS (Apr. 21, 2009), <http://abcnews.go.com/GMA/story?id=7387628&page=1>.

175. Beverly Ford & Helen Kennedy, *Suspected 'Craigslist Killer' Phillip Markoff Charged with Assault of a Stripper in Rhode Island*, N.Y. DAILY NEWS (May 4, 2009), <http://www.nydailynews.com/news/suspected-craigslist-killer-phillip-markoff-charged-assault-stripper-rhode-island-article-1.377718>.

176. WARWICK POLICE DEPT., SUPPLEMENTAL NARRATIVE FOR OFFICER JEDIDIAH D PINEAU NO. 09-10479, at 1–2 (2009); Ziner, *supra* note 173, at A1.

177. See Ziner, *supra* note 173, at A1; see also WARWICK POLICE DEPT., SUPPLEMENTAL NARRATIVE FOR DETECTIVE JAMES M. MEDEIROS NO. 09-10479, at 1 (2009).

victim was strip dancing in a local club, the Cadillac Lounge, and offering private commercial sex acts as the “Sexxy Petite Blonde Bombshell” at the Warwick hotel.¹⁷⁸

Markoff was arrested shortly after his attack on the woman in Rhode Island.¹⁷⁹ The Rhode Island Attorney General and Warwick Police Department filed arrest warrants for Markoff.¹⁸⁰ Markoff committed suicide while awaiting trial.¹⁸¹

This case highlighted the hazardous environment created by decriminalized prostitution. While pimps and prostitutes were coming to Rhode Island to take advantage of the lack of laws against indoor prostitution, decriminalized prostitution was also attracting predators like Markoff.

Less than three weeks after the Craigslist Killer’s robbery attempt, a lawyer who ran a “dating service” and engaged in prostitution was assaulted at knifepoint in a robbery attempt in Providence.¹⁸² The man assaulted the victim after she went to meet him in his apartment.¹⁸³ She escaped by spraying chemicals in his eyes.¹⁸⁴ The man had a lengthy record of assault, drug, and weapons charges that dated back to 1993.¹⁸⁵

As lawlessness and violence around prostitution increased, police learned that pimps were running prostitution businesses out of hotel rooms and were carrying weapons to protect themselves.¹⁸⁶ In a Warwick hotel room, a pimp, who was a convicted felon, was found with a twelve-gauge shotgun.¹⁸⁷ He said he needed it because of his “lifestyle” and to protect his women.¹⁸⁸

178. See Ziner, *supra* note 173, at A1; Maureen Orth, *Killer@Craigslist*, VANITY FAIR (Aug. 31, 2009, 12:00 AM), <http://www.vanityfair.com/culture/2009/10/craigslist-murder200910>.

179. See Orth, *supra* note 178 (noting that the Warwick robbery attempt occurred six days after April 10—i.e., April 16—and that the arrest occurred on April 20).

180. Tom Mooney, *R.I. Brings Charges Against Craigslist Suspect*, PROVIDENCE J., May 5, 2009, at A1.

181. Stephen Singer, *Craigslist Killer Suspect Philip Markoff Found Dead*, CHRISTIAN SCI. MONITOR (Aug. 16, 2010), <http://www.csmonitor.com/From-the-news-wires/2010/0816/Craigslist-killer-suspect-Philip-Markoff-found-dead>.

182. Amanda Milkovits, *Providence Man Threatened Escort with Knife*, *Police Say*, PROVIDENCE J., May 5, 2006, at A10.

183. Weiss, *supra* note 172.

184. See Milkovits, *supra* note 182, at A10.

185. See *id.* (noting that the perpetrator’s criminal record dated back more than twenty years at the time of the offense).

186. See Press Release, Peter F. Neronha, U.S. Attorney’s Office, Dist. of R.I., *Convicted Felon Who Armed Himself Because of His “Lifestyle” Sentenced to 70 Months in Prison on Firearm Charge* (Nov. 30, 2010), https://www.justice.gov/archive/usao/ri/news/2010/nov2010/lombardi_sentence.html.

187. *Id.*

188. *Id.*

The burgeoning sex industry in Rhode Island and unregulated nature of indoor prostitution attracted predators who targeted women in the sex industry. The cases of attempted robberies and assaults against women engaged in prostitution increasingly alarmed law enforcement officials and the general public in Rhode Island.¹⁸⁹ With prostitution as an unregulated activity, police and officials had no authority to take proactive steps to stop the increase in prostitution and the violence surrounding it. They could only respond to such violence after the acts had occurred.

E. Teenage Girls Legally Employed in Strip Clubs

While people in Rhode Island were learning about the crimes that were hidden by decriminalized prostitution and how the flourishing sex trade was attracting violent criminals, another type of commercial sexual entertainment was found to be operating without regulation: underage teens dancing in strip clubs.

In June 2009, Providence Police responded to a domestic violence call and found a sixteen-year-old runaway girl with injuries on her face and head.¹⁹⁰ Her forty-year-old boyfriend, who was likely her pimp, had assaulted her.¹⁹¹ He was later identified as a fugitive from justice in Massachusetts.¹⁹² The victim had fake identification and was working as a dancer at a popular strip club.¹⁹³

A Providence emergency medical technician who responded to the call wrote this about the victim:

A young girl got punched in the face a few nights ago. She stood outside of her [three-story residence], bleeding from her bottom lip. She offered me money because she didn't have insurance. She told me she was a "dancer" at Cheaters, a notorious adult entertainment club down the road from my station. She opened her purse, a stack of twenties and a bunch of condoms lay inside. The girl was high, confused and needed help. I helped her. We put her in our truck, dressed her

189. See *Accused 'Craigslist Killer' Faces New Charges in Rhode Island*, FOXNEWS (May 5, 2009), <http://www.foxnews.com/story/2009/05/05/accused-craigslist-killer-faces-new-charges-in-rhode-island.html> (reporting statements by Rhode Island Attorney General Patrick Lynch that "it may take some time to bring [Markoff] to court in Rhode Island" but that charges would be brought "because a community cries out for justice").

190. See PROVIDENCE POLICE DEPT, PROVIDENCE INCIDENT REPORT DETAIL CASE NO. 2009-00058160, at 2 (2009); Amanda Milkovits, *Missing Boston Teen Found in Providence*, PROVIDENCE J., June 10, 2009, at B2.

191. See Milkovits, *supra* note 190, at B2 (noting that the girl told police that the forty-year-old man was her boyfriend and "had punched her in the face").

192. *Id.*

193. See *id.*; Michael Morse, *Circle the Wagons*, RESCUING PROVIDENCE (June 10, 2009), <https://mmorsepfd.wordpress.com/2009/06/10/circle-the-wagons/>.

wound and had her put her money and condoms away. Her ID said she was twenty and lived in Connecticut. Her face said she was sixteen and lived on the streets. Her face was right; her ID a lie.¹⁹⁴

The victim was a teen missing from Boston for six months who was being held against her will by an escaped convict.¹⁹⁵ When the police and medical technicians found her, she was suicidal.¹⁹⁶ Since the girl had a large quantity of condoms in her purse,¹⁹⁷ the convict was likely forcing her to engage in prostitution in the private booths in the strip club in addition to her dancing.

When police attempted to hold someone accountable for the girl's exploitation, they discovered that there was no state law or city ordinance prohibiting teens from working or stripping in clubs.¹⁹⁸ The only laws that applied were federal child labor laws that restricted the number of hours a child could work and prohibited certain kinds of dangerous work.¹⁹⁹ Under Rhode Island employment laws, it was not illegal to employ sixteen- and seventeen-year-old individuals in strip clubs or other sex businesses because sixteen was the minimum employment age in Rhode Island.²⁰⁰ Because sixteen is also the age of legal consent for sex in Rhode Island, the girl could legally be involved in prostitution at the strip club.²⁰¹ One police officer commented on the violence and exploitation by saying, "It leads to societal breakdown These are just little girls."²⁰²

The lack of a law prohibiting this level of sexual exploitation drew national media attention.²⁰³ State Representative Joanne Gianinni appeared on national news to say that she was going to introduce another bill into the Rhode Island General Assembly that would ban minors from working in adult entertainment establishments.²⁰⁴ Although there was no law against hiring teens

194. *Id.*

195. See Press Release, F.B.I. Bos., Innocence Lost Task Force and Providence Police Recover Missing Juvenile (June 9, 2009), <https://archives.fbi.gov/archives/boston/press-releases/2009/bs060909.htm>.

196. PROVIDENCE POLICE DEPT., PROVIDENCE INCIDENT REPORT DETAIL CASE No. 2009-00060104, at 1 (2009).

197. See Morse, *supra* note 193.

198. Amanda Milkovits, *Minors in R.I. Can Be Strippers*, PROVIDENCE J., July 21, 2009, at A1.

199. *Id.*

200. *Id.*

201. *Id.*

202. *Id.*

203. See *Legal Loophole Allows Rhode Island Minors to Strip*, CNN: AM MORNING BLOG (July 24, 2009, 09:24 AM), <http://am.blogs.cnn.com/2009/07/24/legal-loophole-allows-rhode-island-minors-to-strip/>.

204. *Id.*

to strip in clubs, the Providence Board of Licenses asked ten clubs to voluntarily sign a pledge not to hire teens younger than eighteen.²⁰⁵

During the debate about decriminalized prostitution in Rhode Island, the focus had been on the Asian brothels, but this case highlighted that sexual exploitation was also happening in the strip clubs. Media stories started appearing that described the open sexual exploitation in the clubs.²⁰⁶ Providence's seven strip clubs were said to have a notorious reputation throughout New England.²⁰⁷ One male customer said, "You get more contact here talking to a woman at the bar than you do in most clubs during a lap dance, and in the private rooms, anything goes for probably half the women working there, and the others will still make sure you leave happy."²⁰⁸

Without laws or regulations for adult entertainment businesses, an "anything goes" culture existed in the clubs and other sex businesses in Rhode Island.

F. Cat and Mouse Games: Attempts to Close Asian Brothels

Without laws prohibiting or regulating indoor prostitution, Rhode Island and federal law enforcement agencies' authority to investigate and prosecute suspected pimps and traffickers was stifled. Because there were no laws against prostitution, property owners were free to rent to prostitution businesses. According to a senior Providence Police officer,

The problem . . . [in Rhode Island] is the prostitution laws are very narrowly defined They are really designed for street-walkers. They do not address, or make [prostitution] a crime, any sex for money if it's done indoors. So we have a lot of this going on. It's done easily and it's tough to disrupt it because we really don't have the law on our side.²⁰⁹

Since there were no laws or regulations concerning indoor prostitution, city officials looked for other ways to close the Asian

205. Gregory Smith, *Clubs Asked to Sign Pledge on Hiring of Strippers*, PROVIDENCE J., July 25, 2009, at A4.

206. Donna M. Hughes, *Donna M. Hughes: Hold R.I. Strip Club Owners Accountable*, PROVIDENCE J. (Mar. 30, 2014), <http://www.providencejournal.com/opinion/commentary/20140330-donna-m.-hughes-hold-r.i.-strip-club-owners-accountable.ece>.

207. Susan Donaldson James, *Rhode Island Clubs Ban Teen Strippers*, ABC NEWS (Aug. 5, 2009), <http://abcnews.go.com/Business/story?id=8257359&page=1>.

208. Susan Donaldson James, *Teen Strippers, Old Enough to Be Indoor Hookers but Too Young to Drive*, ABC NEWS (July 23, 2009), <http://abcnews.go.com/Business/story?id=8149969>.

209. Johnson, *supra* note 46, at 19.

brothels.²¹⁰ Providence officials tried to shut down the spa-brothels for professional licensing violations.²¹¹ The spa-brothels were advertising “massage[s].”²¹² Therapeutic massage businesses require a license, so the brothels were violating the massage ordinance by giving massages without a license.²¹³

To get around this city ordinance violation, the brothel managers changed the wording of their advertisements to offer “body rubs,” “table showers,” and other creative terms for activities that were not regulated or prohibited by law.²¹⁴ If the police arrested anyone for licensing violations, the brothel’s lawyer argued that they did not give a massage and, therefore, did not need a license.²¹⁵ After several attempts, city officials and law enforcement no longer tried to use massage ordinances to close Asian brothels.²¹⁶

Providence officials also tried to charge the Asian brothels with maintaining a nuisance, but that was not successful either.²¹⁷ A senior police officer said, “So it’s a cat and mouse game.”²¹⁸ He commented about the brothels’ ability to change the names of their services and advertising to avoid any regulations:

[T]here’s a huge amount of money that’s generated from [prostitution in Asian brothels] . . . [t]he Spa owners have good lawyers. Highly skilled, highly paid, high profile attorneys who are very creative in trying to get around the law . . . [t]he attorneys play cute and we have to go back and forth. So we’re really not getting anywhere on that front.²¹⁹

After not being able to use the massage regulations to close the brothels, the Providence authorities tried to close the brothels using fire, building, and health code violations.²²⁰

210. Associated Press, *R.I. Tries to Outlaw Indoor Prostitution – Again*, NBC NEWS (June 18, 2009, 1:42 PM), http://www.nbcnews.com/id/31428425/ns/us_news-crime_and_courts/t/ri-tries-outlaw-indoor-prostitution-again/#.WII_lmQrLfY.

211. See, e.g., Neil Remiesiewicz, *Police Close Massage Parlor, Arrest Masseur*, WPRI NEWS (July 17, 2015, 10:39 PM), <http://wpri.com/2015/07/17/police-close-massage-parlor-arrest-masseur/>.

212. See, e.g., Bill Tomison, *3 Spa Workers Face Prostitution-Related Charges*, WPRI NEWS (July 10, 2015, 1:27 PM), <http://wpri.com/2015/07/10/3-spa-workers-face-prostitution-related-charges/>.

213. See 23 R.I. GEN. LAWS § 23-20.8-3 (2008).

214. Milkovits, *supra* note 44.

215. See Johnson, *supra* note 46, at 20–21.

216. Lynn Arditi, *How R.I. Opened the Door to Prostitution*, PROVIDENCE J. (Nov. 14, 2014), <http://www.providencejournal.com/news/content/20141114-5-31-2009-how-r.i.-opened-the-door-to-prostitution---broken-legal-barriers-made-public-nuisance-a-private-act.ece>.

217. *Id.*

218. Johnson, *supra* note 46, at 21.

219. *Id.* at 20–21.

220. *Id.* at 21.

Officials were successful in forcing one spa-brothel to close, but law enforcement and city officials realized that they were running out of enforcement tools.²²¹ Next, they decided to pressure the building owners to evict the brothels.²²² By 2009, there was a lot of public discussion about the problems created by decriminalized prostitution, and attention shifted to some well-known business people who were known to be renting buildings to Asian spa-brothels.²²³ The city of Providence sent letters to the owners of buildings where brothels were located, asking them to evict the brothel.²²⁴ At least one property owner pressured a brothel to leave, while others resisted the pressure from the city and replied that they would not change their practices until the law changed.²²⁵

Property owners hesitated to evict brothels because they could charge brothels premium rent rates.²²⁶ Pressuring property owners to evict brothels also had a limited effect because the brothels moved to another location and opened again, sometimes under another name.²²⁷ For example, following negative publicity, a former Providence mayor evicted a brothel that subsequently relocated to the same address as another brothel in Providence.²²⁸ The brothel advertised that it was “under new management,” but continued to advertise that it offered “full service,” a euphemism for sexual intercourse with “beautiful, charming, sex[y] Asian girls.”²²⁹ Often, the old and new brothels seemed to be connected.²³⁰ For example, the same photos, descriptions, and formatting would be used in advertisements, the same registered agents were used to incorporate the new location, and the same managers’ vehicles were seen at the new location.²³¹

221. Amanda Milkovitz, *Brothels Survive on Weak R.I. Law*, PROVIDENCE J. (Aug. 21, 2006) (on file with author).

222. Gregory Smith, *City Pressures Building Owners to Evict Spas*, PROVIDENCE J., Dec. 2, 2005, at D1.

223. See Ardit, *supra* 87.

224. See Johnson, *supra* note 46, at 29.

225. See Smith, *supra* note 222, at D1.

226. Donna M. Hughes, *Donna M. Hughes: Another Prostitution Loophole in R.I.*, PROVIDENCE J. (May 9, 2015), <http://www.providencejournal.com/article/20150509/OPINION/150509309>; see also Milkovitz, *supra* note 221; Ardit, *supra* note 87.

227. See Sarah Schweitzer, *Many Seek Ban as Prostitution Thrives in R.I.*, BOS. GLOBE (Aug. 13, 2009), http://archive.boston.com/news/local/rhode_island/articles/2009/08/13/in_rhode_island_battle_over_legal_prostitution_rages_on/?page=full.

228. See Melanie Shapiro, *Evicted Brothel Relocates, Bali Day Spa Moves to ABC Spa: Still Located in Providence*, DIGITALCOMMONS@URI (Aug. 12, 2009), https://works.bepress.com/donna_hughes/62/.

229. *Id.*

230. See, e.g., Shapiro, *supra* note 48, at 120–46.

231. See, e.g., *id.*

The cat and mouse game between the Providence city authorities and the Asian brothels reinforced the need for new laws that ended decriminalized prostitution.

G. Decriminalized Prostitution and the Consequences for Investigating Sex Trafficking

Awareness of sex-industry-related human trafficking was growing, but the lack of laws prohibiting prostitution hindered law enforcement investigations. Cases of sex trafficking are often identified while police are investigating prostitution, and sex trafficking investigations are often initiated by police setting up a sting or acting as a sex buyer to contact a potential victim.²³² Police were unable to investigate suspected sex trafficking because indoor prostitution was a private act. Therefore, police could not meet the necessary legal requirements of probable cause to investigate what was not a crime.

Numerous law enforcement officers and officials wrote letters supporting prostitution related legislation.²³³ They described their frustration in not being able to act to stop pimping and trafficking because of the lack of legal authority.²³⁴ One Pawtucket police officer, who was also a representative in the Rhode Island House of Representatives, wrote,

Pimps are transporting their victims to Rhode Island where they know they can operate with near impunity. They have no fear of a police sting nabbing them in the act since there are no laws against indoor prostitution. The police have their hands tied and need the loophole closed in order to combat the pimps and traffickers. All the human trafficking legislation in the world won't help as long as the loophole that allows indoor prostitution exists.²³⁵

Decriminalized prostitution excluded Rhode Island from participating in a national partnership with the FBI, the

232. See Donna M. Hughes, *Analysis of the Arrest of a Cambridge Pimp and the Identification of a Victim*, DIGITALCOMMONS@URI 1 (July 3, 2009) https://works.bepress.com/donna_hughes/57/.

233. See Donna M. Hughes, *Senators Prostitution Bill is a Sham*, PROVIDENCE J., Sept. 4, 2009, at Commentary 6 (describing widespread support for a House bill that would have been a traditional law against prostitution).

234. See, e.g., Letter from Col. Stephen M. McCartney, Chief of Police, City of Warwick, to Chairman Lally & Honorable Members of the House Judiciary Committee (May 6, 2009), https://web.archive.org/web/20101016122332/http://citizensagainsttrafficking.org/uploads/McCartney-Chief_of_Police-Warwick.pdf.

235. Press Release, Rep. Roberto DaSilva, Statement on the Harm of Decriminalized Prostitution in Rhode Island (June 18, 2009), http://www.rilin.state.ri.us/pressrelease/_layouts/RIL.PressRelease.ListStructure/Forms/DisplayForm.aspx?List=c8baae31-3c10-431c-8dcd-9dbbe21ce3e9&ID=5391.

Department of Justice Child Exploitation and Obscenity Section, and the National Center for Missing and Exploited Children to investigate the domestic sex trafficking of children in the United States.²³⁶ The program, called the Innocence Lost National Initiative, required coordination with state and local law enforcement agencies.²³⁷ Because Rhode Island had no law on indoor prostitution, local and state police had no authority to investigate prostitution.²³⁸ A letter to Rhode Island Governor Donald Carcieri from the National Center for Missing and Exploited Children stated,

Under current Rhode Island law, commercial sex between adults inside a building is considered a private activity and is thus protected. This deprives Rhode Island law enforcement of the ability to detect whether children are being victimized in this commercial sex trade, to rescue these child victims, and to provide them with the services they so desperately need. Your state's efforts in the fight against child prostitution would be greatly enhanced if law enforcement were empowered to fully investigate the commercial sex trade.²³⁹

Since prostitution was not an illegal activity in Rhode Island, federal agents could not arrest pimps or traffickers for transporting victims into Rhode Island using the Mann Act, which is an important federal law used to prosecute the transportation of someone across state lines for the purpose of "illegal sexual activity."²⁴⁰ The inability to use this simple but powerful federal law stymied federal investigations and prosecutions of sex trafficking in Rhode Island. The violence, exploitation, and lawlessness in the state led the mayor of Providence to call Rhode Island a "true wild west."²⁴¹

As the push for an end to decriminalized prostitution intensified during the summer of 2009, Luis CdeBaca, Ambassador at Large to Combat Human Trafficking and Director of the Office to Monitor and Combat Trafficking in Persons in the U.S. State Department, called for legal reform:

There is a need for both a legal and a cultural message that does not tolerate prostitution. I was surprised to learn that in Rhode Island . . . prostitution is legal so long as it happens

236. Letter from Ernie Allen, former CEO & President of the Nat'l Ctr. for Missing & Exploited Children, to Gov. Donald Carcieri (July 23, 2009) (on file with the authors).

237. *Id.*

238. *Id.*

239. *Id.*

240. 18 U.S.C. §§ 2421–2424 (2012).

241. David N. Cicilline, *Time to End Legalized Prostitution in R.I.*, PROVIDENCE J., May 19, 2009, at Commentary 6.

indoors, and girls as young as 16 years of age can legally dance in strip clubs It is a legitimate concern that such a hands-off approach towards the so-called “sex industry” can result in a zone of impunity in which police can’t go, and where traffickers can exploit their prey. State legislators are trying to close these prostitution loopholes in Rhode Island so that the state does not become a magnet for commercial sexual exploitation.²⁴²

The knowledge that police were impeded from investigating serious crimes like domestic minor sex trafficking and transportation of victims into Rhode Island helped build momentum for the passage of a law to end decriminalized prostitution.

CONCLUSION

In October 2009, the Rhode Island General Assembly passed several laws aimed at ending decriminalized prostitution, sexual exploitation, and human trafficking.²⁴³ These included a law criminalizing prostitution, a comprehensive human trafficking law, and a law prohibiting minors from working in the adult entertainment industry.²⁴⁴

These three new laws marked the end of a legal and commercial era in which the sexual exploitation of women and girls through prostitution was a legitimate form of economic development and a high-profit enterprise for business owners. These laws also marked the end of a cultural era in which buying sex was a legal form of entertainment for men.

An added benefit of the public discussion about prostitution and sex trafficking was that awareness about the subordinate status of women in prostitution grew within police departments.²⁴⁵ Officers’ attitudes toward women in prostitution shifted, and they started to see the women and girls as likely victims instead of criminals.²⁴⁶ By 2005, when Providence Police raided the Midori Spa, they

242. Hughes, *supra* note 6, at 1.

243. 11 R.I. GEN. LAWS § 11-34-5 (2002); 11 R.I. GEN. LAWS §§ 11-67-1 to -8 (Supp. 2016); 28 R.I. GEN. LAWS § 28-3-9.1 (Supp. 2016).

244. 11 R.I. GEN. LAWS §§ 11-34-5, 11-67-1 to -8; 28 R.I. GEN. LAWS § 28-3-9.1; *see also* H.R. 5044 Substitute B., 2009 Gen. Assemb., Jan. Sess. (R.I. 2009) (House bill criminalizing prostitution); S. 0596 Substitute B., 2009 Gen. Assemb., Jan. Sess. (R.I. 2009) (Senate bill criminalizing prostitution); H.R. 5661 Substitute B., 2009 Gen. Assemb., Jan. Sess. (R.I. 2009) (House bill on trafficking of persons); S. 0605 Substitute B., 2009 Gen. Assemb., Jan. Sess. (R.I. 2009) (Senate bill on trafficking of persons); H.R. 6441, 2009 Gen. Assemb., Jan. Sess. (R.I. 2009) (House bill on minors working in the adult industry); S. 1059, 2009 Gen. Assemb., Jan. Sess. (R.I. 2009) (Senate bill on minors working in the adult industry).

245. *See, e.g.*, W. Zachary Malinowski, *Officials Decry Trafficking of Women for Sex*, PROVIDENCE J., Nov. 29, 2006, at A1.

246. *See, e.g.*, Amanda Milkovits, *Hunting Houses of Ill Repute; Law Enforcement Sex Trafficking*, PROVIDENCE J., May 27, 2014, at A1.

announced a new strategy to crack down on brothels.²⁴⁷ They said they would arrest only the managers of the spa and not the women, who were likely victims of human trafficking.²⁴⁸ The police went into the brothel with translators and counselors for the women.²⁴⁹

Today, sex worker rights groups and international organizations, such as UN Women (the United Nations organization dedicated to equality and empowerment of women) and Amnesty International (the largest human rights group in the world), are advocating for the decriminalization of prostitution.²⁵⁰ This Article describes what happened over a period of twenty-nine years of decriminalized prostitution in Rhode Island. The authors think this research documents the lawlessness, violence, and exploitation that accompanies decriminalized prostitution. When prostitution is decriminalized, it is women's and girls' bodies that become legal sexual entertainment for men and the legal basis of profit and economic development for pimps, traffickers, business people, and public officials.

247. See Gara, *supra* note 118.

248. *Id.*

249. Smith, *supra* note 222, at D1.

250. See, e.g., AMNESTY INT'L, 32ND INTERNATIONAL COUNCIL MEETING CIRCULAR NO. 18 2015 ICM CIRCULAR: DRAFT POLICY ON SEX WORK 4-5 (2015), <http://files.ctctcdn.com/54482ed6201/46da8bac-36d7-4a59-b9e0-fd79b1aec409.pdf>.

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Does the Decriminalization of Prostitution Reduce Rape and Sexually Transmitted Disease? A Review of Cunningham and Shah Findings

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Abstract

In 2013, research findings by Cunningham and Shah claimed that rape and sexually transmitted diseases were reduced by decriminalized prostitution in Rhode Island. The original unpublished claims have received wide media coverage which have gone unexamined. This review finds errors in their analyses. One error is the date when prostitution was decriminalized in Rhode Island. Cunningham and Shah claim that prostitution was decriminalized in 2003. Our analysis finds the date of decriminalization of prostitution was 1980. The change in the start date of decriminalization significantly alters the analysis and the findings. Another error results from Cunningham and Shah using an outlier data point to define a period of analysis. The results of this review call into question the claims that the decriminalization of prostitution reduced rape and sexually transmitted disease.

Keywords

Rhode Island, prostitution, decriminalization, rape, sexual assault, sexually transmitted disease, gonorrhea, Cunningham and Shah, legislation, criminal code, public health

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DOES THE DECRIMINALIZATION OF PROSTITUTION REDUCE RAPE AND SEXUALLY TRANSMITTED DISEASE? A REVIEW OF CUNNINGHAM AND SHAH FINDINGS

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ABSTRACT

In 2013, research findings by Cunningham and Shah claimed that rape and sexually transmitted diseases were reduced by decriminalized prostitution in Rhode Island. The original unpublished claims have received wide media coverage which have gone unexamined. This review finds errors in their analyses. One error is the date when prostitution was decriminalized in Rhode Island. Cunningham and Shah claim that prostitution was decriminalized in 2003. Our analysis finds the date of decriminalization of prostitution was 1980. The change in the start date of decriminalization significantly alters the analysis and the findings. Another error results from Cunningham and Shah using an outlier data point to define a period of analysis. The results of this review call into question the claims that the decriminalization of prostitution reduced rape and sexually transmitted disease.

KEYWORDS

Rhode Island, prostitution, decriminalization, rape, sexual assault, sexually transmitted disease, gonorrhea, Cunningham and Shah, legislation, criminal code, public health

CLAIMS THAT DECRIMINALIZED PROSTITUTION in Rhode Island resulted in a decrease in rape and gonorrhea can be traced to a 2013 unpublished paper by Scott Cunningham and Manisha Shah entitled *Decriminalized indoor prostitution: Surprising implications for sexual violence and public health*

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(Cunningham & Shah, 2014). The authors conclude that decriminalized prostitution in Rhode Island resulted in: 1) a “dramatic decrease” in rape offenses; and 2) a “dramatic decrease” in the incidence of gonorrhea (Cunningham & Shah, 2014).

After Cunningham and Shah uploaded their 2013 paper to an online site for unpublished scholarly articles in 2014,² it received wide coverage. Leading mainstream news media, such as *The Wall Street Journal* (Leubsdorf, 2014), *The Washington Post* (Ehrenfreund, 2014), *Time* (Brown, 2014), and *The Economist* (Prostitution: A personal choice, 2014), reported their findings with no critical analysis. Since then, the findings have acquired the status of facts, and are reported as such in publications, blogs, and political and economic analyses around the world. Within one year, the Cunningham & Shah unpublished findings were being used by reviewers of papers submitted to academic journals to reject research papers on prostitution and sex trafficking.³

Shortly after the Cunningham and Shah paper was released, Brooks and Hughes (2014a & 2014b) analyzed the paper and wrote about the serious flaws in the analysis. These rebuttals never received the attention the paper did.

The myths created by the unpublished paper took on a life of their own. Like a lot of myths, it's what some people want to believe. Also, a small, but vocal, group of activists who want to decriminalize prostitution now regularly use these incorrect findings to support their advocacy (Ahlquist, 2019; GoLocalProv News Team, 2019).

Methods

This paper analyzes the Cunningham and Shah paper and discusses its flaws and the conceptual errors they made when collecting and analyzing the data.

This analysis focuses on two areas of Cunningham & Shah's analysis. The first is the date when prostitution was decriminalized in Rhode Island. This is a crucial point because it sets the correct time frame for the analysis. Cunningham and Shah (2014, 2018) write that the appropriate time frame is 2003 to 2009. The authors of this article review that time frame.

To determine when prostitution was decriminalized, historic, legislative documents concerning the amendments to the Rhode Island criminal code were examined and court documents for the federal civil sex discrimination lawsuit (*COYOTE v Roberts*) were retrieved from the National Archives Records Center in Waltham, Massachusetts. Local media coverage from 1973-1980 related to the issue of prostitution was retrieved from the University of Rhode Island microfiche collection.

The second focus of the authors' review is on the data trends for rape and gonorrhea in Rhode Island over the appropriate time frame for analysis. Data on rape was obtained from the FBI Uniform Crime Reports. Data on the sexually

² In 2018, five years after its original date, Cunningham and Shah's paper was published by *The Review of Economics*.

³ Now, if you google “rape, reduced, decriminalized prostitution, Rhode Island” you get 110,000 hits.

transmitted diseases gonorrhea and chlamydia were retrieved from the Centers for Disease Control.

Cunningham and Shah use complicated statistical analysis to arrive at their findings. Instead of trying to deconstruct their statistical models and calculations, the researchers in this paper started by plotting the official data to visibly inspect trends over time, particularly for the period of analysis.

Below are the findings of this simpler analysis. They reveal the factual errors and the conceptual data analysis flaws that enabled Cunningham and Shah to arrive at their findings that rape and gonorrhea were reduced during the time that prostitution was decriminalized in Rhode Island.

The Decriminalization of Prostitution in Rhode Island

The first question about the Cunningham and Shah findings is about the appropriate time frame for the analysis of decriminalization of prostitution in Rhode Island. This is a crucial fact because it frames the entire Cunningham and Shah analysis.

The authors of this review have found that prostitution, if it occurred indoors, was decriminalized in 1980 as a result of an amendment made on May 15, 1980, to the Rhode Island criminal code, Rhode Island General Law Title 11, Chapter 34, Section 5 (§11-34-5). The amendment was introduced into the House by Representative Matthew J. Smith (H 733) and into the Senate by Senator Richard R. Patterson (S 2304).

This amendment deleted the section of the criminal code that referred to prostitution. It allowed the statute for soliciting for prostitution on the street (Loitering for Indecent Purposes, § 11-34-8) to remain. It reduced the penalty for “loitering for indecent purposes” from a felony to a misdemeanor. This was done to make prosecutions simpler and more effective in order to reduce prostitution on the street, which was drawing significant complaints from the community (Residents write mayor on harlots, 1978; Hilzik, 1979; Walsh, 1980).

The decision to amend the criminal code was also possibly influenced by the pending 1976 sex discrimination federal class-action suit *COYOTE v Roberts* (76-0254) which was brought by prostitute women, including a convicted madam from San Francisco, Margo St. James, and the organization *COYOTE*⁴. They filed suit against the Attorney General of Rhode Island and the Chief of Police of Providence for discrimination because women were arrested more often than men who solicited prostitution. To examine this case and the possible influence on legislators, the authors obtained the historic records of the case, *COYOTE v. Roberts* (1976,1980, 1981).

The authors of this article reviewed the prostitution arrest data that *COYOTE* and the prostitute women presented at trial in September 1979. It showed that

⁴ Margo St. James was arrested and convicted in San Francisco in 1962 for “soliciting and keeping a disorderly house in November 1962” by her own admission (Beatty, 1996, p.9).

indeed women were more often arrested than men for the same offense of soliciting for prostitution.

From 1976, when the federal case against Rhode Island was filed and during the testimony for the trial in 1979, there was significant press coverage, so most Rhode Islanders would have been aware of the federal case and the arguments being made about how criminalization of prostitution and arrests were discriminatory against women in prostitution (Lioce, 1976; COYOTE yelps in court, 1979). Also, during this period of time many sociologists were calling prostitution a “victimless crime” (Rich, 1978, Hiltzik, 1979).

In May 1980, the Rhode Island General Assembly passed the prostitution amendments to the criminal code. This effectively ended the COYOTE v Roberts suit. Upon decriminalizing prostitution (but not Loitering for Indecent Purposes), the federal lawsuit was moot. No women or men would be arrested for prostitution if the act occurred indoors. Therefore, Rhode Island officials could claim that there was no longer any discrimination against women in arrests for prostitution.

Federal District Court Judge Pettine affirmed the meaning of the legal change in the criminal code for prostitution when he wrote that “the amendments appear to have decriminalized the sexual act itself, even when undertaken for remuneration” (Pettine, 1980). Judge Pettine further wrote that the May 1980 amendment to the Rhode Island criminal code gave the prostitute women who sued Rhode Island what they were seeking by filing suit: “[T]he May 1980 amendments afforded plaintiffs a very substantial portion of the relief they sought through litigation” (Pettine, 1980).

The authors of this paper do not know what communication or discussion there may have been among officials and legislators; however, it appears following Judge Pettine’s report that they should have been aware of the implications of the amended Rhode Island criminal code.

For the next 29 years, prostitution was not illegal if it occurred indoors. In 2009, the Rhode Island General Assembly voted to recriminalize prostitution if it occurred indoors (Illegal, at last, 2009; Arditi, 2009).

Cunningham and Shah make an error when they claim that prostitution was decriminalized in 2003 (Cunningham & Shah, 2014, 2018). They write that a “Rhode Island District Court judge unexpectedly decriminalized indoor prostitution in 2003.”⁵ This is an error they attributed to an error in a *Providence Journal* news article (Arditi, 2009). Arditi, the author of the news article, is thanked in the acknowledgments of Cunningham and Shah’s article. After the Cunningham and Shah paper was released in 2014, Arditi wrote two articles for the *Providence Journal* repeating the findings of the paper that rape and gonorrhea were reduced by decriminalized prostitution (Arditi, 2014a & 2014b).

The most significant point of reviewing the history of the decriminalization of prostitution in Rhode Island is that Cunningham and Shah relied on erroneous

⁵ Cases involving prosecution of people without a precise statute defining the offense has an interesting history in Rhode Island, but beyond the scope of this paper.

newspaper reporting in 2009 about the historic events and legal actions of 1976, 1980, and 1981 to choose the time frame for their analysis.

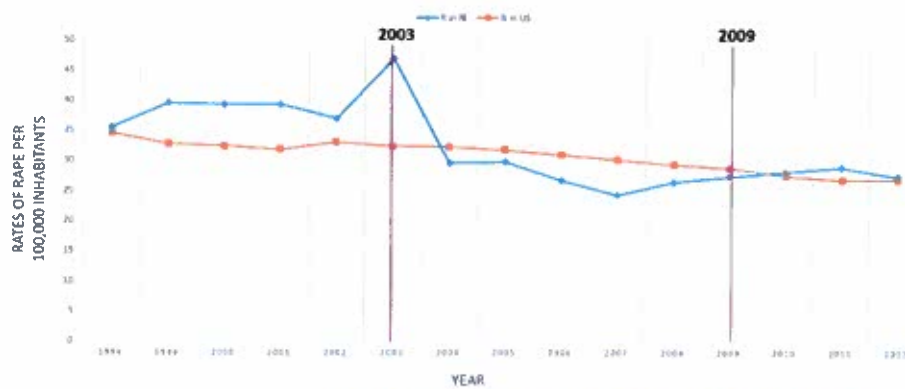
Consequently, Cunningham and Shah used the year 2003 as the initiation of decriminalization of prostitution. Since prostitution was recriminalized in 2009, Cunningham and Shah set 2003 to 2009—a six-year period for their analysis of decriminalized prostitution. This short period of time leaves out data from the previous 23 years. This decision to ignore 23 years of data profoundly influences their findings.

Incidence of Rape

The most media attention-getting finding in the Cunningham and Shah paper is that decriminalization caused the incidence of rape to decrease.

Although the Rhode Island data is more variable than the national data, it generally follows the same trend, with the exception of the rate of rapes for the year 2003. (See Figure 1.)

Rate of Rape in Rhode Island and the United States, 1998 to 2012



Source: FBI Uniform Crime Reports <http://www.fbi.gov/about-us/cjis/ucr/ucr-publications#Crime>

Figure 1: Rate of Rape in Rhode Island and the United States, 1998 to 2012.

In 2001 and 2002, there were 39.3 and 36.9 rapes per 100,000 people in Rhode Island. However, in 2003—there were an unusually high number of rapes reported—49.9 per 100,000 people. (The data was confirmed by the Rhode Island State Police Uniform Crime Reporting Program. To further investigate the accuracy of this number would require canvassing all the police departments in the state of Rhode Island to check their records.) The next year, 2004, the number dropped to 29.9 per 100,000. After that year the Rhode Island rate of rape re-assumes a more consistent yearly variability and tracks the national average. This spike in reported rapes for one year in Rhode Island created an outlier in the data.

An outlier is a data point that is far outside the normal range and trend of the data. Cunningham and Shah use the year 2003—the outlier data point—to begin their time frame of analysis of rape based on their erroneous assumption that 2003 was the date that prostitution was decriminalized in Rhode Island.

Even a simple visual inspection of the data plot shows that starting with the 2003 outlier data point results in a steep decline in the incidence of rape between 2003 and 2009. Further inspection of the data plot shows that the incidence of rape in Rhode Island had started to trend downward in 1999.

Cunningham and Shah have used a highly unusual year that included a high number of rapes to start their analysis. It is not hard to see how that distortion of the yearly trends provided Cunningham and Shah an excellent finding of a decrease in rape from 2003 to 2009.

Incidence of Gonorrhea

Cunningham and Shah reported that the incidence of gonorrhea declined in Rhode Island during decriminalization, which they claimed was between 2003 to 2009. (See Figure 2.) A visual inspection of the data plot shows that gonorrhea did decline steadily from 2003 until 2009 as Cunningham and Shah find. However, the data from 1970 to 2014 also show a much higher incidence of gonorrhea from the mid-1970s until the late 1990s, when the incidence plummeted compare to the incidence in the mid-1970s.

So, while the incidence of gonorrhea did decline during the short six years of the Cunningham and Shah's analysis period, a wider view of data from 1970 to 2014 shows that over a four-decade period, gonorrhea has significantly increased and decreased.⁶

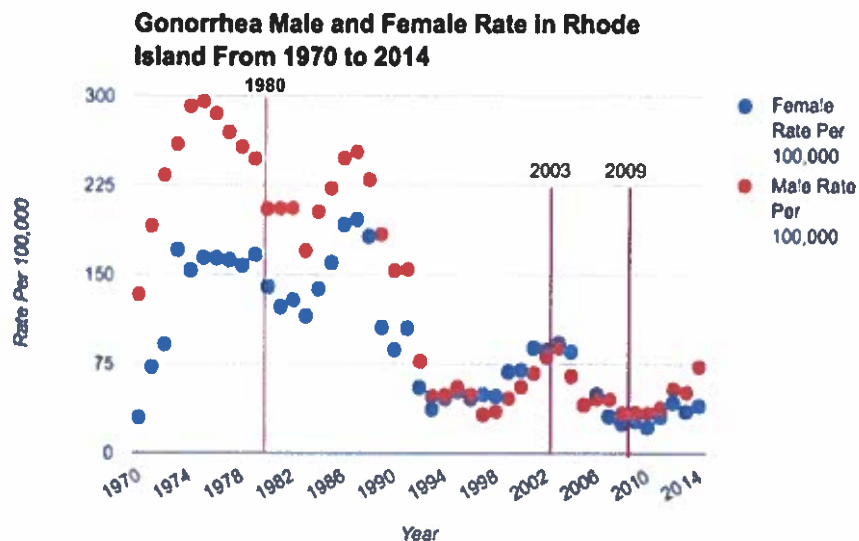


Figure 2: Rate of Male and Female Gonorrhea in Rhode Island, 1970 to 2014

⁶ It is likely the increased public health problem of HIV and AIDS and the resulting increase in condom use contributed more to the large decline over this four-decade period. But that is beyond the scope of this paper.

We see Cunningham and Shah's selective choice of 2003 to 2009 is a short time period that is out of context to the wider trends over time. This analysis of this short period of time did produce a strong result, but one that is likely an artifact.⁷

One could say that there is still an interesting reduction in sexually transmitted disease from 2003 to 2009. Therefore, the researchers decided to examine another sexually transmitted disease to see if there was a trend that followed the decriminalization of prostitution.

Incidence of Chlamydia

If decriminalization of prostitution resulted in a decrease in gonorrhea, then one would expect a similar trend with other sexually transmitted diseases. Data on the number of cases chlamydia in Rhode Island from 1985 to 2014 was used to visually inspect the trends over time. Figure 3 shows an overall increase in chlamydia over this three-decade period. Furthermore, there is no overall reduction in the number of cases of chlamydia from 2003 to 2009; nor is there a slowing of the increase during the time period during which Cunningham and Shah claim that decriminalization of prostitution resulted in a reduction in sexually transmitted disease, particularly gonorrhea.

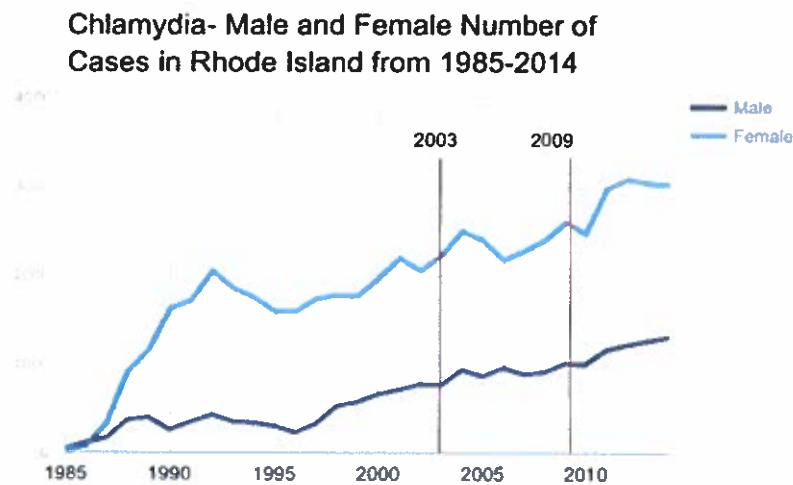


Figure 3: Number of Cases of Male and Female Cases of Chlamydia in Rhode Island, 1985 to 2014

⁷ From the mid-1980s, there were many public health campaigns aimed at increasing condom use. As the reported numbers of HIV increased, there would be renewed campaigns to urge condom use. It is unknown how these campaigns may have influenced the rate of gonorrhea.

If Cunningham and Shah want to claim that decriminalization of prostitution reduced sexually transmitted diseases, then they can't only report on the one—gonorrhea—that trended in the direction that favors their hypothesis that decriminalization is good for public health (2014).

Discussion

This analysis of legal documents from the 1970s and 1980s reveals the serious conceptual error made by Cunningham and Shah. Prostitution, if it occurred indoors, was decriminalized in 1980, not 2003, as erroneously reported in a *Providence Journal* article and used by Cunningham and Shah.⁸

Legislative attempts to curb prostitution began in 1995 (Assembly Journal, 1996; MacKay, 1997) and continued with “close the loophole” legislation in 2006. The decriminalization of indoor prostitution was not widely known by the general public in Rhode Island until the push to recriminalize prostitution occurred starting in 2005-2006. Although it can't be proven at this point, it is likely that lawyers for the increasing number of massage parlors and strip clubs knew that prostitution, if occurring indoors, was not illegal, and made it available to patrons.

According to former Representative Joanne Giannini, the chief sponsor of three pieces of legislation to end sexual exploitation in Rhode Island, including the bill to recriminalize prostitution, the decriminalized status of indoor prostitution was known for a long time. There was resistance to changing the law because people were making money from prostitution and there were powerful people buying sex in these venues (Giannini, 2019).

Cunningham and Shah's puzzling decision to begin their analysis of data in 2003 allows them to claim that decriminalization of prostitution resulted in a reduction in rape and gonorrhea. Cunningham and Shah employed complicated statistical models to arrive at their findings; however, simple plots of data visually demonstrate that there are strong trends and data outliers that contradict their claims.

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⁸ There were legal cases between the mid-1990s and 2003 that brought increasing attention to the decriminalization of prostitution and how law enforcement was using loitering for indecent purposes. However, discussion of those cases is beyond the scope of this paper.

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