Introduction

_Prostitution Diversion Programs—_ A New Paradigm or Business as Usual?

Problem-solving courts reflect larger trends in the justice system. Sex work as a site of intervention adds another layer to diversion programs, as they are part of historical and pervasive surveillance and control of women, bodies, and sex. While other scholars and advocates debate the virtues of criminalization, legalization, or regulation of people who sell or buy sex or facilitate the sale of sex, this book examines a court system that is predicated on a legal regime where the sale of sex is criminal. This book looks at how criminal justice personnel respond to perceived tensions between criminal responses to prostitution and the needs of those who are charged with prostitution offenses,¹ and it centers the lived experiences of those who are most affected. Drawing on a rich ethnographic dataset that features over two dozen follow-up interviews spanning a decade, we reveal how program participants perceive court-affiliated prostitution diversion programs (PDPs) and the professionals who work within them and how both of these groups shape these programs and respond to their limitations.

Situating Prostitution Diversion Programs within Sex Work Debates

We acknowledge the important debates surrounding terminology. Our respondents do not self-identify either as sex workers or as people who are trafficked. Grounded in the lived experience of our respondents, we choose to
use the term *prostitution* to reflect that it is about people who engage in sex work that is criminalized in the U.S. jurisdictions where we conducted our study. This terminology also reflects our respondents’ focus on actions rather than identity. When we draw on literature or other studies, we use the designations those authors specify.

Increasingly, system professionals recognize that existing criminal legal system responses to the exchange of sex for money ineffectively and unfairly punish people for behaviors they would prefer to avoid—PDPs represent one system response (Wolf, 2001). Like the larger problem-solving justice movement of which they are a part, described in Chapter 1, PDPs are based on the notion that rehabilitation, through intensive services and supervision, changes offenders’ behaviors and attitudes and reduces crimes. Reformers view prostitution as a particularly appropriate site for diversion programs because the perceived victimization experienced by those engaged in prostitution brings out many of the contradictions in traditional criminal justice models (Corrigan & Shdaimah, 2016). People selling sex in outdoor markets who are caught up in street sweeps or arrested in undercover sting operations, the chief targets of criminal prosecution, are likely to suffer from physical and mental health concerns, addiction, trauma, and violence both as a precursor to engagement in prostitution and on the job (Lewis, 2010; Weitzer, 2009; Wiechelt & Shdaimah, 2011). Legal system actors, who view them as victims as much as perpetrators, simultaneously use lenses of stigma and empathy. This perception may be enhanced by the lack of specific victims resulting from prostitution, which is usually viewed as harming the community rather than individuals (Shdaimah et al., 2014).

Sex work, trafficking, and prostitution are subjects that involve contested ideas about gender and sexuality, and therefore have been the subject of feminist analysis. Debates about sex work, trafficking, and prostitution are far too often characterized by approaches that deny a range of voices and that question the agency of those who are arguably most affected by policy and programs. Many feminist perspectives are polarized, such as the early “abolitionist” and “pro-sex” camps. Abolitionist feminism focuses on what it considers to be inherent harms of sexual exploitation, including pornography, as well as all forms of sex work (MacKinnon, 2004). Pro-sex feminism emphasizes the pleasures of sexuality free from coercion, as well as its economic potential when it is treated as legitimate work or a business enterprise (Vance, 1984). While many feminist researchers challenge polarized perspectives, polarization persists in current policy and advocacy debates around prostitution, trafficking, and sex work.

The framing of people charged with prostitution as victims is also influenced by narratives of sex trafficking, which pervade U.S. and global discus-
sion about all forms of sexual labor in multiple ways. One way is the seemingly unreflective conflation of sex work and sex trafficking, which rejects an understanding of sex work as a legal and moral choice, or even as a form of what Showden (2011) refers to as “bounded agency” when it stems from constrained circumstances like other forms of stigmatized and risky labor (O’Brien, 2013; Parmanand, 2022). Those who see sex work as akin to, or a form of, trafficking or exploitation construct their ideas of intervention within a rescue narrative that requires what Jennifer Musto (2016) describes as carceral protection. Abolitionist feminists, for example, consider sex work exploitative of individual women and of women as a group (Powell, 2021), although others have pointed out that such stances in fact reinforce patriarchal control of women’s bodies (Bateman, 2021). While trafficking and sex work abolitionist discourses may give rise to empathy (Shdaimah & Wiechelt, 2012a) and may even prompt calls to decriminalize some forms of sex work, the framework also assumes that exploitation makes women in the sex trade coerced targets in need of rescue and redemption (Gruber et al., 2016; Musto, 2016). PDPs are perfect examples of these rescue-and-punish, punish-to-rescue, and be-rescued-or-be-punished programs.

U.S. Exceptionalism? Think Again

The United States is often justifiably viewed as exceptionally moralizing, punitive, and carceral—generally, and specifically in relation to gender, sexuality, and sex work. We challenge our international readers and those who believe that the decriminalization of U.S. street-based sex work is close on the horizon to think critically about historical and future echoes in the surveillance and regulation of women and their bodies and to question how radical any pending changes can be. Economic precarity and vulnerability are central to PDPs.

Neoliberalism, with core facets of mass incarceration and a rise in precarity, has been enthusiastically embraced globally (Garrett, 2019). Global feminist scholars highlight the ways that “women’s responsibility for reproductive work . . . is a structural feature of neoliberalism” (Radhakrishnan & Solari, 2015, p. 785). PDPs and other interventions into sex work and trafficking are recognizable neoliberal practices through their tendency to individualize, psychologize, and control through bureaucratic rationales and “accountability.” Neoliberal interventions that seek to influence through internalization of the state (Foucault biopower) use pervasive surveillance. Problem-solving “help” continues to be realized and adapted to international context. At the culmination of a multiyear pilot program in six sites, Israel passed legislation creating a national program of community courts (Knesset,
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Quirouette et al. (2016) have documented how problem-solving courts in Canada use housing to extend the reach of neoliberal criminal legal systems as a tool for surveillance.

The current wave of global efforts to combat trafficking, including its calls for interruption of digital financial flows (European Commission, 2021), should be closely watched. For example, the European Sex Workers’ Rights Alliance’s description of their work in the area of legal reform raises many of the fundamental concerns—especially salient for street-based sex workers—which cut across the variety of legal regimes and that we illuminate through our study of PDPs:

Criminalisation of sex work through the criminalisation of sex workers, third parties or clients has been shown to increase violence and health risks and reduce effective access to justice and health care.

Several countries such as Sweden, Norway, France and Ireland have implemented the “Swedish model” criminalising clients of sex workers. Since the implementation of this model sex workers have faced increased violence and stigma. Migrants and street-based sex workers are especially vulnerable to repressive laws. (European Sex Workers’ Rights Alliance, n.d.)

The punish-to-rescue impulse is worldwide, and it impacts sex workers adversely. In response, sex worker advocates call for foregrounding sex worker knowledge in order to create effective policy that protects sex workers and those who are trafficked and avoids harm (Berg et al., 2022; Berg et al., n.d.). Many researchers have documented how, similarly to the PDPs we study, measures taken to curb trafficking and help people who are trafficked outside the United States focus excessively on trafficking for purposes of sex work (Kinney, 2017; O’Brien, 2013) and usually result in harm to sex workers. Sharmila Parmanand (2022) recently showed how the stigma of sex work carries over into antitrafficking efforts in the Philippines, shutting out the voices of sex workers and resulting in continued harm. Antitrafficking efforts cannot succeed until they recognize the “slow violence” of trafficking, including “the gradual slide into financial precarity induced by tracking trafficking survivors into low-wage labour, the accretive layers of legal tenuousness for undocumented survivors or survivors with pre-existing felony charges . . . that is typically not viewed as violence at all” (Schwarz, 2022, p. 11). We explore how PDPs not only fail to disrupt this slow violence in the lives of street-based sex workers but contribute to it.

Beyond battles over criminality and legalization, the harms of stigma, paternalism, and maternalism continue to disadvantage sex workers and their loved ones. Reno and colleagues (2021) show how inclusion of sex worker per-
perspectives would help researchers and policy-makers achieve the World Health Organization (WHO) goals—shared by sex workers themselves—of increasing breastfeeding among sex workers in Nepal for the health and safety of their children. Lynzi Armstrong (2021) makes a case that social harm, which includes not only physical and psychological harm but all forms of social exclusion and marginalization, continues to operate even in most decriminalization or end-demand policies. The experience of New Zealand’s sex work policies in comparison to those of other well-meaning rescue-focused regimes provides evidence that treating sex work like any other work is most likely to allow sex workers to benefit from their labor and not be harmed by ineffective policies and shaming. Anasti’s (2018) study of advocacy and helping organizations shows that engaging with sex worker–led organizations may be effectively incorporated into programming and policy advocacy.

**Prostitution Diversion Programs**

A small but growing body of literature exists about PDPs (Beaujolais & Dillard, 2020). The only comprehensive U.S. report found just over 20 such programs, some of which were no longer running (Mueller, 2012). Since then, there has been growing interest in creating such PDPs, and a number are in the planning stages or have come to fruition (see, for example, Blakey et al., 2017; Singh, 2017). The earliest PDPs were the night courts of Manhattan that began at the turn of the twentieth century; some researchers have noted similarities between these and the twenty-first-century PDPs as mechanisms of social control (Quinn, 2006) that focus on the individual as the locus of intervention, despite differences across time in how the PDPs were framed (Cohen, 2017).

Like other diversion programs, PDPs operate within the existing framework of criminalization and thus do not change the legal status of sex work. PDPs rest on the assumptions that prostitution is harmful and that it can best be addressed through some form of individualized rehabilitation of those who sell or purchase sex (Wahab, 2006). Some PDPs, like problem-solving courts and other diversion programs that require group interventions, have a public or performative aspect that is designed to foster connections and accountability among and between defendants. Defendants serve as role models (or cautionary tales) for others as they move through programs (Begun & Hammond, 2012; Singh, 2017; Shdaimah & Leon, 2016). Criminal justice personnel come to know defendants, and their interactions take on a paternal or mentoring dimension. In fact, PDPs take on a distinctly maternalist approach within a paternalistic criminal legal system and broader society. While some diversion programs are open to the general public, due to the stigma surrounding prostitution even those PDPs with collective elements are often closed to outsiders.
Like their counterparts in other areas, PDPs use multidisciplinary teams, which typically include case managers, public defenders, prosecutors, judges (for court programs), probation officers, and mental health providers (Franke & Shdaimah, 2022). Participants are referred to community agencies for services that can include substance use and/or trauma treatment, job training, education, and medical services (Beaujolais & Dillard, 2020; Leon & Shdaimah, 2019). Courts and decision-makers in the justice system usually view the agencies providing services as crucial collaborators and engage them in ongoing dialogue to provide special programming or set-asides. Indeed, criminal justice agencies such as the police or the courts are unable to provide the services that they mandate, so they rely on their community partners. This means that the quality and types of services vary widely and may not be appropriate or effective for all PDP participants. Ideally, PDPs do their best to ensure a match between defendants and services, as a mismatch can set participants up for failure that engenders criminal justice consequences and reflects poorly on PDPs (e.g., Bailey-Kloch et al., 2015).

PDPs vary widely. Key differences include who is being diverted, from what, and how. These factors shape the content and structure of the programs. Jurisdictions develop programs based on their own goals and available resources and are also the product of negotiation among different stakeholders who may support programs for different reasons. A few programs target consumers, the most famous of which is San Francisco’s “John School” (Shively et al., 2008). However, the majority of PDPs target sellers of sex (Global Health Justice Partnership, 2018). Most of these focus on cisgender women, although there are programs such as Baltimore City’s Specialized Pretrial Diversion (SPD) program that accept defendants of any gender (Bailey-Kloch et al., 2015). As we show in Chapter 2, eligibility criteria vary, often excluding people who have been charged with violent felony offenses. While some PDPs target first-time offenders, others require a minimum number of prostitution convictions or charges, with some programs targeting individuals with long histories of prostitution convictions that are seen as costly to the criminal legal system (Mueller, 2012). Still others target anyone arrested for prostitution, regardless of pre-existing records. PDPs do not specify types of prostitution offenses but de facto serve primarily street-based sex workers, who are the most likely to be arrested. This group is also the most likely to experience stigma, victimization, and poverty; programs often therefore assume that defendants have experienced trauma and have high levels of addiction and mental illness (Begun & Hammond, 2012; Shdaimah & Bailey-Kloch, 2014; Muraresku, 2017). For this reason, key components of most PDPs are addiction and mental health treatment, including trauma treatment.

PDPs do not fundamentally change the legal status of prostitution but, as the name suggests, divert individuals from consequences at different stag-
es of the criminal legal process. At the earliest stage are programs that divert individuals at point-of-arrest by police officers. Eligible individuals arrested for prostitution who opt for participation in a diversion program are diverted from the charging process. Successful graduates of this kind of program often have their charges dropped and are eligible for expungement. Unsuccessful participants will see their charges move forward. But programs that require a guilty plea are more common. In these, defendants waive their legal right to challenge the charges in court. Defendants are then diverted from punishment while they remain in the program. If they complete the program successfully, their charges are dismissed. Defendants may be able to have their charges expunged as well. It is important to note that expungement processes vary and generally require a fee. Some programs also have additional criteria for expungement, such as remaining free of charges for a year upon completion of a program.

PDP requirements also vary. Like their traditional criminal legal system counterparts in most locations, PDPs for those who sell sex are much more onerous than programs for buyers; programs for buyers typically utilize “scared straight” tactics and may require no more than one day of education. The longest documented PDP duration is the minimum-2-year Cook County Women in Need of Gender Specific Services (WINGS) Court, which was replaced by a Law Enforcement Assisted Diversion (LEAD) program when Illinois eliminated prostitution as a felony offense in 2013 (Chicago Appleseed Center for Fair Courts, 2023). Longer programs often have phases. As the literature on PDPs cited here describes, most programs combine standardized requirements that apply to all participants (such as drug testing, weekly probation meetings, monthly court hearings, or a particular kind of treatment or therapy) with customized programming, such as education or employment programs appropriate to the participants’ backgrounds, or specialized drug treatment. Participation is mandatory, including compliance with the rules of any program to which defendants are referred. Some PDPs also offer defendants voluntary enrichment, which can include cycling, yoga, art programs, or assistance reconnecting with children or adult family members. As part of the PDP philosophy of incentives and deterrence, progress is met by rewards while program breaches result in sanctions. Rewards can be in the form of praise in open court, receipt of certificates, and decrease in supervision. Most programs subscribe to a philosophy by which sanctions are graduated and customized so as to provide an opportunity for reflection and learning (National Drug Court Resource Center, 2016). These sanctions typically start as more rehabilitative in focus and can include essays that are read in open court and community service, with incarceration as the threat on the severe end of the spectrum of available sanctions. In phased programs, sanctions are usually accompanied by a restart of the current program phase,
lengthening the overall program duration. Continued breaches or certain kinds of program violations may lead to termination of the defendants’ participation, thus triggering the original criminal legal consequences from which defendants were diverted.

The small but growing body of literature on PDPs indicates that some programs show better outcomes than their traditional counterparts, largely in the form of cost savings (Begun & Hammond, 2012; Roe-Sepowitz et al., 2012; Shively et al., 2008), program satisfaction (Shdaimah & Bailey-Kloch, 2014), and the increased understanding that criminal justice stakeholders gain about the lived realities that people engaged in sex work face (Wahab, 2005; Leon & Shdaimah, 2012). It is less clear whether prostitution defendants are better off participating in diversion programs in the long run (Shdaimah & Bailey-Kloch, 2014), or if such programs are universally appropriate (Bailey-Kloch et al., 2015). Concerns have also been raised about the appropriateness and quality of treatment and the tension that arises from the provision of rehabilitative services, particularly therapy, within the criminal legal system requiring public disclosure and the threat of punishment (Singh, 2017). Equally important, diversion programs rarely address systemic conditions that contribute to people’s motivation for engaging in prostitution, such as lack of affordable housing, discrimination, and the dearth of adequate and appropriate treatment and living wage employment (Blakey et al., 2017; Leon & Shdaimah, 2012; Shdaimah & Bailey-Kloch, 2014).

PDPs’ incorporation of rehabilitative services within the criminal legal system presents both opportunities and challenges. With growing empirical evidence and critical attention to how programs operate on the ground, policy-makers and those impacted by PDPs are able to make more informed choices as they shape new and existing programs and balance the interests and goals of stakeholders. PDPs are also best understood and evaluated in light of the existing legal treatment of criminalized sex work in a given jurisdiction to which they serve as an alternative.

Chapter 1 contextualizes PDPs more thoroughly within problem-solving justice and provides what academic audiences will recognize as a literature review. Chapter 2 then describes the two programs featured in this book. The following chapters use vignettes drawn from multiple interviews with program participants and stakeholders. Chapters 3 through 7 each foreground the stories of one or two people, followed by discussion of the salient themes and supported by data from multiple sources. Readers wishing to move directly into accounts of participant and stakeholder perspectives could therefore skip ahead to Chapter 3, which uses Maria’s story to demonstrate the coercion built into the fabric of PDPs. In Chapter 4 we explain trauma as a clinical concept and then contrast this with its usage in PDPs, through Tootles’s story. In Ava’s story in Chapter 5, we examine the impact of stigmatiza-
tion and constructions of shame and how the court contributes to harmful narratives of shame. Chapter 6, using Amy’s story, provides a nuanced and critical analysis of how relationships are built, rebuilt, and surveilled as part of the ongoing court efforts to support, rescue, and control program participants. In Chapter 7, Lily’s reflections on her evolution in her role as a court coordinator are the basis for a discussion of the motivations, vision, and goals of PDP staff and the potential for inequity and disempowerment of program participants in light of these. We draw on the insights and perspectives of other court personnel, including judges, social workers, public defenders, probation officers, and prosecutors as well as therapists and agency administrators, to better consider the court and its impacts from stakeholders’ perspectives. Chapter 8 provides a summary that brings together the concepts and experiences that we have shared throughout the book. Our three vignettes about our own changing perspectives on prostitution courts and programs, as well as updates on participants whose stories were used in our analyses throughout the book, help contextualize our findings.

We present our findings in a number of different ways. In keeping with an ethic of inquiry informed by feminist and decolonizing practices, we use many quotes to center the words of our respondents. This imperative also influenced our use of extended vignettes in Chapters 3 through 7. We also cite our observations (primarily in court), many of which contain verbatim snippets of conversation. Finally, we draw on I-poem techniques where we believe they can convey a feeling or sense of the person better than a more didactic presentation or framing of respondents’ words (Bailey-Kloch, 2017; Buckridge et al., 2022). Readers who wish for greater detail on our methods, including data collection and analysis, rigor, and ethical concerns, can turn to Appendixes A and B.
Coercion operates in all facets of the prostitution diversion programs (PDPs). Here we place it at the center of our analysis. The nesting of PDPs within the criminal legal system is fundamental to their design: These programs cannot be viewed as simply rehabilitative opportunities. PDPs extend the criminal legal system into the lives of program participants and into agency and community contexts. Defendants’ motivations for participating in criminal legal system–affiliated PDPs cannot be separated from the coercion present in respondents’ pressing material needs and their fear of traditional consequences such as incarceration. Many PDP participants told us they “chose” a diversion program as an alternative to jail—not because of particular interest in the programs and what they had to offer. PDC participant Maria illustrates coercion as a larger force within and outside of the criminal legal system. It is present in the self-identified factors that led PDP participants to sell or exchange sex, such as the need for food, housing, love, and drugs. Illegal sex work was (or still is) the preferred option for some, despite the accompanying stigma and system involvement. Similarly, some professional stakeholders also support PDPs, despite their own concerns, due to lack of alternatives.

The controversial marriage of rehabilitative and penal practices is at the heart of problem-solving courts. The complex interplay between different forms of coercion and rehabilitation is focused on producing what the court (and sometimes participants) view as normative, law-abiding women. This chapter attempts to do justice to this complexity by providing a nuanced, emic
(insider) perspective that is often absent from ideological debates, while retaining a critical stance (Karandikar, 2022b). For example, we take seriously that many program staff and participants articulated the need for coerced treatment and personal readiness, alongside the seemingly contradictory narratives of epiphany and change. These narratives raise more questions than answers: What is the appropriate balance of coercive power and therapeutic services? Is any form of coercion acceptable? In what circumstances can coercion reinforce individual readiness and therapeutic services? In what circumstances does it interfere? Even if coercion might be effective in some cases, is any amount of coercion ethically acceptable? How do PDP professionals reconcile their ethical discomfort with punishing in order to rescue, or with the criminalization of what they view as undesirable or coerced behaviors?

After the opening vignette, this chapter draws on interviews with criminal legal professionals (lawyers, judges, social workers, probation and pretrial workers, and therapists) to examine how they view their appropriate role and the ways they interact with others. We discuss how coercion and motivation bear on the allocation of scarce resources in programs that serve only a small percentage of those who are eligible. The difficulty of allocation is compounded by our respondents’ declared inability to predict who is most likely to engage and succeed. However, focusing on coercion at only the individual level or program level further obscures the system-level coercive forces that often structure these individual choices and are reinforced through the red herring of PDPs, which become ends in themselves rather than a means to broader systemic change.

“I Have Them on My Back” (Maria)

Maria was in Project Dawn Court for about two years. In her late 20s, Maria is the only self-identified Hispanic woman in our sample. She started selling sex about five years before then, because of what she referred to as her “drug addiction.” Maria steadily used drugs and sold sex to support her addiction, except when arrested and, for one six-month period, when she “had a boyfriend and [she] wanted to be with him, so [she] just stopped getting high, stopped prostituting.” For Maria, as it is for nearly all participants, selling sex is inextricably entwined with drug use, and Maria “went back to prostituting” when she began “using again [as that] was the only way I knew how to get quick money.”

Maria first learned about PDC while she was incarcerated. “One of the girls in jail enticed me to get into the program,” and she reached out to Lily, the court coordinator. Maria’s primary motivation to join was to get her charges expunged: “They help you get in school, into programs, and what inter-
ested me [more] was to get the prostitution off of my record. So they clear your record after a year.” Maria also saw PDC as preferable to incarceration, which reinforced her addiction rather than serving as a break or deterrent from it. She had this to say:

[PDC]’s more fair because sometimes the jail won’t help us, it just hinders us. ’Cause you could get high in jail. . . . So it’s better to put you in a program and get you help for your addiction instead of just sending you to jail to make your addiction worse.

Following Maria’s request to enter PDC, the public defender verified her eligibility and petitioned Maria’s “back judge.” Maria learned more about PDC during a hearing to discuss her request to transfer into the program. It was then that she heard that PDC had four phases and that “if I run or I don’t complete the program, I’m looking at my back time. It’s like two years for each one of my cases. So that’s like six years upstate.” Maria was dismayed that entering the program might place her at risk for a more serious punishment than she already faced if she failed—in terms of both length of sentence and location (it would be served in state prison, rather than county jail). However, she did not regret her decision. Instead, she framed the threat of punishment as a key benefit of the program: “If I was just on probation by myself, I would have been locked up like four hot urines ago.” In another interview, Maria explained:

I need to know when I gotta be . . . I got an hour travel time from here to going home. I gotta be home by 5:30; I get outta here at 4. And as soon as I come in they do a swab. ’Cause I need that structure and that stability. If I don’t have structure and stability, and knew I could come and go as I please, then it’d be a problem. . . . Knowing that I have them on my back and that I’m looking at upstate time if I run or leave from the program, that’s what kept me going.

While Maria described structure and stability as being what she “needed” from the program, she was also frustrated when the structure was too limiting or intrusive. For example, she compared two different inpatient programs that she attended during her early PDC phases. She preferred the program that balanced restrictions with limited freedoms, such as “just doing 2 weeks of blackout, but you still could smoke cigarettes, you still could use the phone, still could have visits and stuff.” Having some liberties made it easier to comply with program strictures, which included engaging with therapy, abstaining from alcohol or drugs, and remaining on the premises. Maria relapsed while in this program when she “tried to get my kids back
all at one time and it was too much. And I left [First Inpatient Program] and
I was just left to my own devices.”

On her own and struggling, Maria followed probation officer Ronny Lan-
dis’s advice to stay connected in order to mitigate sanctions. Maria’s breach
of the inpatient program’s rules by leaving was, by definition, also a breach
of PDC regulations, which require compliance with any mandated program
rules. In both PDC and SPD we were told and we observed that remaining
engaged with PDP staff through transgressions can stave off termination due
to serious or continued noncompliance, and is an important demonstration
of commitment that fosters goodwill among system professionals (Corrigan
& Shdaimah, 2016). As Maria told us,

She was like, “Just call me every day just to let me know you alive, you
ain’t get locked up,’cause you don’t wanna catch a new case in Dawn’s
Court. ‘Cause then, that’ll really make the judge mad.” So I would call
her every day, let her know, like, “I’m struggling.”

Maria contrasted Judge Kahan’s actual response to her relapse with the pu-
nitive response that she had expected. “I thought she was gonna say, ‘Bailiff,
take her back [to jail].’ So I was like, ‘Pshhhh [relief], thank God; she gave
me a second chance at this and I’m gonna make it worth it.” The threat of
incarceration motivated Maria to stay in touch with Ronny, comply with pro-
gram requirements while she waited for her insurance authorization, and get
into a program as quickly as she could.

However, PDC restarted Maria’s program phase after her relapse and sent
her to a stricter program, where she struggled:

It’s hard, you can’t smoke for 2 weeks, you go on a 30-day blackout,
your boyfriend can’t come see you. So it’s like, just this is my last time
going into a program cause it’s . . . god, I thought it would get easier
and it didn’t: it got harder.

Maria believes that what probation officer Ronny and Judge Kahan know
about her life makes them empathetic despite her noncompliance and strug-
gles. They know her difficult personal history of abuse; they know how hard
she has been trying and how well she is doing relative to her past; and they
believe in her potential for success. For example, Maria explained why she
believed that she was not incarcerated or removed from the program after a
relapse:

’Cause I had 11 months clean . . . so [Judge Kahan] knew something
was wrong. She knows my whole [story], with my children and stuff
and everything and what I went through as a child and everything. So she knows. She sees something in me that I didn’t see.

This quote repeats a common refrain among program participants. Most were not uncomfortable when compelled to reveal details of their lives within the context of PDC. With some exceptions, most interpreted such requirements as opportunities to share information so that criminal legal system professionals would use their power with empathy for them as individuals, rather than as anonymous cases.

Participants knew the courts had the power to incarcerate, and appreciated when they refrained from using it. Maria said,

[...]

When asked what “regular court” is like, Maria explained: “It’s hell. . . . If I would’ve relapsed in regular court, they would’ve sent me back to jail. Thanks to Project Dawn, I’m still on the street, in a program, and can see my kids and stuff.” Maria initially welcomed weekly probation meetings and monthly court hearings because they kept her motivated.

At first I was like, “Oh god; gotta go to the program. Gotta do this. Got this person on my back, [and] this person.” But in honesty, that’s what I needed; some people just need that foot on they neck to push ’em a little bit.

By our final interview, having been in PDC for nearly two years, Maria was fed up. In a hearing to show cause as to why she should not be terminated from PDC and receive jail time, Maria accepted an alternative offer to move to the Mental Health Court, where she would stay under the auspices of the PDC judge.

During the show cause hearing, the prosecutor Erin voiced her frustration with Maria to Judge Kahan: “I have been angry, and disappointed, but at this point I’m just afraid that she’s going to be her own undoing and I’ll be going to her funeral” (PDC field notes, Summer 2012). Judge Kahan responded, reframing Erin’s advice as a warning to Maria:

I understand [Ms. Archer’s] concern. But we are outsiders looking in. [Turning to Maria, she says] My concern frankly is that you’ve had incredible support from a whole lot of people in PDC. And you have appreciated it sometimes but sometimes [you see these people as if]
they are in your way. At your age it just strikes me that you’ve been resistant and frankly I don’t know why but you need to give some thought to that. Sometimes it feels like we’re the only ones working for you and you’re only working against yourself and the rest of us. (PDC field notes, Summer 2012)

Both Erin and Judge Kahan know Maria and invoke their personal investment to lend power to the wake-up call.

In the next quote, we see Judge Kahan evoking the limitations of her coercive power with Maria and, in doing so, ironically playing her proverbial last card in the form of a threat to coax Maria toward internal motivation. Both the prosecutor and the judge refer to adulthood as part of the expectation that Maria take responsibility for her actions, simultaneously raising the specter of “consequences.” Judge Kahan told Maria this:

We do not really have favorites and are not supposed to have favorites, but you were everybody’s project and even though PDC was not the right place, we really want to see you get it right. Not to force my hand to violate you. Not that it’s going to do you any good, but it’s not just a message to you but also to other people that there are rules and there are consequences. We can’t plug away on our own. (PDC field notes, Summer 2012)

Regardless of whether her exhortation and concerns will do Maria “any good,” Judge Kahan explicitly directs them as “a message” to all PDC participants present at the monthly court hearing.

Maria was relieved to exit PDC without further adverse consequences. Similarly, the PDC professionals were relieved to be able to offer a viable compromise so that Maria would not be viewed as a program failure. Their concern may have been driven by a desire to show policy-makers that PDC was a worthwhile investment of resources, but it also appeared to be driven by genuine concern. Maria explained that her current and former probation officers “got together and they decided that Dawn Court wasn’t for me. They put me in mental health court instead of them sending me upstate for five years.” Maria explained:

[Mental health court]’s actually better for me, ’cause they[’re] dealing more with my mental status, and it ain’t so much problems—I gotta do this, I gotta do that, I gotta be here, I gotta do this, and I ain’t gotta worry about going back to jail. ’Cause Dawn Court, they want you to do it like this, like this, like this, like this, like that [says in a rigid
voice]. And mental health court’s more lenient ’cause they know you got mental issues.

During our last interview, Maria was in mental health court and living with her children and godsister. This living arrangement allowed her to “come and go as I please, eat when I want to, sleep when I want to. So it’s like I got more freedom; I feel independent.” The contrast between the much lower levels of risk, surveillance, and coercion in mental health court as compared to PDC raises many questions. As we have written elsewhere, the criminalization of sex work and the hypervigilance that it engenders is a theme that crosses geography and time (Lilley et al., 2020; Cohen, 2017; Shdaimah, 2018). It also raises the possibility that attitudes are at play that continue to view addiction as a poor choice to be addressed through regulation and willpower rather than a mental health condition (see Chapter 4).

Upon moving to mental health court, Maria was relieved to be done with PDC, which “was a struggle,” while still able to remain under Judge Kahan’s supervision:

I like to continue with the one judge because . . . [Judge Kahan] has been in my case and everything, so she already knows what she’s dealing with. To deal with somebody new, and for them not to know the rules, and gotta get to know the rules, and then they put Maria in jail not knowing the whole Maria [talking about herself in the third person], so I just rather deal with Kahan, ’cause she already knows the whole giddyup.

Change was a particular sticking point with Maria. She did not like to share her story with people she did not know, in case they would use information to harm her:

It’s so nerve-racking . . . Like why do I have to keep telling? I just hate it. . . . I get defensive over it, because I don’t know you, so why should I be telling you what’s going on with me? I never seen you before. I don’t know if you [are] trying to hurt me or get me locked up or whatever or use what I say against me.

Maria also worried about having to manage new or confusing expectations. When her probation officer Ronny Landis was promoted, she was very upset. “I cried. . . . I was like, ‘Hold it; who is you? Where’s Landis at?’ ‘Oh, she got promoted.’ I said, ‘What?! No. I want Landis back.’” She was uncertain of her new probation officer’s expectations:
I had Landis for so many years, so I know Landis’s dos and don’ts and wills and won’ts. [Now] I gotta learn Catherine’s wills, won’ts, dos, and don’ts. Like, “What would she do if I do this?” . . . I try to keep the same people that I know in my circle because I’m already used to them. I know what’s gonna happen, what ain’t gonna happen, this, that, and the third.

In addition to the turmoil that having to navigate a new probation officer creates for people on probation, this fear is compounded for PDP participants like Maria by the fear of being abandoned by service providers, given Maria’s tremendous distrust of people she does not know. Her willingness to accept coercive PDC rules often hinged on whether she perceived that they would come with support and care. Maria also found it easier to comply with the program when she knew its parameters (dos, don’ts, wills, won’ts) and felt she could predict which potential consequences she could live with. Maria’s engagement with PDC unraveled when she found its unsustainably coercive and interfering mandates simply too much to bear.

“*You Were Everybody’s Project*” (*Judge Kahan*)

In the previous section, Judge Kahan referenced the court’s investment in Maria, which sometimes seemed even greater than Maria’s investment in herself. Judge Kahan is channeling her own as well as other team members’ frustration with, and fear for, Maria. The court is designed precisely to work with defendants to spur change that will become internalized, in order to effectively curtail future offending. Much of this change focuses on individual behaviors and attitudes, essentially making the individual a Pygmalion-like “project.” However, PDPs also attempt to address some structural concerns—largely through case management, and in rare cases through meso-level interventions at the agency level. The PDP itself constitutes an agency-level intervention by providing a possible alternative within existing policy for a small subset of prostitution defendants. There are limitations to such change efforts: PDPs provide a meager bulwark against the powerful forces that constrain defendants and other PDP stakeholders.

After many conversations with respondents and among ourselves, we identified pervasive and powerful coercive factors that undermine participants in PDPs, such that they swim in a sea of coercion with the limited assistance provided by the “life buoy” of PDPs. To illustrate this, we commissioned artist Francisca Moreno to depict the multiple sources of coercion at the various levels of Dawn Court participants’ ecosystem (see Figure 3.1). In the remainder of this chapter, we discuss the coercive context in which PDPs operate; then we examine how PDPs themselves understand the interplay of
coercion stemming from PDPs, participants’ prior criminal legal system involvement, and participants’ own life circumstances more generally.

**Swimming in a Sea of Coercion**

It is abundantly clear from Maria’s story, and from the participants in both the PDC and the SPD, that the women are immersed in a sea of coercive forces as illustrated in Figure 3.1. Nearly all respondents in both programs, and—according to professional stakeholders and as borne out in our observations—all of the PDC participants and the overwhelming majority of SPD participants grapple with severe, long-term, and often debilitating addiction. Such severe addictions give rise to the need to ensure an ongoing supply of illegal drugs, often in the moment. Sex work provides immediate access to what SPD participant CeeJay called “quick fast money.” Many respondents were able to make
enough money through sex trading to secure drugs for themselves, for significant others, and for friends who were “sick,” that is, experiencing withdrawal.

PDP participants struggled to meet their most basic needs. One of the most frequent and pressing concerns, a pervasive problem in both Baltimore and Philadelphia, was the difficulty of finding shelter and remaining housed (Shdaimah et al., in press; Urban Displacement Project, 2021). PDC’s Judge Kahan saw housing as “the biggest hurdle”:

So many of the mental health [stressors] people face is unstable housing to begin with. And even those who have more stable housing, they are going back to the same locations. . . . [pause] Was it AA [Alcoholics Anonymous] that started “person, places, things”? And NA [Narcotics Anonymous] has the same thing. And all the drug treatment programs—and I think that that is reality. And I think that it’s really hard when you don’t have a stable environment or you go back to where you have a comfort zone. We all have a comfort zone. You don’t have to, you can be anyone of us, and you talk about the huge stressors in life and what do you have?—new marriage, new location, new job—you know, it’s the big three. So housing transcends people who have issues with drugs and alcohol and people who have issues with prostitution and mental health—it’s huge.

As Judge Kahan notes, housing is indicative of other struggles often associated with poverty and resource limitations, and it also can be a destabilizing force.

Housing struggles were one reason for high levels of precarity and other difficulties that accompany frequent moves, such as transportation challenges, difficulty staying connected to health care providers and therapists, and timely and steady compliance with required programming and criminal justice imperatives such as weekly meetings with probation officers and monthly court attendance. In 2021, the Philadelphia metro area and Baltimore metro area ranked 8th and 20th of 53 U.S. metropolitan areas of over 1 million people, respectively, on the 2021 Housing Precarity Risk Model. As Baltimore drug assessor George noted, “housing for women” is “the hardest resource to find.” Similarly, PDC coordinator Maya explained the need for what she called “good housing.” Despite the plethora of recovery housing in Philadelphia, “finding [recovery houses] that are supportive for [PDC participants], finding areas in which they can financially afford, and then also that transition into more stable housing past the recovery housing is a huge obstacle.” The challenges facing those who run and rely on the recovery housing economy in Philadelphia have been well documented, showing that the availability and quality of recovery housing, as well as the suitability for different subpopu-
lations, are both limited and variable (Fairbanks, 2009). As PDC participant Casey describes in the following quote, many respondents complained that the housing to which they were mandated did not adequately meet their needs. Casey, for example, cannot find a recovery house where she can live with her husband, nor one in an area that would help her avoid the seemingly incessant invitation to use drugs or sell sex, both of which would place her out of program compliance and make her subject to punishment.

Me and my husband are getting along so much better [but] it’s a little hard because I’m at the recovery house, at first it was a little hard for me and him. [Also because] I’m right there where I used to do my dirt. Which I think is totally [problematic] that they want us to go to a recovery house that’s right there. That’s one thing that I think can change. ’Cause some women aren’t that strong, they’re right there, they’re going to want to make money, you know what I mean? And I can even say for myself it was a little hard. Like here I am, I see these tricks that I know, and they’re like “Yeah, you wanna—?” They want a date and I’m broke like, I wouldn’t, I haven’t done it, but like who’s to say on a bad day, when I don’t have any cigarettes and money, when the phone bill needs to be paid, you know shit like that happens. And here I am, you know it kind of weighs on you. You know, I think the recovery house they really want you to go to should be somewhere else.

Like many women who have been incarcerated, PDP participants experienced what Smoyer et al. (2021) refer to as “ping-pong housing.” This means that it was often temporary, with women soon having to rely on friends or family. The overwhelming majority of Project Dawn Court participants entered the program while incarcerated; indeed, one of the PDC selling points is that it allowed for earlier release. Many individuals went to inpatient drug treatment that provided housing, but these destinations were temporary and affordable and appropriate housing remained a concern throughout program participation and upon leaving. While some program participants experience absolute homelessness, ping-pong housing is more prevalent. As Baltimore social worker Brigit explains, many women in the programs are embedded in networks of support that provide both benefits and risks to PDP goals. For example, if participants needed to contribute to their households, and illegal sex work is the best means to do so:

Homelessness is not where these folks are. For the most part, now that’s not 100 percent true, but nothing is 100 percent true. They usually have a place to stay, or multiple places to stay. And family still, [where] many of them stay, and they are also contributing.
PDP participants not only receive support from diffuse networks but sex work may help them to contribute to mutual aid efforts and to support others. As we explore in Chapter 6, SPD participant Brown Sugar’s decision to sell sex (and later to stop selling sex) was for her children. Once they were older, she saw the PDP as helping her avoid criminal sanctions that may have cruelly and ironically separated her from the children that she supported through sex work. Whether sex work is a “good” thing or a “bad” thing depends on one’s vantage point and assessments of how best to navigate multiple coercive forces, including hunger, unemployment, addiction, and criminal sanctions. Sex work and the crucial networks in which women are embedded are important to everyday survival in precarious economic situations, but many criminal legal system professionals view them as only problematic. Coercive forces of poverty and choices limited by stigmatization and criminalization (Hankel et al., 2019) are used to leverage compliance.

Coercion as a Court Tool

Coercion is a central feature of court-affiliated programs. The carrot-and-stick approach uses both negative and positive forms of coercion, by which we mean a strong—possibly irrefusable—impetus to participate. The potential for punishment as a stick is predicated on the belief that defendants derive motivation from their desire to avoid the harsh realities of a punitive criminal legal system. In this sense, court-affiliated programs are no different than the reigning U.S. deterrence model of harsh and punitive criminal legal system responses to sex work. As Sofia, a program administrator, pointed out, “How supportive and trauma-informed is this whole operation that we’re just dangling jail as a threat?”

Court-affiliated diversion programs differ from the predominant approach in their addition of rewards and resources that both entice and enable compliance. PDPs entice using praise, public recognition in the form of certificates and graduation ceremonies, dismissal of charges, or expungement. They provide resources in the form of support and services that give participants the means to comply with program requirements, such as drug treatment programs, bus tokens, or housing. Alongside the positive motivation and support, PDPs use mechanisms of surveillance and control. The following definition of accountability is one of the six core principles of problem-solving justice:

An important goal of problem-solving justice is to demonstrate that criminal behavior—even minor, quality-of-life crime—has consequences. Thus problem-solving courts strive to enforce their sanctions and emphasize accountability. One of their primary tools for achiev-
ing this goal is compliance monitoring. By requiring offenders to check in regularly with the judge, clerk, or local partners, problem-solving courts can ensure that sanctions—even diversion programs and alternatives to incarceration—have real teeth. (Wolf, 2007, p. 8)

Accountability has two major components. First, it depends on ongoing communication among various program components, including service providers, to enhance the courts’ ability to monitor behavior and detect noncompliance. The second component is swift, unequivocal responses to infractions: “Non-compliance must be communicated as soon as it is discovered and the court must make it clear that sanctions (e.g., letters of apology, curfews, increased frequency of reporting, even short-term jail) will be issued in response” (Wolf, 2007, p. 8).

Despite her support of therapeutic goals, probation officer Catherine Heathcliff believes that coercion is equally necessary. She described how many treatment professionals underestimate the role of coercion, and she provided an illustration of how she effectively threatened a PDC participant into compliance:

[Other professional stakeholders were] like, “Oh she did a turn-around.” . . . And [in probation we] think differently. . . . I was getting phone call after phone call, one after another from the program [about a participant]: “She’s doing this, she’s not doing this, she’s doing this—whatever.” . . . So one day she comes in here and she sat across from me and I passed her a business card and I said “Read it.” And she read it and she handed it back to me and I was like “One more phone call, one more whatever.” Guess what it was? An immigration agent’s [card]. After that? Not a peep. She went to everything [claps hands]. So what I’m saying is the judge doesn’t know it, and the defender doesn’t know it. It was my last resort; nothing else was working. We were going to have to lock her up. After that—fine, graduated, no problem.

Catherine relies on a flow of what is usually private information. Program participants are required to waive much of their privacy, which allows probation officers like Catherine to threaten to share incriminating information with other workgroup professionals. In all cases, the vulnerability of program participants is exploited for purposes of both rescue and public safety. Information is part of the workgroup members’ toolkit, much as sanctions and resources are. In this case, Catherine believes that threatening deportation was justified, because it allowed her to avoid incarcerating this diversion program participant (considered the most severe sanction) and ultimately led to her successful graduation.
“If You’ve Got a Hot, Give a Hot” (*Nicole*): The Power of Symbols and Internalized Surveillance

The PDC courtroom space illustrates how support and coercion are leveraged by criminal legal system professionals and participants themselves to “motivate” the participants’ exit from sex work and drug use. Most people enter the courtroom from the street. After screening at the ground-floor metal detectors, they ride the elevator up to the courtroom floor. They enter the dark, wood-paneled space through a thick door that shields the courtroom from outside noise, into a space with rows of benches for PDC participants and the general public. In front of these is a wooden bar with a swinging gate, beyond which are tables for the public defender and the prosecutor, each on their own side. In front of, and facing, them and the public, the judge presides on a raised platform. The robed judge enters and exits through the door to her chambers, behind her on the raised platform. There is no doubt from the physical layout that the judge holds the power of decision here, and that the prosecutor and public defender standing immediately before her are authorized to make claims and requests. To the prosecutor’s right is a third door that leads to the lockup; when defendants are transported in shackles from the city jail, they are brought through this door from a holding area in the basement of the building.

Even when the lockup door is not in use, it signals the ever-present threat of incarceration. When PDC participants emerge through this door into the court wearing orange jumpsuits, the shift in attention is palpable. They elicit calls of sympathy as well as murmurings about how they look and speculation about what led them to engage in the prohibited activities that led to incarceration. More dramatic is when a PDC participant enters court freely and then exits through the lockup door. For example, when Angela left through the lockup door, the trauma was made more poignant by the confusion of her adult son, who had attended court with her, as she handed him her purse and was taken away. There is also a common refrain whereby PDC participants will actually point to the doors, indicating that they want to go out of “that door” (to the outside hallway) and not “the other door” (i.e., that leads to lockup). Similarly, the booth where PDC participants meet with probation officers (POs), separated by a glass divider, has a button under the table on the PO side. Everyone is aware of its presence, despite the fact that it is hidden, and everyone knows that at any point the PO can press the button to summon officers to take them away. The button need not be referenced or seen in order for it to exert its symbolic and actual power. These are some of the many reminders that the coercive power of the court is always nearby.

The uncertainty of whether and when the sanctions evoked by these symbols will be used only enhances their significance as a mechanism of inter-
nalized state power (Foucault, 1995). What PDC participant Ariella refers to as “a watchful eye” conjures up participants’ sense of the omnipresent state. Participant Nicole, when asked what advice she would give other PDC participants, cautioned that they should always be forthcoming about prohibited drug use:

Tell them, because then they already know that you’re using. They’re not gonna lock you up. They’re gonna need your hot urines to get you [an assessment for treatment placement] or re-evaluate you. You know what I mean? So it’s like, if you got a hot, give a hot.

Nicole frames the need to be forthcoming as a prerequisite for help. As Maria’s vignette illustrates, it is also part of a strategy for retaining the sympathy and good will of the court, which is likely to discover and punish lapses of compliance.

Constant reminders of coercion and their harsh consequences belie the benign and celebratory approach that sees criminal legal tools as helping people address the individual problems that are presumed to underly sex work. While the literature describes diversion programs as alternatives to traditional criminal legal responses, it often fails to sufficiently highlight that their existence is made possible only within a context of harsh punishment and the criminalization of the people and behaviors the programs target. Program participants choose PDPs not in a vacuum but as an alternative to unaffordable fines, dehumanizing and retraumatizing incarceration, and symbiotic harms that limit their financial, social, and employment opportunities (Condry & Minson, 2020; Leon & Kilmer, 2022). Such forced choices continue throughout program participation, as compliance decisions are always influenced by the consequences of noncompliance.

Is Coercion “Effective”? What’s Your Lens?

One of the strengths of qualitative research is its ability to test theories with particular on-the-ground realities, and one of the strengths of this study is our ability to follow emergent themes in subsequent interviews with the same participants. As the role of coercion emerged from the data and in our other work (Leon & Shdaimah, 2012; Leon & Shdaimah, 2021; Corrigan & Shdaimah, 2016), we asked about it explicitly. In many of our interviews we found evidence, initially implicitly and later in response to explicit questions, of both belief in and uncertainty or doubt regarding whether coercion was effective for SPD and PDC participants. We also identified a tension surrounding whether PDP participants were capable of making decisions about whether
they should be engaging in sex work and, if not, whether and how participants could extricate themselves.

Maria’s fear of incarceration and state time as a motivator to stay engaged and comply with program mandates is, in fact, built into the design of court-affiliated PDPs and other programs grounded in the principles of problem-solving justice (National Association of Drug Court Professionals, 2021; Shdaimah, 2020a; Leon & Shdaimah, 2019). Although few participants who did not successfully meet PDP requirements actually faced the full consequences of PDP failure, most respondents saw this as a frightening possibility. This fear was reinforced by court personnel, who often raised the specter of such punishment to motivate participants. Even the SPD, which took a far less heavy-handed pre-plea approach, saw arrest as a motivator to treatment. Such a function is espoused by those working within what Dewey and St. Germain (2016) define as the criminal justice–social services alliance. However, our study is rife with examples of the therapeutic-penal combination imploding under the weight of its own contradictions. This tension is heightened when the script of problem-solving courts comes up against the reality of peoples’ lived experiences. In the following example, the imperatives pushed by so-called team members defied what Prosecutor Emily and the PDC participant she was supposedly prosecuting understood as what was most likely to help this participant on her own terms and to reach the program goals of reducing prostitution recidivism:

I wanted to have more of a therapeutic, empathetic voice, rather than the voice of the law, because [PDC participants] were too vulnerable to need that. I don’t think that [the voice of the law] was effective. And the one time that I really went in the back, and the judge insisted that I just ream someone out, she ended up going on the lam for several months before she was ultimately apprehended and came back to the program and that was the one time that I had been ordered to do this. Intuitively I knew that this was going to slap someone in the face. That it wasn’t going to again help this lady. [pause] It wasn’t going to edify her self-esteem. Her feelings of support; we were there to empower them [and] this was going to have the opposite effect.

Our analysis of coercion from those who wield it and those upon whom it is used reveals a divergence of understanding that varies depending on the individual, the resources available, and the perceived intent of the person who holds coercive power. These factors seem to influence whether coercion is experienced as a burden, as a promising way to regain self-control, or as an acceptable trade-off for material or emotional resources. In order to be acceptable as a tool, coercion must at minimum be accompanied by hope that
something better will emerge from the risk—for example, Maria’s ability to stay connected to the same stakeholders or to avoid incarceration. SPD social worker Brigit is keenly aware of this, in her desire not to sanction people for sex work until and unless there are viable financial alternatives. Losses of freedom, heightened and extended surveillance, and risk of criminal punishment may be worthwhile trade-offs for people who are, according to PDC participant Keisha’s treatment-speak, “sick and tired of being sick and tired.”

Conclusion

It is clear that PDPs that are nested within the shadow of a legal system that criminalizes sex work must be viewed in light of their coercive features, which further circumscribe the choices available to “participants.” These programs sometimes come with enough benefits to make them provisionally acceptable, and for some, desirable. This may be especially true for participants who are able to use the PDPs as a source of social and material capital in the absence of access to robust medical, social, emotional, and financial resources. However, PDPs are limited by their insistence on individual choice, which means that most stakeholders (PDP participants and criminal legal system professionals alike) fail to consider alternatives that would reduce the coercive forces. Such a myopic, neoliberal understanding of these programs (Cohen & Shdaimah, under review; Fukushima et al., 2020; Leon & Shdaimah, 2012) is increasingly at odds with recent decriminalization efforts (Vella, 2022).

Whether Maria and other PDP participants welcome the “foot on [their] neck” is hard to say, even by stakeholders’ own standards. Participants and court professionals assess the relative burdens and benefits using a calculus that varies with their beliefs, assumptions, fears, and hopes. Maria’s struggle with whether to trust people, born of her experiences, makes her more willing to accept surveillance from familiairs. Similarly, trauma treatment therapist Diane’s willingness to consider coercion as part of her therapeutic practice exists in light of her fears for clients’ lives.

Even if stakeholders deem PDPs to be provisionally acceptable, there are two noteworthy ways in which their calculus may not hold up. First, when they consider individual trajectories over time, most stakeholders see that PDP participants continue to face the same individual and structural hurdles, now possibly exacerbated by newly emphasized shame for meeting their needs through the sex trade or, if they give up the sex trade, in low-wage employment, with precarity in housing, caregiving arrangements, and other basic needs. Second, other stakeholders who reject the PDP calculus do so in light of a broader view that recognizes coercion as part of an ongoing historical practice of regulating women, including their bodies, their sexuality, and their economic freedom.