INFORMATION SHEET
COVID-19 AND PROSECUTORIAL POLICIES

The onset of the COVID-19 pandemic in early 2020 brought heightened attention to the double systemic harms of racism and COVID-19. This, combined with the continued organizing efforts of the sex worker rights movement for policy change in tandem with work developing and expanding mutual aid networks for life-saving support in the absence of government action, led several district attorneys to reevaluate their prosecution policies, and, in some instances, police departments to shift arrest practices.1

Prosecutor’s offices, including in Brooklyn, New York;4 Philadelphia, Pennsylvania;5 Maricopa County, Arizona;6 Baltimore, Maryland;7 Multnomah County, Oregon;8 Cook County, Illinois and King County, Washington,9 stopped or reduced charging minor offenses and/or advocated for early release, in a context where some police departments also delayed arrests by issuing warrants or citations for a variety of offenses as a response to COVID-19. In Seattle, police had formally announced the ramping up of arrests of both sex workers and clients beginning in 2019.10 In 2020, police reversed course, likely due to the pandemic, among a number of factors including public criticism of the arrests, a change in police department leadership, and staffing challenges.11 Nonetheless, the enforcement of COVID-19 regulations also increased police surveillance, harassment and violence against sex workers, and reduced access to essential health services, with trans, undocumented and/or BIPOC sex workers particularly vulnerable to over-policing and punitive measures.12

The pandemic has highlighted the harms of mass incarceration and the lack of sanitary and safe conditions in carceral facilities, prompting calls to state governors and other public officials to adopt decarceration measures to reduce prison and jail populations and mitigate the spread of COVID-19 among incarcerated individuals.13 While policymakers largely failed to heed these calls to significantly reduce prison and jail populations, some individual jurisdictions took action to increase releases and reduce admissions.14 The COVID-19 crisis also prompted the public health field to turn its attention to the harms of incarceration, resulting in the American Public Health Association adopting the policy statement “Advancing Public Health Interventions to Address the Harms of the Carceral System” in October 2021.15 The statement acknowledges the chronic health harms of incarceration and recommends moving towards the abolition of carceral systems.16

In this context, these non-prosecution policies sought to lessen the burden of criminalization for so-called ‘quality-of-life’ or ‘petty’ offenses, which include offenses related to street-based sex work and low-level drug possession as well as associated ‘disorder’ offenses such as loitering, trespassing, or disorderly conduct. The criminalization of these activities has been criticized for widening the net of individuals who get caught in the criminal legal system and targeting poor or low-income individuals, often also BIPOC individuals, resulting in a system of policing and courts that is fundamentally tasked with the criminalization of poverty.17

In March 2020 Baltimore City’s then-State’s Attorney Marilyn Mosby announced the Covid Criminal Justice Policies, an approach to crime developed with public health authorities under which Baltimore City would stop prosecuting the crime of prostitution, among a slate of offenses including low-level drug and drug paraphernalia possession, minor traffic violations, and disorder-related offenses, in an effort to reduce admission to jails and prisons and curb the spread of COVID-19.18 A year later, an evaluation conducted by Johns Hopkins University found that the policy resulted in a reduction of arrests without causing any increase in threats to public safety or public complaints,19 and the State’s Attorney’s office announced the intention to adopt the policy permanently during Mosby’s (now completed) term.20 The pandemic offered a window to make this policy shift.