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PROSTITUTION: LAWS, ARRESTS,
PROSECUTIONS, RECOMMENDATIONS

JON STEINBERG
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STATE OF MINNESOTA
HOUSE OF REPRESENTATIVES
CLERK DEPARTMENT
STATE CAPITOL
ST. PAUL, MINNESOTA 55155

PROSTITUTION:

LAWS, ARRESTS, PROSECUTIONS, RECOMMENDATIONS*

This paper presents a brief survey of the present law dealing with prostitution, some statistics regarding arrests and prosecutions, and an outline of a few basic issues which new legislation might address.

LAWS

Laws on the federal, state and local level deal with prostitution. The federal Mann Act (18 U.S.C. §2421-24) concerns transportation of women in interstate commerce for the purpose of prostitution. No persons were prosecuted for a violation of this law by the U.S. Attorney for the District of Minnesota during the time period examined -- 1976 to present.

The primary Minnesota statute on this topic is section 609.32. It has provisions under which a prostitute, a pimp or a patron may be prosecuted. A prostitute may be punished by 1 year imprisonment and/or a \$1,000 fine for engaging in prostitution, and if a patron under the age of 18 is involved, by 5 years imprisonment and/or a \$5,000 fine. A pimp may be punished by 10 years imprisonment and/or a \$10,000 fine for soliciting another under the age of 18 to practice prostitution, by 5 years imprisonment and/or a \$5,000 fine for soliciting another over the age of 18 to practice prostitution, soliciting another under the age of 18 to engage in sexual penetration with a prostitute, keeping a place of prostitution, transporting a prostitute, etc., and by imprisonment for 1 year and/or a \$1,000 fine for being supported by the earnings of or soliciting for a prostitute. A patron may be punished by 1 year imprison-

* The following information was presented to the House of Representatives' Juvenile Delinquency & Corrections Subcommittee of the Criminal Justice Committee at a hearing on November 15, 1977.

ment and/or a \$1,000 fine for offering to hire another person to engage in sexual penetration.

Besides the primary statute, section 609.725 makes vagrancy a misdemeanor, which explicitly includes loitering by a prostitute in a public place, section 624.49 makes it a misdemeanor to admit a prostitute to a public dance hall, and section 340.73 makes it a gross misdemeanor to sell liquor to a public prostitute.

Other statutes prohibit criminal sexual conduct (which includes sexual contact or penetration between an actor 48 or more months older than a complainant between ages 13 and 16), keeping a disorderly house, fornication, sodomy, and adultery, all of which may be involved in prostitution and related activities.

In chapter 260 which concerns juveniles, section 260.315 makes it a misdemeanor to contribute to the delinquency of a child. This section is used infrequently against pimps and others for a number of reasons: the penalty is relatively light; a 1940 Attorney General's opinion states that a finding of delinquency is required before a prosecution is possible, thus making the procedure cumbersome; the phrase "contributing to the delinquency of a child" is vague and possibly subject to constitutional attack.

Section 260.255 permits a juvenile court having jurisdiction over a delinquent child to issue an order preventing a person who is contributing to delinquency from any further association or communication with the child. A violation of the court order is punishable by contempt with a maximum penalty of 6 months imprisonment and/or a \$250 fine.

Finally, in the juvenile area, a petition of delinquency pursuant to section 260.131 may be filed in order to gain court supervision over a juvenile prostitute. Accurate statistics concerning use of this procedure

are difficult to obtain because a juvenile may be charged with a health or welfare offense without specifically identifying the prostitution involved. Petitions alleging that a child "is uncontrolled by his parent by being wayward or habitually disobedient" are authorized by section 260.015. Once a child is adjudicated delinquent, the dispositional alternatives are broad and include counseling, placement under the supervision of a parole officer, or transfer of legal custody.

In addition to these state statutes, ordinances of three municipalities examined -- Minneapolis, St. Paul and Duluth -- present a comprehensive criminal scheme to combat prostitution. For example, Minneapolis ordinances cover loitering, pandering, prostitution and sodomy, disorderly houses, and use of taxis for immoral purposes.

ARRESTS

	<u>Total Arrests</u>	<u>Adult Females</u>	<u>Adult Males</u>	<u>Juveniles</u>
Minneapolis-1976	613	482	93	38
Sept.-1977	423	337	53	33
St. Paul -1976	303	247	39	17
June -1977	77	48	18	11
Duluth -1976, 77	8	6	1	1

PROSECUTIONS

Once an arrest involving prostitution is made, either prosecution by the city attorney under a local ordinance as a misdemeanor punishable by a maximum of 90 days imprisonment and/or a \$500 fine, or prosecution by the county attorney under the state statutes as a gross misdemeanor or felony, is possible. In Hennepin County, for example, the policy is to charge a prostitute with a misdemeanor unless he or she has engaged in felonious criminal activity.

toward a patron (such as theft from person, aggravated robbery or aggravated assault), has assaulted the arresting officer, has a record of two recent convictions or three prior convictions, though not recent, or is arrested in a sauna and the proprietor previously has been convicted of operating a disorderly house or keeping a place of prostitution.

In Hennepin County in 1976, 15 arrests were eventually prosecuted by the county attorney as gross misdemeanors or felonies. Of these, 8 involved prostitution and 7 involved inducing another to practice prostitution. In Ramsey County in 1976, there were 53 prosecutions under state law. In Duluth in 1976 and 1977, 6 of the 8 persons arrested for prostitution were charged with a gross misdemeanor or felony. Nearly all of the prosecutions resulted in convictions.

To prove a violation of law, undercover police work is often required. Since prostitution is a "victimless crime," participants seldom will lodge a complaint or testify. The patron has little incentive to complain, even if victim to a contemporaneous robbery or assault, since this would entail adverse publicity and, of course, admission of participation in crime. The prostitute would be unlikely to testify against a patron for similar reasons. Testimony against a pimp by a prostitute is rare even if immunity is possible because of the fear, love, dependence etc. -- which may characterize their relationship. Thus, a police officer posing as a prostitute or patron is the most reliable method of gaining evidence of intent to commit illegal acts which is required for successful prosecution. The St. Paul police department presently has 8 officers working in the vice division and periodically women undercover agents are sent into the streets in a "john-sweep." The Minneapolis police department presently has 6 officers working in the morals unit.

Even if an undercover police officer acquires incriminating evidence against a patron or prostitute, however, contact with a pimp may never occur. Therefore, prosecutors generally must rely on the testimony of prostitutes in prosecutions of pimps. Prostitutes, however, are notoriously unreliable as witnesses: they do not show up on the day of trial. In addition, their credibility can easily be attacked. Prosecutors in the past, therefore, have avoided situations where the outcome would simply rest on the word of a pimp versus that of one prostitute, and have required corroborating evidence of a prostitute's testimony before initiating prosecution.

Other obstacles to successful prosecution may include section 609.09 which requires a court order to compel testimony in conjunction with immunity from prosecution, section 595.02, which provides that a person cannot testify without his or her spouse's consent, and section 634.04 which requires corroboration of an accomplice's testimony before a defendant can be convicted, which are addressed by section 8 of H.F. No. 1348.

These difficulties in prosecution have resulted in few gross misdemeanor or felony convictions of pimps.

RECOMMENDATIONS

In addition to suggestions made in bills already introduced, such as clarifying the meanings of "promoting prostitution" or "deriving earnings from prostitution," eliminating certain evidentiary obstacles, or removing penalties for engaging in prostitution when adults are involved to permit a focus on patrons and pimps, a proposal to consider is the funding of a "secure house" for potential witnesses, thus helping to insure their availability at trial. In addition, increasing the usefulness of section 260.315, the contributing

to delinquency statute, as a prosecutorial tool may be desirable. Amendments to consider might include increasing penalties for a repeat violator, specifying that an adjudication of delinquency is not required before prosecution is possible, and describing the acts which constitute "contributing to the delinquency of a minor."

A P P E N D I X

L A W S

Federal - 18 U.S.C. §2421-24

- State
- Minnesota Statutes 1976, Section 609.32, Prostitution amended by Laws of 1977, Chapter 130;
 - Section 609.725, Vagrancy;
 - Section 624.49, Not to Admit Certain Persons;
 - Section 624.54, Violation a Misdemeanor;
 - Section 340.73, Persons to Whom Sales Are Illegal;
 - Sections 609.341 - .349, Criminal Sexual Conduct amended by Laws of 1977, Chapter 130;
 - Section 609.33, Disorderly House or Place of Public Resort;
 - Section 609.34, Fornication;
 - Section 609.293, Sodomy, amended by Laws of 1977, Chapter 130;
 - Section 609.36, Adultery;
 - Section 260.255, Jurisdiction Over Persons Contributing to Delinquency or Neglect; Court Orders;
 - Section 260.261, Jurisdiction of Certain Juvenile Courts Over Offense of Contributing to Delinquency or Neglect;
 - Section 260.315, Contributing to Neglect or Delinquency;
 - Section 260.131, Petition;

Local - Minneapolis

341.180 - Use for Immoral Purposes

385.50 - Loitering

385.140 - Pandering.

385.150 - Prostitution & Sodomy

385.170 - Disorderly Houses

395.30 - Loitering

- St. Paul

152.28 - Use of Cab for Improper Purposes

438.06 - Loitering After Midnight, etc.

Ch.469 - Disorderly Houses

Ch.470 - Solicitation to Vice

- Duluth

Section 8-34 - Gambling Devices, Prostitution, etc. Prohibited

Section 34-18 - Prostitution - Prohibition

Section 34-19 - Prostitution - House of Ill Fame

Section 34-20 - Prostitution - Procurement

Section 34-21 - Prostitution - Solicitation

Section 34-31 - Vagrancy - Defined; Prohibited

Hennepin County Attorney - 1976

CHARGE

DISPOSITION

Prostitution

Dismissed

Prostitution

6 months workhouse

Soliciting & inducing another person under 18 to practice prostitution

1 year workhouse possible furlough

Prostitution

Dismissed

Soliciting for prostitution

90 days HCACF (both)

Soliciting another over 18 to practice prostitution

90 days workhouse, stay 1 year, probation 1 year

Prostitution

35 days HCACF

- I. Inducing another to practice prostitution
- II. Bringing prostitutes into state for prostitution
- III. Being supported by earnings of prostitute.

Dismissed
(State could not located witnesses)

Prostitution

0-1 Workhouse, stayed 2 years probation 2 years

Prostitution

90 days HCACF stay 1 year, probation 1 year

Prostitution

1 year workhouse stay, 2 year probation

- I. Sodomy
- II. Crim. Sex. Third
- III. Prostitution

C of C 0-10
stayed 5 years
probation 5 years, 1st yr. workhouse

Soliciting one over 18 to practice prostitution

2 years probation, 1st year workhouse

Unlaw. Possession of Handgun

- I. Kidnapping
- II. Solicit or induce another under 18 to practice prostitution

Dismissed

Ramsey County Attorney - 1976

<u>CHARGE</u>	<u>TOTAL</u>	<u>DISPOSITIONS</u>
Engaging in Prostitution	53	<ul style="list-style-type: none">- \$300 fine or 10 days - 6 months Hennepin County Workhouse (Probation) - 6 months County Jail (Probation 2 yrs. w/60 days County Jail) - 0-5 years (probation 5 years re: drug treatment) - 90 days workhouse (susp-30 days-prob. 1 yr.) - Prob. to RCDC for 1 yr. - (1) Ramsey County Jail - 30 days (2) Ramsey County Jail - 30 days (Consecutive) - Workhouse 90 day (stay - prob. 1 yr-15 days workhouse) - 90 days Workhouse - (Prob. 1 yr + 45 days if repeat) - Ramsey County Jail 60 days - (30 suspended) - 4 months Hennepin County Workhouse (credit) - Probation 1 year - 1 yr. Minneapolis Workhouse - (stayed if \$1,000 fine paid) - Dismissed - Plea Bargain - 6 months Workhouse (stay - 2 yrs. probation) - 90 days workhouse (45 days - remainder stayed 1 yr.) - Fugitive - 6 months workhouse (stay) (probation 1 yr. to RCDCS)

Ramsey County Attorney - 1976 (Continued)

<u>CHARGE</u>	<u>TOTAL</u>	<u>DISPOSITIONS</u>
Engaging in Prostitution (Continued)		<ul style="list-style-type: none">- 90 days Hennepin County Jail- 6 months workhouse (stay 1 year - 90 days Hennepin County)- Stay 1 yr. - probation- Not Guilty - Jury- 6 months workhouse- stay 1 yr. (\$100 fine)- \$750 or 70 days- 1 year probation- \$100- \$300 or 30 days (stay 1 yr. probation)- 75 days county jail- \$100 fine (10 days workhouse for each \$10 not paid)- 90 days workhouse- Bench Warrant- pled guilty - dismissed- 90 days workhouse (stay 1 yr. probation)- 6 months workhouse- 60 days consecutive- 90 days workhouse- Ramsey County Jail 6 mo. (stay 1 yr. 60 days workhouse)- Juvenile - dismissed

Ramsey County Attorney - 1976 (Continued)

<u>CHARGE</u>	<u>TOTAL*</u>	<u>DISPOSITIONS</u>
Engaging in Prostitution (Continued)		- 6 months workhouse (stay -probation) - 90 days (probation 1 yr. -- stay) - Bench Warrant - Probation 1 yr. (stay) - \$300 fine + 90 days jail (stay - 1 yr. probation) - 90 days workhouse - 90 days Hennepin County Workhouse (stay - 1 yr. probation) - \$200 fine - Juvenile - Dismissed on State's motion - Dismissed on State's motion - juvenile - Dismissed - Juvenile - 1 yr. probation - then dismissed - 0-10 MCA, 1 yr. workhouse, 10 yrs. probation

* 82% Adult Females
12% Adult Males
6% Juveniles

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