

PUT YOUR METRICS WHERE YOUR MOUTH IS

AN EVALUATION RUBRIC
FOR PROSTITUTION
DIVERSION PROGRAMS



AUTONOMY

PERSONHOOD

ACCOUNTABILITY

STRUCTURAL COMPETENCY

EQUITY

The Global Health Justice Partnership (GHJP) is an initiative of the Yale Law School and Yale School of Public Health established in 2012 to promote interdisciplinary, innovative, and effective responses to key problems in health justice. We seek to build transformative projects, integrating different fields in order to make critical policy interventions, develop new kinds of cross-cutting research, and provide educational opportunities straddling a variety of academic disciplines. Leveraging Yale's institutional assets, the GHJP trains students to undertake collaborative, real-world research and advocacy to promote health justice in the U.S. and globally. We also organize conferences and events; build partnerships with local NGOs and social movements in New Haven, the U.S., and around the world to move research and critical analyses into action; and work to nurture a truly interdisciplinary brain trust dedicated to effecting social change. The cornerstone of GHJP is a practicum/clinic course fusing didactic and experiential learning on critical topics at the intersection of public health, rights, and justice in the twenty-first century.

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If you have feedback or would like to discuss the evaluation rubric and how it can be used to evaluate prostitution diversion programs, please email health.justice@yale.edu.

EXECUTIVE SUMMARY

Prostitution diversion programs (PDPs) gained popularity as a supposed alternative to traditional criminal legal responses to sex work. Yet, PDPs continue the surveillance and control characteristic of the criminal legal system, imposing harmful – even impossible – conditions for participation while leveraging the threat of more extensive criminal legal system involvement against those who do not – or cannot – participate. Participants are often set up to fail, with serious consequences for health, wellbeing, stability and life opportunities. While a significant number of PDPs have been discontinued in recent years, many are still operational.

This evaluation rubric is intended to support efforts to understand and address the practical and ideological shortcomings of PDPs. It provides a framework to holistically assess *program structure*, *participant success*, and *program success* by holding PDPs to five key guiding principles: autonomy, accountability, personhood, structural competency, and equity. In doing so, the rubric centers the dignity, equality, lived realities, and self-directed priorities of participants, and provides a diagnostic tool that can be used by program administrators, evaluators, and advocates in change efforts.

The rubric is intended for a wide range of readers: municipal, state and local court programmatic actors, from social workers to judges, who are involved in initiating, implementing and reviewing PDPs; sex workers and sex worker rights and advocacy organizations; academics, policymakers; and funders.

We hope that it leads to action at all levels to increase participants' control over their own lives and access to important services, and to address the limitations of PDPs, and diversion programs generally.

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THE CASE FOR AN ALTERNATIVE EVALUATION RUBRIC

GHJP's prior work on prostitution diversion programs (PDPs) has made visible that although these programs gained popularity as supposed non-carceral alternatives to social problems, they are in fact still rooted in criminal legal surveillance and control.¹ This foundational coercive dynamic not only impacts the ability of participants to meet goals defined by the program and themselves for success, but makes these programs negatively impact participants and the communities that they are part of.

While some individuals have experienced tangible benefits in PDPs, our review and the work of other scholars and advocates show a number of negative consequences associated with participating in these programs. Some of these consequences may be 'unintended' according to the internal logic or stated goals of PDPs. Others – such as forced cessation of sex work and the consequently reduced resources for self-directed life planning – are either explicit or so foreseeable that they might as well be. PDPs operate in a jurisdiction-specific manner and often lack transparency, meaning that when these harms occur, participants and other stakeholders have limited options for recourse and accountability.²

The uncertainty around a future resurgence of PDPs, and continued presence and growth of “specialty” or “problem-solving” courts as general category compels us to think about their limitations, and invites scrutiny of diversion programs as an approach that tethers important support services to court processes, with implications across responses to drug use, intimate partner violence, and many other issues.

It has been argued that courts fundamentally cannot provide adequate safeguards for sex workers and seldom explore the circumstances underlying an arrest, and that decriminalization is ultimately required.³ All negative consequences are closely linked to the inaccurate and harmful conceptions of sex workers and sex work that underly and inform their programming, the coercive tactics and punitive approaches of criminal law that they leverage, their limited modes of assistance and support, and the ways in which they maintain participants' contact with the criminal legal system by positioning it as the access point for necessary services that could, instead, simply be provided autonomously and more holistically.

As a result, PDPs reinforce instability in the lives of members of affected populations, limit outcomes, participant self-efficacy and wellbeing, and fail to engage with real needs across housing, education, employment, healthcare, financial and food security, social services, immigration, and safety, among others. This lack of attention to important structural factors in the lives of participants, including the manner

PDPs are organized in different ways and have varied approaches. Goals, services, dynamics of participation, program requirements and associated penalties are not consistent but defined and configured around specific criminal legal actors, service providers or kinds of participants, specific outcomes for the individual or the criminal legal system, and/or social, moral or religious values.

Pretrial diversion processes in the United States have a history with roots reaching across categories of crimes, profiles, and populations. Beginning in 1947 as an attempt to improve the treatment of juveniles, “deferred prosecution” informally and temporarily placed juveniles under the supervision of probation officers.⁴ This informal arrangement was then institutionally entrenched in the 1970s as diversion programs expanded into a primary crime control strategy focused on incentivizing behavioral changes in program participants related to minor/misdemeanor charges, with routine exclusions

¹ Yale Global Health Justice Partnership & The Sex Workers Project of the Urban Justice Center. (2018). Diversion from Justice: A Rights-Based Analysis of Local “Prostitution Diversion Programs” and their Impacts on People in the Sex Sector in the United States; Yale Global Health Justice Partnership & The Sex Workers Project of the Urban Justice Center. (2018). Un-Meetable Promises: Rhetoric and Reality in New York City's Human Trafficking Intervention Courts [Un-Meetable Promises].

² See generally, Un-Meetable Promises.

³ Mogulescu, K. (2020). Your Cervix is Showing: Loitering for Prostitution Policing as Gendered Stop & Frisk. University of Miami Law Review Caveat, 74(68), 68–106.

⁴ See Victor H. Evjen, The Federal Probation System: The Struggle to Achieve It and Its First 25 Years, 78(3) FEDERAL PROBATION 27, 34 (2014).

for more serious offenses.⁵ Today, these change efforts continue to center primarily on non-violent offenders in crimes related to substance use, mental health and sex work, and also include diversion into social programming for offenses linked to domestic relations, property, and “defendants charged with crimes that affect their neighborhood and can be addressed by a community court.”⁶

While preceded by prostitution-specific courts and other courts adjudicating “quality of life” or “vice” crimes in the first half of the 20th century,⁷ PDPs formally emerged in the US during the mid-to-late 1980s, when the rise in anti-trafficking advocacy engendered a conflation of sex work and human trafficking in the public consciousness and popular media, as well as in political and policy spaces. Through anti-trafficking narratives, sex workers were recast from deviants and criminals to victims in need of rescue, thus creating a rationale for the “diversion” of sex workers away from traditional punitive measures in the criminal legal system and towards services to help them “exit” sex work.

Beginning around 2011, a wave of pre-arrest and pre-booking diversion programs, exemplified by the pre-booking Law Enforcement Assisted Diversion (LEAD) program piloted in Seattle, WA, emerged across the country as an attempt to reform the criminal legal systems to mitigate its harms, alleviate mass incarceration, and reduce racial disparities. This context saw the proliferation of PDPs. These pre-arrest and pre-booking programs typically focus on diversion for “quality of life” offenses associated with drug use, mental health, and poverty. Thus, contrarily to traditional PDPs, sex work is not the explicit focus of these programs, although it can be included in the range of offenses eligible for diversion.⁸

in which PDPs themselves create barriers to services and stability, sets participants up to fail, simply to be re-engaged by the criminal legal system as they would without any diversion. To the extent this renders PDPs ineffective, and compounds punishment with the addition of coerced engagement in the PDP, it makes these programs a bad investment. Critically, they divert money away from community providers best placed to serve these populations without the coercive threat of criminal sanction.

This dynamic takes on increased significance as these programs operate within a whole set of new vulnerabilities for clients and care providers revealed and exacerbated by the COVID-19 pandemic, and in the aftermath of the June 2022 Supreme Court decision in *Dobbs v. Jackson Women’s Health Organization*.⁹ This increases the stakes for criminal legal oversight of services through diversion programs,¹⁰ and gives new weight to the limitations of PDPs and the contingency of their promises to disengage people from, and mitigate the harms of, the criminal legal system.

This report proposes an Evaluation Rubric for PDPs that is intersectional, justice-informed, and rights-informed. It integrates important guiding principles aligned with the dignity of participants: autonomy, accountability, personhood, structural competency, and equity. These guiding principles focus attention to the impact of PDPs on the wellbeing, stability, and opportunities of participants. The rubric takes seriously the role that race, gender, immigration status and other factors play in how PDPs operate, in the definition of their goals and values, and in how they are experienced by participants. The rubric:

⁵ National Association of Pretrial Services Agencies. (1978). *Diversion: Performance Standards and Goals for Pretrial Release and Diversion*. 15, 46.

⁶ Edwina Rogers, “Jail Diversion Programs in America - Center for Prison Reform” (Center for Prison Reform, August 2015), <https://centerforprisonreform.org/wp-content/uploads/2015/09/Jail-Diversion-Programs-in-America.pdf>; Pretrial Diversion, Nat’l Conference of State Legislatures (Sept. 28, 2017), <https://www.ncsl.org/research/civil-and-criminal-justice/pretrial-diversion.aspx>.

⁷ We note that the term “prostitution” is considered offensive by many due to its association with histories of stigma, surveillance, and repression. We only use this term to refer to the set of laws called “prostitution laws” that address the criminal legal practices that prohibit the exchange of sexual conduct for money or goods. Outside of the domain of criminal law, we use the term “sex work” to refer to the exchange of sexual services for money, goods, or services. While not everyone who participates in the sex trades identifies as a sex worker, we use this term because it is the preferred self-designation of many advocates; it reinforces the idea that sexual labor is work; and supports the discussion of applying labor rights to sex work.

⁸ For a more in-depth review of this history, see Yale Global Health Justice Partnership & The Sex Workers Project of the Urban Justice Center. (2018). *Diversion from Justice: A Rights-Based Analysis of Local “Prostitution Diversion Programs” and their Impacts on People in the Sex Sector in the United States*, 15-18 [hereinafter *Diversion from Justice*].

⁹ Center for Reproductive Rights, *After Roe Fell: Abortion Laws by State*, <https://reproductiverights.org/maps/abortion-laws-by-state/>

¹⁰ Mitchell, Taiyler Simone, *To sex workers, navigating the world without medical access to abortions or reproductive care is nothing new. But the overturning of Roe v. Wade puts their livelihoods further at risk*. INSIDER (May 22, 2022), <https://www.insider.com/sex-workers-ro-v-wade-livelihoods-further-risk-2022-5>; LeMoon, Laura. *Opinion: How the Overturn of Roe v. Wade Will Uniquely Impact Sex Workers*. SOUTH SEATTLE EMERALD (June 27, 2022), <https://southseattleemerald.com/2022/06/27/opinion-how-the-overturn-of-ro-v-wade-will-uniquely-impact-sex-workers/>; Roux, Liara. *Sex workers warned us about the US right – now it’s time to listen*. DAZED (June 28, 2022), <https://www.dazeddigital.com/politics/article/56438/1/liara-roux-sex-workers-warned-about-us-right-ro-v-wade-abortion>

- rejects current limited metrics of ‘success,’ such as the completion of services and exit from sex work and/or non-arrest (‘non-recidivism’);
- challenges some of the core assumptions that animate the existing law enforcement model and the criminal legal system; and
- underscores the need for structural analysis in programming, so that participants’ needs, context, and the impacts of criminalization inform understandings of how best to serve them, and they are not set up to fail (or fail less) by PDPs, and instead directed to services non-coercively.

PDPs are an intervention to address an issue: harm from criminal legal engagement. A touchstone for evaluating the adequacy of PDPs to meet that goal is participant and community wellbeing, understood from the perspective of non-coercive public health approaches. While current politics might favor PDPs as an intervention or make them the only viable strategy to mitigate the harms of the criminal legal system, we hold onto the fact that a PDP is a chosen intervention not the baseline. At any stage, stakeholders could decide that the PDP does not serve these goals and identify other interventions as more effective.

In proposing this evaluation rubric, we hope to advance critical engagement with the goals, structures, outcomes, impacts and existence of PDPs:

The evaluation rubric invites the holistic, multi-level and evidence-based analysis essential to an honest assessment of the role and impacts of PDPs.

It is attentive to the spectrum of choice, circumstance, and coercion in people’s reasons for engaging in commercial sex work,¹¹ to the economic dimensions of sex work, and to the holistic range of material resources necessary for people to fully attain self-directed goals. Oft-ignored by PDPs, these factors are critical in understanding how these programs foreclose support to, and further marginalize, those who do not decide to, or cannot, exit sex work or stop using drugs. Our goal is a rubric that provides a tool to look beyond narrow frames focused on criminalized conducts, to consider how these specific practices are means employed by people managing complex personal or contextual circumstances, and how they are specifically impacted when PDPs force participation – and further, refuse services and penalize them – on the basis of those actions instead of meeting them where they are at.

The evaluation rubric centers the tight structural connection between the underlying threat of (more) extensive involvement in the criminal legal system and the false offer of ‘participation’.

The PDP-engaged participant is – only ever provisionally – ‘diverted’ from punishment, which is held over participants as the sanction for refused or failed participation. We argue that this coercive dynamic precludes free and therefore meaningful participation, especially in therapies and access to resources by which one is supposed to alter one’s life, where self-determination, as both a feeling and practice, is critical. Indeed, this commitment to seeing the background criminal/legal *structural components of PDPs* is at the heart of the rubric, which provides a framework not only to critically examine how participant and program success are defined within PDPs, but also how the organization of PDPs within (and only within) police or prosecutorial processes significantly impacts and forecloses outcomes for participants.

The evaluation rubric calls into focus how PDPs can exacerbate or mitigate vulnerabilities and structural inequities, both in the criminal legal system and more broadly.

It provides a framework to assess their differential treatment of participants, and the impact of PDPs on the social determinants of health. The stigmatization and criminalization of activities that make someone eligible for involvement

¹¹ See NINA LUO, DATA FOR PROGRESS, DECRIMINALIZING SURVIVAL: POLICY PLATFORM AND POLLING ON THE DECRIMINALIZATION OF SEX WORK 4 (2020).

in PDPs ties these programs to harmful histories and norms of engagement with specific communities, echoing paternalistic and/or coercive social programs in defining *participation* as passively following an externally pre-defined plan. Because of this, the rubric specifically invites analysis that recenters the person, pushes against stigma, and values participants' dignity and personhood. It does this by advising assessment of the scope for participants to meaningfully shape their participation and effect change in the program as a whole, as well as the possibilities for participants – and stakeholders more widely – to provide feedback and see to it that feedback is fully implemented.

Evaluation frameworks of diversion programs similarly centering equity outcomes are being developed in other contexts,¹² but thus far there have been limited efforts to create, as here, evaluation metrics meaningful to people in sex work and other street economies who are experiencing intersectional oppressions. We hope that this evaluation rubric will form the basis of new studies and evaluations, using new public health and other social science frameworks that will lead to concrete, measurable action.

The evaluation rubric is presented below, along with an explanation of its structure and key concepts. In Appendix A, we present our survey of existing PDP evaluations and metrics, and a discussion of the key themes and shortcomings that have informed the development of the rubric. This report and the proposed evaluation rubric are the product of a multi-stage process involving integrated research, interviews, collaborative expert discussion and revision. This development process is outlined in Appendices B-F.

¹² See e.g. Human Impact Partners' framework for evaluating a pre-booking diversion program for youth in LA: HUMAN IMPACT PARTNERS, METRICS TO EVALUATE PRE-BOOKING YOUTH DIVERSION (June 2019), https://humanimpact.org/wp-content/uploads/2019/06/HIP_YouthDiversionEvalFrameworkMetrics_2019-compressed.pdf

WHO MIGHT FIND THE EVALUATION RUBRIC USEFUL

Academic and other institutions, such as foundations with evaluation programming, that develop and promote frameworks to *fund, implement, assess, and/or research* diversion programs.

We note that our work references and moves beyond the frameworks of evaluation which currently guide the field. These include materials created by the Center for Court Innovation based in New York, which has played a pivotal role in developing the state's network of prostitution diversion courts and now provides technical assistance to jurisdictions looking to adopt a similar model across and even outside the U.S.; work by the National LEAD Support Bureau, which plays a similar role but for pre-arrest diversion programs; and work by groups such as the Urban Institute, which have put out analytical policy reports on the policing of prostitution and diversion programs.

All of these materials claim various evidence bases for diversion programs, and our goal is to *shift the basis for research on PDPs and what counts as credible evidence, and transform what is routinely considered to be successful in terms of outcomes.*

Entities responsible for the everyday management, administration and the monitoring and evaluation of diversion programs.

Past experience suggests that this includes entities such as the Pre-Arrest Diversion program in Atlanta/Fulton County; the Katal Center and the Center for Law and Justice in Albany, NY; the City of New Haven and the Yale School of Medicine researchers they hired to conduct process evaluations of the LEAD program, etc.). We hope that the rubric is taken up by institutions actively running, monitoring, and evaluating diversion programs.

Community-based, particularly sex worker-led, organizations, ideally with the participation of members and/or their communities that are or have been engaged by PDPs.

This group may conduct evaluations independently but the group's work would ideally be integrated into the work of the first and second groups through accountability processes built into the workflow. This could include a community-based participatory action research model (or similar) that preserves the autonomy of affected community members in (co)directing research and providing critical expertise and insights while also providing structural support, adequate funding, fair compensation and necessary training for this work. This then also forms part of these programs, structurally, providing accountability to these populations. Alternatively, and particularly where their autonomy cannot or has not been assured by PDPs, evaluations should be led by them, with funding streams set up to effectively support this work from the first and second groups.

The rubric is not only a tool for diagnosing issues in PDPs through evaluation, but also a concept document. Even without conducting a full evaluation, it can support community organizations and collectives in conversations and action around where and how they can intervene. This includes interventions as service providers and in accountability efforts to influence program design, access funding and provide support to sex workers. These interventions can also be a part of a broader strategic engagement of PDPs to enhance those goals, mitigate harm to communities through the engagement of community members in PDPs and/or the criminal legal system, and organizing for community wellbeing (inclusive of sex workers) more generally. The rubric can also support organizations and collectives to develop resources on available supports, including and especially where they are limited, and how they can (and cannot) be navigated.

In evaluations run by each of these groups, the involvement of people engaged by PDPs or with lived experiences of sex work and criminalization is critical, as researchers, collaborators and interlocutors, depending on the level of involvement that is possible or that they desire. In each case, *funding* should be allocated to support this involvement, and should come from the PDP, the criminal legal system and/or more general state funding. This forms part of their obligations to meet the goals and outcomes named for PDPs, and the welfare of their constituents.

Does a PDP meet the fundamental goal of mitigation that justifies its operation? Does it enhance community wellbeing, when we understand sex workers as community members, constituents, and political actors?

The rubric can support understanding of PDPs at each stage of implementation.

Notably, it can support baseline decision-making of whether to begin such a program, what it can and should involve, whether the services landscape can equitably support successful participation, and whether the program can meet its goals of mitigating the harm of criminal legal engagement. In this planning and design process, the involvement of impacted community groups is critical, particularly in deciding whether such a program can meet their needs and priorities.

The holistic and structural analysis enabled by the rubric should make more complete information accessible about the actual functioning and impact of specific PDPs on health and rights.

Making PDPs more transparent and navigable opens up possibilities for more targeted engagement and accountability actions. PDPs are embedded in public institutions that must strive for and maintain transparency and public confidence. Our goal is to support participants and others as strategic players in the processes and outcomes of specific PDPs, and also in actions for more democratic governance and accountability. We seek to make clear that everyone is implicated in PDPs, through the political structure, policy decisions and regulatory systems that establish PDPs as part of the response to criminalized activities; that make PDPs an entryway and condition for social services; and that define specific activities as criminal in the first place. We hope that the evaluation rubric can contribute to urgent public debates on how to end the over-carceral politics of the U.S., starting here, at the most local level.

STRUCTURE AND CONCEPTUAL FRAMEWORK

We propose this evaluation rubric in response to shortcomings that we have identified in the current landscape of PDPs and their evaluation metrics (presented in Appendix A).

Evaluation Sheets provide space to evaluate PDPs across three levels: Program Structure, Participant Success and Program Success.

We propose including *Program Structure* metrics in addition to *Participant Success* metrics and *Program Success* metrics to encourage more rigorous analysis of the underlying context of PDPs.

Evaluation metrics that only consider individuals' positive experiences in a PDP risk obscuring the larger context of structural vulnerability, coercion in the criminal legal system, and inaccessibility of services that should also be considered when evaluating the ethics and successes of PDPs. *Program Structure* metrics seek to specifically draw these out for visibility, accountability and potential for change.

Each Evaluation Sheet asks evaluators to assign, for that level, scores of 0-3 for five guiding principles: autonomy, accountability, personhood, structural competency, and equity.

These guiding principles are defined below. The guiding principles were developed based on our review of key literature on non-coercive, justice-oriented, and rights-based service provision, generated or informed by the fields of public health, anthropology, and disability rights. The principles center the insights, demands and priorities of these diverse fields, and are infused with their rights-based approaches and analysis. As such, the Scoring Framework both centers sex workers and other closely impacted communities, and provides a methodology¹³ for program administrators and evaluators to do the same.

The evaluation rubric is a tool for nuanced understanding of the different impacts of PDPs' specific, systemic, and structural failures by providing the guiding principles as alternative parameters by which participants would be holistically affirmed, including in their health and rights.¹⁴

In doing so, the rubric enables the fuller attribution of responsibility to PDPs for those impacts, fostering an appreciation of the links that can be made to upstream policy and structural decisions, and providing participants and stakeholders with expanded grounds for altering decision-making in line with their rights, claiming their rights, and building alliances.¹⁵

The guiding principles, when examined together in the integrated, normative framework, provide a holistic tool for evaluating PDPs. For each principle, we propose a four-level scoring system (scores of 0-3) indicating the extent to which the principle is respected by a given program, with key factors to consider in assigning each score. The scoring system is *cumulative*: to achieve a score of 2, a program would need to satisfy all the requirements for a score of 1 in addition to the specific requirements for a score of 2, and, likewise, a score of 3 would indicate that a program has met all requirements across scores 1, 2, and 3.

Each Evaluation Sheet is accompanied by a Scoring Guide for evaluators.

The Scoring Guides set out, for each guiding principle:

¹³ On the strength of rights-based approaches to center rights holders, see Margaret L. Satterthwaite & Amanda M. Klasing, *A Rights-Based Approach to Research: Assessing the Right to Water in Haiti*, in *RIGHTS-BASED APPROACHES TO PUBLIC HEALTH* 143, 143 (Elvira Beracochea et al. eds., 2011).

¹⁴ Ali Miller & Ann Sarnak, *Advancing sexual and reproductive rights in "scaffold" countries*, OPEN GLOBAL RIGHTS (Oct. 13, 2020), <https://www.openglobalrights.org/advancing-sexual-and-reproductive-rights-in-scaffold-countries/> (examining the utility of a rights-based frame, generally, in the context of sexual and reproductive health and rights).

¹⁵ See generally Ali Miller & Ann Sarnak, *id.*; RAND & WATSON, *RIGHTS-BASED APPROACHES: LEARNING PROJECT* (2008), as cited in Elvira Beracochea, Dabney P. Evans, and Corey Weinstein, *Introduction: Why Do Rights-Based Approaches to Health Matter?*, in *RIGHTS-BASED APPROACHES TO PUBLIC HEALTH* 11 (Elvira Beracochea et al. eds., 2011).

- the four-level scoring system for that principle, with criteria for each score;
- guiding questions for evaluators to consider in assigning a score;
- data sources that may be used for evidence-based evaluation in assigning that score; and
- notes for consideration in assigning scores, including where higher scores may be impossible.

The process of assigning a score for each of the guiding principles can be both useful and complicated: useful because it gives a sense of direction, and complicated because a score that tends towards the upper range of the scoring system might be perceived to indicate that a program is *good enough*, *successful* or even *rights-informed*. We must therefore clarify the motivation and intended use of the rubric:

The evaluation rubric is a diagnostic tool, not a scorecard.

The idea of a *high* score does not apply here, because, under a rights-based framework, the full respect of a guiding principle (i.e., a score of 3) is the baseline not the ceiling. The gradation of respect for each principle through scoring is, instead, intended to give a concrete sense of whether a PDP falls below that baseline, why, and by how much. Any score below 3 is a *specific call to action* that something needs to be done immediately to make up the gap. Concretely, specific guiding principles point to different values and resources that must be invested in, and a lower score indicates the need for higher investment and even a deep restructuring of resources, their array, and their availability.

Indeed, as the baseline, there is much room above a score of 3 for a program to work hard and creatively to maximize the dignity, health and wellbeing of the people and communities that it engages, and the broader constellation of stakeholders that it impacts.

The rubric's guiding principles provide a framework for asking questions and establishing information-sharing and decision-making structures involving participants and relevant communities that provide the means for exploring what further can be done once the baseline has been met.

The rubric is a holistic tool, informed by concepts that can only properly guide action when considered together and in concert.

For that reason, scores across guiding principles and for different program metrics do not offset or compensate each other. **There is no overall *pass grade*.** The call to action in areas of deficit cannot be mitigated by meeting the baseline in others. Relatedly, evaluations should not uncritically seek to use only specific parts of the rubric in isolation (for example, one or a reduced number of guiding principles or metric sets) to inform conclusions about PDPs.

The rubric is a tool to make visible a set of structural limitations in PDPs that compel action for broader accountability and change.

The rubric is constructed to capture existing variation regarding respect for the rights of participants in PDPs, while also applying rigorous scrutiny to the limitations inherent to PDPs' existence within the criminal legal system. As indicated in specific places in the rubric, a score of 2 or 3 (approaching or attaining full respect for a guiding principle) is *impossible* under some program metrics due to how the organizing principles and structure of many PDPs preclude the respect of such principles. PDPs operate within a context of criminalization of poverty and survival activities, and the nesting of diversion programs within the criminal legal system, as well as their reliance on interactions with law enforcement as the entry point for participants, inevitably present constraints to and violations of participants' autonomy and personhood.

In this way, the evaluation rubric highlights a more generalizable *call to action*: PDPs, by their very nature, cannot be part of any approach that claims to value people's autonomy and personhood.

Scoring limitations for autonomy and personhood make clear: no matter if a program meets the baseline for other guiding principles, the fact that it is embedded within the criminal legal system has foundational consequences for its ability to serve participants' needs and meet participant and program outcomes.

PDPs must take action (data collection, accountability processes, etc.) to understand how these dynamics function in the contexts in which they operate and with regard to the populations they serve. We provide specific guiding questions for each principle to support this process, and build understanding of an adequate response.

Commitments to interface with people and communities engaged by PDPs are critical: those with decision-making power over PDPs (program managers, funders, legislators, etc.) must meet people where they are at, and facilitate real access to services as an alternative to traditional criminal legal responses. Time (6 months - 1 year) is needed for building alternatives, including the planning process, trust building, and collective decision-making processes with stakeholders, especially participants and their communities.

Police contact and/or arrest are an available point of contact, but also one that takes for granted the current system and its infrastructure. This mode of engagement ignores existing community work and outreach, and possibilities to invest in community-based wraparound services outside of PDPs. Commitments to people and communities should include, as soon as the planning process for the establishment of a PDP, commitments to working with community-based organizations, particularly sex worker-led organizations. These organizations, to the extent that they are already in community with relevant populations, can facilitate discussions with potential, existing and past participants, including on the best ways for meeting their needs. This includes work to build trust with all relevant organizations and service providers, especially where there are no visible sex worker-led collectives or organizations to provide services and support. It also includes work to understand differing needs, and requirements for the array and availability of services.

This enables work to mitigate harms of policing and criminal legal involvement much further upstream than police engagement. Using the criminal legal system as the entry point to services gets in the way of more fundamental goals of meeting people where they are at and is particularly harmful for those who have been exposed to trauma and/or are victims of trafficking. A core question is: to what extent is this coercive dynamic creating impossible expectations for participants or setting them up to fail?

Guiding Principles

The guiding principles are defined below to assist evaluators in applying them to program structure, participant success and program success. This section is intended to provide clarity on scope of these guiding principles, and the conceptual foundations across theory, ethics and rights that inform how they are integrated into the evaluation rubric. The four-level scoring system for each principle is included in the Scoring Guides of the evaluation rubric. They are also included all together in a Scoring Framework at the end of this section, so that the reader can see them all together as an integrated, holistic framework.

Autonomy

We define autonomy as constituted by the set of factors that need to be in place for a person to decide for themselves whether they want to participate in a PDP, what they want in regard to their participation in a PDP, and to fully realize those decisions. All of these must be in place for ‘meaningful’ decision-making.

In a service provision context, a person’s choice to participate in a program or receive a service or treatment is often defined by their consent. Bioethics, public health, and the social sciences elaborate on who has the ability to consent and what may be considered to be “informed” consent. The construct of consent, however, relies on a binary either/or choice (i.e., consenting vs. not consenting) that risks obscuring the structural factors that constrain and limit one’s ability to make choices. We draw on Senderowicz (2020)¹⁶ to employ a broader concept of autonomy to guide the assessment of participants’ ability to decide whether and how to participate in a PDP. This enables measurement against possible outcomes; supports, including funding; and the evidence base. It also counsels against superficial perceptions of autonomy: for example, recognizing that a participant’s apparent lack of motivation may be due to their accurate assessment that they will not succeed due to lack of structural support.

Against stereotypes of individualism, independence and self-sufficiency, we also emphasize that autonomy is social and relational: navigated and (imperfectly) realized within groups, systems and institutions. Autonomy is never fully realized, but it can be meaningfully sought out. It requires the absence of coercion but also may often require the support of others, including community-based organizations.¹⁷

Attention to autonomy makes clear that the coercive dynamics of PDPs are a significant barrier to autonomy: the threat of punishment for non-participation significantly compromises the ‘decision’ to participate in any PDP. In such constrained circumstances, choices made among available options in the hopes of mitigating the harms of criminal control and accessing necessary support should be valued. But in the absence of full choice might be more accurately labelled ‘agency’ or ‘decision-making’. We retain the language of autonomy to underscore that needed and desired supports for those engaged by PDPs can be provided in ways that fully respect autonomy, but that PDPs cannot do this.

However, as efforts to mitigate harm, PDPs should aim at this aspirational goal the best they can, with attention to the diversity of participants and the barriers they face, the circumstances in their jurisdiction, the political context and the landscape of service and advocacy organizations. This includes noting where no services or no specific types of services exist at all, and attention to how PDPs impact the service landscape: for example, where funding for services is redirected to PDPs or where services are generally underfunded or unavailable without PDP involvement, such as where places are reserved for PDP participants. It also includes attention to how the criminalization of sex work precludes support structures for decision-making both personally and institutionally, for example, by precluding labor protections and support from ‘third parties’, or reinforcing stigma that impacts available support from other community groups.

¹⁶ Leigh Senderowicz, *Contraceptive Autonomy: Conceptions and Measurement of a Novel Family Planning Indicator*, 51(2) *STUD. FAM. PLAN.* 161 (2020). See 166 for the framework that inspires our rubric, and that provides the baseline substantive content for the autonomy section of our scoring framework and guide.

¹⁷ Catriona Mackenzie & Natalie Stoljar, *Introduction: Autonomy Refigured*, in *RELATIONAL AUTONOMY: FEMINIST PERSPECTIVES ON AUTONOMY, AGENCY, AND THE SOCIAL SELF* 5, 8, 9 (2000) (Catriona Mackenzie & Natalie Stoljar, eds.).

Where the services, supports and resources required for meaningful decision-making and success in PDPs are not in place, PDPs cannot impose requirements that are realistically unachievable. This may entail PDPs not being created in these locations, but that should not mean that no mitigation strategies for the harms of the criminal legal system should be engaged, as that would compound the exclusion of the lack of services with increased criminalization. In these contexts, actors involved in PDPs or in related advocacy should push for other means to disengage relevant populations from the criminal legal system. The first point of engagement for these questions is impacted communities, and their needs and priorities for addressing lack of services and support, independent of PDPs.

Autonomy can act as an important litmus test for the quality and appropriateness of a PDP and its linked services, particularly where a court mandate is necessary to fill slots and the only reason a person is accessing a service. For example, what issues would participants raise, or would lead to them leaving the program, if they were not required to participate to avoid engagement by the criminal legal system and consequences like child welfare involvement?

Personhood

Personhood encompasses the respect for the dignity, agency, and uniqueness of an individual.¹⁸

Personhood is a cross-disciplinary concept in philosophy, psychology, law, medicine, bioethics, and anthropology. In the medical, bioethical, and public health fields, the concept of personhood most often appears in relation to the right of patients to meaningfully participate in decisions about their own treatment, as well as in the context of equal rights to access to treatment and dignity of unresponsive patients, patients at the end of their lives, or individuals with disabilities.

We borrow from the conception of personhood in bioethics and medicine to argue that the provision of services and structure of PDPs, and, indeed, any criminal legal interventions into people's lives, must center participants as holistic, responsible individuals with characteristic values, contexts, experiences, beliefs, identities, opportunities, and capabilities. This overlaps with autonomy to an extent, in that respect for personhood includes respect for how participants decide to reconcile these individualized factors, navigate the world, and negotiate the consequences. But it extends further.

Respect for personhood counsels that those in charge of leading interventions adapt those interventions, both in discussion with participants and independently, to ensure that individuals have equal access to all program elements and services that they need or that might support their goals or wellbeing, are able to participate, and are treated in a manner that respects their rights, allows them to feel respected and preserves their self-esteem. This includes respectful interactions with PDP staff and other involved criminal legal actors, but also attention to the array of services they are connected to, including for example, medical and dental care and other services important for health and dignity. Respect for personhood also includes – within a framework that ensures their own regard for others – that they are able to fully share and be present in line with their life experiences, beliefs and values. This overlaps with equity in that personhood can only truly be valued where the personhood of *all* persons engaged by a PDP is taken into account.

Emphasizing personhood recognizes the stigmatizing nature of many processes in PDPs, including how the admission of guilt as part of a plea deal or the informal or formal adoption of a victim or survivor narrative/status (including identifying as a trafficking victim) can compromise a person's identity and integrity. Given the social marginalization and structural vulnerability of many individuals who go through PDPs, and the stigmatized and criminalized status of the activities that may result in charges qualifying someone for those programs – such as sex work, drug use, and other 'quality of life' crimes associated with poverty and housing insecurity – special attention must be given to the way PDPs engage with these participants and their connections to their communities. Valuing personhood – on its own and as integrated into the other guiding principles – involves seeing participants as self-directed individuals deserving of respect, communication, power in decision-making, and meaningful and accessible support, with none of this diminished by their involvement in criminalized activity.

¹⁸ G. Young, Personhood across disciplines: Applications to ethical theory and mental health ethics. 10 ETHICS, MEDICINE AND PUBLIC HEALTH 93 (2019).

Accountability

Accountability includes any process that aims to repair unequal power and representation, as well as harm, stop harm, prevent its recurrence, assign responsibility, and create consequences beneficial both to the affected individual and to altering systems that contributed to the issue.¹⁹

We propose accountability as a guiding principle for the evaluation of PDPs because the highly localized nature of PDPs at the state or county level and the fragmented nature of the criminal legal system in the United States mean that PDPs operate in jurisdiction-specific manners that are largely unknown and undocumented. Scarce communication to the public, lack of clear pathways for feedback or complaint, and lack of standardized data collection across different jurisdictions all contribute to poor transparency around PDPs' structure, processes, costs, and results. We build our concept of accountability from multiple sources across healthy policy, law and democratic theory to ensure accountability processes engage the multiple stakeholders impacted by PDPs, systemic factors, and structural responses to harm.

A key element of accountability is *answerability*: to explain and justify what is done or not done.²⁰ This must be paired with *obligation*, *responsibility* and *action*: oversight and consequences for unsatisfactory performance, and changes to future behavior to ensure non-repetition of harm and broader preventive structural changes.²¹ Accountability cannot be limited to reporting harm to an internal actor with power not to investigate complaints, or potentially implicated in the harm or otherwise subject to a conflict of interest by being employed by the PDP. It must involve effective external accountability mechanisms. It also cannot ignore that beyond individual 'bad apples', PDPs can limit outcomes and harm the dignity and wellbeing of participants when following all of the rules, if those rules (e.g., drug abstinence, forced labor) structure, maintain and legitimize limited outcomes or harm.²² We understand accountability as an ongoing systems-change practice focused on *whole programs*.²³ We draw, therefore, on the literature on *constructive accountability*: it is "*inside the work*" of program design and implementation through collaboration and joint decision-making with stakeholders, "instead of after something has gone wrong."²⁴

The full range of individual and community stakeholders are therefore represented though the cumulative nature of the rubric, in that a score of 3 indicates that stakeholders listed across scores 1-2 are also included. The competing interests and expectations of stakeholders makes accountability a moving target.²⁵ There must be *meaningful identification and engagement* with the entire range of stakeholders to mediate their positions, interests, goals and priorities.²⁶ However, it is critical to identify *who* is accountable for PDP success, failure and harm, and in what ways, as well as *which* specific people and communities are relevant stakeholders for *which* aspects of PDPs.

Participants, community advocacy collectives, and the range of people actually or potentially engaged by PDPs, have critical insights related to how PDPs impact criminal legal system engagement, and 'successful' outcomes for themselves, programs, and their communities. Participant feedback must be voluntary and anonymous to ensure participant autonomy and non-stigmatization. Community-led organizations, particularly sex worker-led organizations, can support participants in this process, and should receive appropriate funding to do so. In addition to community consultation, PDPs should hire and train these stakeholders as professionals and researchers, to lead design, monitoring and

¹⁹ See Jerry Louis Mashaw, Accountability and Institutional Design: Some Thoughts on the Grammar of Governance, Yale Law School Research Paper No. 116 at 121; GENERATION FIVE, TOWARD TRANSFORMATIVE JUSTICE, 5; Asha George, Using Accountability to Improve Reproductive Health Care, 11(21) REPRODUCTIVE HEALTH MATTERS 161 (2003).

²⁰ Jocelyn Cheung, Police Accountability, 78(1) THE POLICE JOURNAL 3 (2005) (citing to Elizabeth L. Normanton).

²¹ *Id.*; Mir Usman Ali and Sean Nicholson-Crotty, Examining the Accountability-Performance Link: The Case of Citizen Oversight of Police, 44(3) PUBLIC PERFORMANCE & MANAGEMENT REVIEW, 523 (2021) (citing to De Angelis, J., Rosenthal, R., & Buchner, B. (2016)).

²² L.P. Freedman, Human rights, constructive accountability and maternal mortality in the Dominican Republic: a commentary, 82(1) INTERNATIONAL JOURNAL OF GYNECOLOGY & OBSTETRICS 111 (2003).

²³ Asha George, Using Accountability to Improve Reproductive Health Care, 11(21) REPRODUCTIVE HEALTH MATTERS 161 (2003).

²⁴ See also Miller, Alice M., Freedman, L., & Alexander, J. (2004). Public Health Monitoring and Accountability: A Map of Current Initiatives and Conceptual Challenges. *The Law and Policy Project*.

²⁵ Kearns, K. P. (1994). The Strategic Management of Accountability in Nonprofit Organizations: An Analytical Framework. *Public Administration Review*, 54(2), 185–192. <https://doi.org/10.2307/976528>

²⁶ Asha George, Using Accountability to Improve Reproductive Health Care, 11(21) REPRODUCTIVE HEALTH MATTERS 161 (2003).

evaluation and program changes. PDPs should also assess whether they are similarly supported to take on leadership in services. Lack of representation of these stakeholders in these roles should be viewed as a lack of accountability.

Families, friends and community members can provide perspectives on the impact of criminal legal engagement and PDP mitigation efforts on them, and on community resources and growth. They can give insight on the support they provide to participants and whether this indicates shortcomings in necessary resources provided through PDPs and linked services. Other community members, such as business owners in areas with stroll who claim an interest in responses to sex work, are stakeholders. They should not be ignored, particularly where they are part of historically marginalized (particularly Black and Brown) populations or neighborhoods and lack of engagement mirrors broader state disengagement. However, their input is most appropriate regarding questions of community safety and policing in their communities, rather than regarding program structure, goals or linked services. PDPs should engage communities with questions of what will enhance community safety and wellbeing, beyond policing.

Good information on the functioning of PDPs is critical to accountability processes. This includes data and reporting on program goals, requirements, and commitments (including to combat stigma, address social determinants of health, etc.); decision-making hierarchy, roles and responsibilities; funding, including who is funded for program implementation, and from what sources; resources provided to participants to support them to meet their own goals and program requirements; experiences with service providers; and outcomes. It also includes transparency about evaluations, program changes, formalized accountability mechanisms, and other spaces where participant and community feedback can be heard and integrated into strategic planning or funding, such as relevant government committees or oversight bodies.

Up-to-date information is critical for accountability structures, as for all the guiding principles in the rubric. This can be sourced through regular meetings with service providers, and community and advocacy organizations. Input into PDP decision-making can include surveys, a community leadership team, and a commitment from PDP staff to ongoing presence in community spaces, including through meetings with block club leaders and attending block club meetings to update community members on what PDPs are doing, to share information about government services and available funding for programs, and to get input and report on progress on community priorities and concerns. These processes can involve a wide range of stakeholders, including business owners, community and public workers, agency staff, etc. This also allows for community groups to provide participants with support and privacy, by acting as intermediaries and advocates in the process of collecting feedback on PDPs.

Structural Competency

Structural competency involves systemized and holistic attention to the structural vulnerability factors that affect participants' wellbeing and ability to succeed, and concrete action to address these factors and ensure access to services and other supports to meet their goals.

There is growing recognition within the field of public health that social inequalities are a key driver of negative health outcomes and health disparities. These 'social determinants of health' include housing, employment, the physical environment, access to food, access to health care, etc. Structural competency is a concept developed in the medical field to describe a medical provider's understanding of and attention to structural vulnerability factors that affect the health status of patients.²⁷ It contrasts with a traditional medical delivery model that sees patients as passive recipients of a standard treatment chosen based on their biomedical symptoms. It has led to the development of *structural competency* tools to train medical professionals to dedicate greater attention to structural vulnerability in order to provide person-centered medical care where the needs of the patient are assessed and addressed holistically.

We propose structural competency as a guiding principle for the evaluation of PDPs because many PDP participants face housing and food insecurity, lack of quality healthcare, and limited access to stable and sufficient employment, among other social determinants of health. They also face stigma related to their involvement in the sex trades, in addition to other structures of marginalization. If PDPs aim to be successful in connecting participants to effective services and empowering them towards a more stable life, programs need to operate with an awareness of structural vulnerabilities, and address them through concrete action.

This involves attention to research and evidence on the social determinants of health and stigma, and how they impact the populations engaged by a PDP. Stigmatizing or singular narratives (e.g., assumptions about childhood abuse or trafficking) applied to all sex workers, even if they superficially invoke structural analysis, are an example of a lack of structural competency. Likewise, "targeted sympathy" in which social determinants are recognized but participants are still expected to "bootstrap themselves over systemic hurdles with virtually no resources,"²⁸ falls short of structural competency. Programs should note where the evidence base is limited, what needs to be included in evaluations, and how to integrate participant and community consultation and leadership, to understand what supports are necessary for the specific participants they are working with to mitigate or overcome the structures impacting them.

Structural competency also involves attention to the service landscape, and the impact of PDPs on that landscape. This includes evidence-based practice that integrates research on the effectiveness (or not) of specific program elements and interventions, and on the availability, accessibility, acceptability and quality of services. It involves broad analysis of the range of services required for all participants to have their needs met and for adequate support to successfully complete the PDP. This should extend beyond services stereotypically associated with sex work to include, e.g., dental care, care for chronic illnesses, cardiovascular health, and contraception and reproductive health care. It is critical also to pay attention to how funding decisions impact the goals and success of participants: for example, whether PDPs are drawing funding away from community-based services that could meet participants needs without PDP oversight, how that oversight impacts service accessibility, and how funding is defining service priorities or interpretations of participant actions and outcomes.

Structural competency includes attention to criminalization and other legal structures.²⁹ This includes how PDPs impact criminal legal system engagement and how they follow through on claimed goals to mitigate its harm. This is broader than point-of-contact and arrest. It also includes attention to how PDP participants must navigate collateral consequences

²⁷ Neff J, Holmes SM, Knight KR, et al. Structural competency: curriculum for medical students, residents, and interprofessional teams on the structural factors that produce health disparities. 16 MedEdPORTAL 10888 (2021); Bourgois et al. Structural Vulnerability: Operationalizing the Concept to Address Health Disparities in Clinical Care. 92(3) ACAD MED. 299 (2017).

²⁸ Leon, C. S., & Shdaimah, C. S. (2021). Targeted sympathy in "Whore court": Criminal justice actors' perceptions of prostitution diversion programs. 43(2) LAW & POLICY 126 (2021).

²⁹ Benfer EA, Mohapatra S, Wiley LF, Yearby R. Health Justice Strategies to Combat the Pandemic: Eliminating Discrimination, Poverty, and Health Disparities During and After COVID-19. 19(3) YALE JOURNAL OF HEALTH POLICY, LAW, AND ETHICS 122 (2020).

of arrest or a criminal record, such as immigration consequences or employment denial, in addition to other barriers in access to services, fulfilling program requirements, and achieving their goals. It involves communication with the community to understand simultaneous exposure to harm from crime and from criminalization, including harm from police, lack of security and support where third parties are criminalized (especially where ‘third party’ activities result from issues created by criminalization, such as lack of labor protections),³⁰ and instability where exit from sex work is immediately required. The question of *who* is exposed to criminalization and *how* impacts how PDPs answer questions related to mitigating criminal legal harms and barriers to services as *structural* questions.

Equity

Equity requires attention to, and concrete action to address, structures of marginalization and how they impact engagement, participation and outcomes in PDPs.

Various kinds of inequities, most prominently racial inequities, characterize the criminal legal system in the United States. The growth of diversion programs was largely driven by the goal of reducing racial inequities in incarceration rates through reform of the criminal legal system.³¹ However, without careful attention to address equity concerns, diversion programs risk reproducing some of the same racial inequities that permeate the criminal legal system at large. For instance, some studies have shown that with the legal situation being equal, Black and Latino youth are less likely to be referred to youth diversion programs than white youth.³² PDP engagement is already the result of a set of decisions by police about who will be stopped and arrested, inequitably patterned across race, gender, income, disability, etc. variably across officers, cities, counties and states. This means equity is not only a concern where inequities appear in referral decisions, but is already present in the distribution of people who could be referred.

Equity metrics should be a fundamental component of evaluations of criminal legal interventions. However, in our review of metrics used to evaluate PDPs, we found measures of equity to be extremely rare. This lack of data collection and assessment of equity makes it difficult to evaluate whether PDPs achieve their purported function of reducing inequities in the criminal justice system, or merely reproduce them.

Human Impact Partners include racial equity and justice as a ‘critical value’ in their evaluation framework. They note that getting referred by law enforcement to a diversion program and deciding to enroll are two key touchstones of diversion where racial inequities risk being exacerbated.³³ Thus, our Program Success score evaluates whether inequities – racial or otherwise – emerge at these two key junctures. Two other key touchstones are both completing a diversion program and thriving after a diversion program, which we capture across guiding principles in tracking participants’ ability to meet their own goals through the program, and to see improvement in their material conditions.

We call specific attention, in addition to racial equity, to inequities that affect women and LGBTQ+ individuals, particularly trans individuals, given the gendered and sexualized nature of prostitution law. An intersectional lens is critical in understanding how criminal surveillance and engagement operate: for example, sex work-specific loitering laws (nicknamed ‘Walking While Trans’ bans) in some states have disproportionately impacted trans and cis women of color, including those not involved in sex work. Trans participants may identify barriers to formal employment due to

³⁰ GLOBAL NETWORK OF SEX WORK PROJECTS, POLICY BRIEF: THE DECRIMINALISATION OF THIRD PARTIES (2017); CANADIAN ALLIANCE FOR SEX WORK LAW REFORM, PIMPS, MANAGERS AND OTHER THIRD PARTIES: MAKING DISTINCTIONS BETWEEN THIRD PARTIES AND Exploitation (2014).

³¹ See *Introduction* for more historical context

³² Traci Schlesinger, Decriminalizing Racialized Youth through Juvenile Diversion, 28(1) THE FUTURE OF CHILDREN 59 (2018).

³³ HUMAN IMPACT PARTNERS, ADVANCING RACIAL EQUITY IN YOUTH DIVERSION: AN EVALUATION FRAMEWORK INFORMED BY LOS ANGELES COUNTY (2019).

We note that we did not include another key touchstone identified by Human Impact Partners (getting stopped by law enforcement) because of the challenges that an assessment of equity would involve for the population at risk of getting stopped on prostitution-related charges. While it is nearly certain that various inequities shape which sex workers or individuals perceived to be sex workers are most at risk of getting stopped by police, there is lack of reliable, comprehensive information about the demographics of people in the sex trades for a multitude of reasons (criminalization, stigma, lack of resources for sex work-led orgs to do community research, etc.). This makes it impossible to compare, for example, the percentage of sex workers stopped by police who are trans against the percentage of sex workers who are not trans to quantify the disparity. The answer here is not simply or necessarily a bare call for more information, as it is must be qualified by serious engagement with the question of if or how a “census” of sex workers is even desirable or at all feasible.

discrimination as a key need: tailoring services to meet the unique needs of trans participants, combating stigma both within and beyond the program, and maximizing post-program employment options would help addressing inequities.³⁴

Other inequities that shape engagement by police, arrest and criminalization, and the scope for successful completion of PDPs, are also highly relevant, such as disability and homelessness. Equity metrics should include identity-based harms and their related structures of marginalization, but they should also include other factors such as lack of accessibility of services due to geographic distance, including as exacerbated by urban/rural divides and lack of access to transport. They should also include attention to situational factors, including who is engaged by prostitution law based on the type(s) of sex work they do, and the specific vulnerability of street-based sex workers to arrest. They should also consider who has access to services, and who is prevented from accessing services where referral is dependent on PDP engagement. Where services are not accessible, they cannot rightly be counted as part of the services array of the program. Overall, PDPs should ask whether programs are equitably 'completable' across all participants. This question should be answered with participant and community feedback and decision-making.

Equity as a guiding principle is not intended as a call to widen the net of PDP engagement through more expansive PDP-dependent services, but for PDPs to interrogate the factors leading to the same types of people being engaged in PDPs, and being successful or unsuccessful in program completion. PDPs should not stop at interventions that treat participants more humanely. While this is important, participants should not be set up to fail, or to fail *less*, with a smile: structural changes are needed.

³⁴ M. Bailey-Kloch, C. Shmdaimah, P. Osteen, Finding the right fit: Disparities between cisgender and transgender women arrested for prostitution in Baltimore. 5(1-3) JOURNAL OF FORENSIC SOCIAL WORK 82 (2016).

SCORING FRAMEWORK

	0	1	2	3
Autonomy	Uninformed decision-making Participant: <ul style="list-style-type: none"> has not been given full information about: <ul style="list-style-type: none"> program requirements and expectations; available options for participation; options other than participation; the implications and consequences of different available options. does not have community, service or structural supports in the decision-making process 	Informed decision-making Participant has: <ul style="list-style-type: none"> been informed of: <ul style="list-style-type: none"> all program requirements; options other than participation in program; consequences of each option; potential physical and mental effects of participation in program; and how they were chosen to participate. some community, service or structural supports in the decision-making process 	Full decision-making Participant has: <ul style="list-style-type: none"> full information about the program and the benefits and consequences of participation; meaningful alternative options to the program; alternative options that are equally accessible and affordable to the participant; the ability to leave the program without consequences; developed community, service or structural supports in the decision-making process. 	Free decision-making Participant: <ul style="list-style-type: none"> has full information about the program and the benefits and consequences of participation; decides to participate in this program, among a meaningful, accessible and affordable option; was not offered incentives to participate; is able to refuse attending the program; is not punished or ostracized for their decisions while in the program; strong community, service or structural supports in the decision-making process.
Personhood	Violated <ul style="list-style-type: none"> Exit from sex work and/or abstinence from drugs are program-imposed goals for all participants to achieve; Abstaining from sex work and/or drug use is a mandatory requirement while participating; Penalties are imposed for participants who continue to engage in sex work and/or use drugs while in the program. 	Recognized <ul style="list-style-type: none"> Participants who continue to engage in sex work and/or use drugs can participate; However, exit from sex work and/or abstinence from drugs are still the main stated goals for participants to achieve; Participants who decide to exit the program or otherwise fail to complete program requirements are subject to penalties. 	Respected <ul style="list-style-type: none"> Exit from sex work and/or abstinence from drugs are only one among various possible goals for participants; Participants can suspend participation in the program without being subject to penalties. 	Valued <ul style="list-style-type: none"> The program explicitly operates according to harm reduction principles that involve “meeting people where they are at”; Participants are encouraged and given resources to set their own goals for participation; Participants who continue to engage in sex work and/or use drugs while in the program are connected to harm reduction resources to reduce risks associated with these activities and maximize participants’ health and safety.
Accountability	Unaccountable <ul style="list-style-type: none"> No system in place to meaningfully assess whether the program is fulfilling its goals; No system in place to collect feedback on how the program functions; It is unclear if and how change can be implemented in the program. 	Internally accountable Staff, donors, and other institutional stakeholders: <ul style="list-style-type: none"> can meaningfully participate in processes to assess whether program goals are met; can give feedback on the program; have clear systems in place to initiate the implementation of changes in the program. 	Mutually accountable Program participants: <ul style="list-style-type: none"> can meaningfully participate in processes assessing whether program goals are met; can provide feedback the program; have clear systems in place to initiate the implementation of changes in the program. 	Externally accountable Relevant stakeholders outside the program: ³⁵ <ul style="list-style-type: none"> can meaningfully participate in processes assessing whether program goals are met; can provide feedback on the program; have clear systems in place to initiate the implementation of changes in the program.
Structural Competency	Not demonstrated <ul style="list-style-type: none"> No attention or resources are dedicated to structural vulnerability; The main goal is participants’ exit from sex work; changes in the material conditions of participants are not a stated goal; Court procedures and protocols are tedious and inaccessible for participants Services offered to participants only include counseling or drug treatment, with no services addressing material needs. 	Passive recognition <ul style="list-style-type: none"> Program goals include some improvements related to structural vulnerability; Program staff are trained to identify the factors of structural vulnerability that may affect the lives of participants; Recognition of how court procedures and protocols, including inefficiencies, impact participants and sex workers in general; Program refers participants to some services that may address material needs; but does not allocate additional resources to those services. 	Partial implementation <ul style="list-style-type: none"> Program goals include several improvements related to structural vulnerability; Program allocates additional resources to services addressing material needs; Some changes to court procedures and protocols in favor of those that better manage future participants’ needs; Some improvements in the material conditions of participants as a result of the program. 	Full implementation <ul style="list-style-type: none"> Program goals center improvements related to structural vulnerability; Exit from sex work is not required or a priority; Program allocates significant resources to services addressing material needs; Comprehensive overhaul of harmful court procedures and protocols in favor of those that better manage participants’ needs; Significant improvements in participants’ material conditions as a result of the program.
Equity	Pervasive inequity <ul style="list-style-type: none"> The program reproduces or aggravates pre-existing inequities across identity markers, including race, gender, sexuality, class, ability, or immigration status; and/or other structures of marginalization such as geographical distribution of services or situational factors. 	Minimal equity efforts <ul style="list-style-type: none"> Some program aspects consider equity issues; Some consideration for needs of participants related to identities or structural positionality; Respectful treatment given to participants regardless of identity or structural positionality; Program shows some modest success in reducing inequities across identity markers, including race, gender, sexuality, class, ability, or immigration status; and across other structural or situational factors. 	Unidimensional equity efforts <ul style="list-style-type: none"> Program is explicitly designed to reduce inequities across at least one identity marker, including race, gender, sexuality, class, ability, or immigration status; The particular needs of participants belonging to a specific group or community are successfully met; Program shows significant success in reducing inequities across at least one identity marker; and/or another structural or situational factor. 	Intersectional equity efforts <ul style="list-style-type: none"> Program is explicitly designed to reduce inequities across several identity markers: e.g. race, gender, sexuality, class, ability, or immigration status; The diverse needs of participants with different identity markers or structural positionality are successfully met; Program shows significant success in reducing inequities across several identity markers and their intersections, including structural/situational factors.

³⁵ Including, for example: individuals at-risk of participation in a diversion program; participants’ family members, friends and kin; service providers; community advocates and organizations; neighborhood residents; business owners; etc.



EVALUATION RUBRIC

EVALUATION SHEET: PROGRAM STRUCTURE

Principle	Score	Rationale
Autonomy		
Personhood		
Accountability		
Structural competency		
Equity		

SCORING GUIDE: PROGRAM STRUCTURE

Principle	Score 0	1	2	3
Autonomy	Uninformed decision-making Participant: <ul style="list-style-type: none"> has not been given full information about: <ul style="list-style-type: none"> program requirements and expectations; available options for participation; options other than participation; the implications and consequences of different available options. does not have community, service or structural supports in the decision-making process 	Informed decision-making Participant has: <ul style="list-style-type: none"> been informed of: <ul style="list-style-type: none"> all program requirements; options other than participation in program; consequences of each option; potential physical and mental effects of participation in program; and how they were chosen to participate. some community, service or structural supports in the decision-making process 	Full decision-making Participant has: <ul style="list-style-type: none"> full information about the program and the benefits and consequences of participation; meaningful alternative options to the program; alternative options that are equally accessible and affordable to the participant; the ability to leave the program without consequences; developed community, service or structural supports in the decision-making process. 	Free decision-making Participant: <ul style="list-style-type: none"> has full information about the program and the benefits and consequences of participation; decides to participate in this program, among a meaningful, accessible and affordable option; was not offered incentives to participate; is able to refuse attending the program; is not punished or ostracized for their decisions while in the program; strong community, service or structural supports in the decision-making process.
	Guiding Questions			
	<p>Is <u>the program structure</u> such that participants have the ability to make an autonomous decision to participate in the program?</p> <ul style="list-style-type: none"> What information is given to participants before entering the program? Are the details of participation in the program explained in full to participants, including all program goals and all requirements? Is significant time and space offered to participants to consider their decision to participate in the program? Does not participating in the program carry penalties? Are participants informed of these penalties? Does leaving the program before completion or failing to meet program requirements carry penalties? Are participants informed of these penalties? Are participants incentivized to participate in the program or to access treatments or services that they would not otherwise be able to access? What array of services are available? Are program participation, program requirements (including any involving participant work or labor) or services accepted only to avoid criminal legal consequences? What assistance, including material resources, does the program provide, internally or externally to participants in their decision-making to begin, continue or exit participation? Does this include support from community-based organizations aligned with participants' experiences? Does the PDP add to or redirect funding from community-based collectives? How does program structure (e.g., multi-disciplinary team structures) impact advocacy on behalf of participants by community workers, lawyers, etc.? What safeguards are in place to preserve autonomy? Are there specific, proportional, context-informed, and evidence-based justifications for any supervision, surveillance or coercion related to participation in the PDP or associated programs? Are participants always afforded the least restrictive conditions possible on participation? Do any factors (continued engagement in the sex trades, drug use, disability, race, gender, use of support structures or services, etc.) impact whether participants' autonomous decision-making is respected? Do any factors impact whether a participant is considered competent for self-directed decision-making? What impact does participation have on bodily autonomy (e.g., health impacts, access to sexual and reproductive healthcare)? Does the PDP expose participants to criminalization for decision-making related to bodily autonomy? <p>Data Sources The process of scoring Program Structure on Autonomy may involve review of a PDP's process flowchart; review of the training provided to law enforcement or other entry-point providers who enroll participants; review of consent forms or other similar informational documents provided to participants at the point of entry; and review of all information available to participants on the functioning of the PDP, including internal and external evaluations.</p> <div> <p>Note: As the guiding questions make clear, an Autonomy score of 2 or 3 (<i>full</i> or <i>free</i> decision) for Program Structure is inherently impossible for most PDPs. Participants' meaningful ability to refuse to participate in PDPs is structurally limited by the criminal penalties they are <i>diverted</i> from. While some participants might still refuse to participate, there is a clear system of incentives associated with participation and negative consequences involved with the alternative decision of non-participation: traditional criminal legal processes. Depending on the information provided to participants before entering a PDP, their decision may be <i>informed</i> or <i>uninformed</i>, leading to a possible score of 1 or 0. Participants should be provided full information about the consequences of deciding to participate or not; deciding to leave the program before completion; or failing to meet program requirements. Otherwise, their decision to participate cannot be considered <i>informed</i>, and the Program Structure of the PDP would score 0 with respect to Autonomy.</p> </div>			
Principle	Score 0	1	2	3
Personhood	Violated Participant: <ul style="list-style-type: none"> Exit from sex work and/or abstinence from drugs are program-imposed goals for all participants to achieve; 	Recognized <ul style="list-style-type: none"> Participants who continue to engage in sex work and/or use drugs can participate; However, exit from sex work and/or abstinence from drugs are still the main stated goals for participants to achieve; 	Respected <ul style="list-style-type: none"> Exit from sex work and/or abstinence from drugs are only one among various possible goals for participants; Participants can suspend participation in the program without being subject to penalties. 	Valued <ul style="list-style-type: none"> The program explicitly operates according to harm reduction principles that involve "meeting people where they are at"; Participants are encouraged and given resources to set their own goals for participation;

	<ul style="list-style-type: none">● Abstaining from sex work and/or drug use is a mandatory requirement while participating;● Penalties are imposed for participants who continue to engage in sex work and/or use drugs while in the program.	<ul style="list-style-type: none">● Participants who decide to exit the program or otherwise fail to complete program requirements are subject to penalties.		<ul style="list-style-type: none">● Participants who continue to engage in sex work and/or use drugs while in the program are connected to harm reduction resources to reduce risks associated with these activities and maximize participants' health and safety.	
	Guiding Questions				
	<p>Is <u>the program structure</u> such that the program respects the personhood of participants?</p> <ul style="list-style-type: none">● What are the stated program goals?● Does training for program staff, including law enforcement, involve training, including training in harm reduction principles, stigma and evidence-based practice?● What penalties are associated with non-completion of the program or failure to satisfy program requirements?● Does the program include a motivational interview where participants get to set their own goals at entry into the program?● Is there diversity in the range of substance use services offered to participants (e.g., counseling; opioid maintenance; contingency management; harm reduction information and supplies)? Are all services available, accessible and acceptable to all participants?● Is there diversity in the range of sex work-related services offered to participants (e.g., counseling; exit services; harm reduction information and supplies)?● Does the program require participants to define their experiences a certain way, or to informally or formally identify themselves as a victim? Does the program name include stigmatizing language? <p>Data Sources</p> <p>The process of scoring Program Structure on Personhood may involve review of a PDP's eligibility criteria, program goals, program requirements, services offered, and penalties associated with non-completion.</p>			<p>Note: A score of 2 or 3 is inherently impossible to achieve by most PDPs as long as penalties for suspending participation or failure to complete the program exist. Participants' personhood cannot be said to be <i>respected</i> or <i>valued</i> if certain decisions or actions taken by participants result in penalties or punishment. Depending on whether participants who continue to engage in sex work or use drugs are allowed to participate in the program, however, participants' personhood can be considered <i>violated</i> or <i>recognized</i>.</p>	
Principle	Score	0	1	2	3
Accountability		<p>Unaccountable</p> <ul style="list-style-type: none">● No system in place to meaningfully assess whether the program is fulfilling its goals;● No system in place to collect feedback on how the program functions;● It is unclear if and how change can be implemented in the program.	<p>Internally accountable</p> <p>Staff, donors, and other institutional stakeholders:</p> <ul style="list-style-type: none">● can meaningfully participate in processes to assess whether program goals are met;● can give feedback on the program;● have clear systems in place to initiate the implementation of changes in the program.	<p>Mutually accountable</p> <p>Program participants:</p> <ul style="list-style-type: none">● can meaningfully participate in processes assessing whether program goals are met;● can provide feedback the program;● have clear systems in place to initiate the implementation of changes in the program.	<p>Externally accountable</p> <p>Relevant stakeholders outside the program:</p> <ul style="list-style-type: none">● can meaningfully participate in processes assessing whether program goals are met;● can provide feedback on the program;● have clear systems in place to initiate the implementation of changes in the program.
	Guiding Questions				
	<p>Is <u>the program structure</u> such that there are mechanisms of accountability for the program, providing meaningful opportunities for a diverse range of stakeholders to provide feedback and see changes being implemented into the program?</p> <ul style="list-style-type: none">● Is detailed information publicly available on all program goals, values, and commitments, as well as data on participation rates, success rates and program metrics? Does data include de-identified but specific information on outcomes, in addition to proxy indicators such as arrest data? Does data meet quality standards for collection, collation and presentation?				

	<ul style="list-style-type: none">• Are periodic reviews or evaluations of functioning and success built into the program structure? Do these include metrics related to autonomy, personhood, accountability, structural competency and/or equity? Are they conducted internally or by external evaluators?• Is the process of these periodic reviews or evaluations clearly outlined and publicly available?• What stakeholders are envisioned to participate in the review or evaluation process? What information (and types of information) are provided to which stakeholders? For what aspect of PDP programming or structure are they properly considered stakeholders?• Is there a clearly outlined decision-making process to make changes based on the results of each review or evaluation?• Is it possible for participants to give voluntary, anonymous feedback through an independent party or program person with no decision-making power related to their participation? Are participants compensated fairly for their time and expertise in providing program input? Are community groups engaged to provide or support this mechanism?• Is there a clearly outlined process to communicate to relevant stakeholders as well as the general public the changes to the program made as a result of a review or evaluation?• What funding and resources are allocated to periodic reviews, evaluations and related capacity building, including training for external community-led evaluations?• Are current and former participants and relevant community groups involved in leadership related to program design, evaluation and changes? Are they employed or otherwise compensated by the program for this work?• What other mechanisms of accountability exist? Are they internal or external to the PDP? Does the structure of accountability mechanisms need to be modified in order to integrate participant feedback meaningfully into programming?• What funding and resources are allocated to programmatic changes based on review or accountability processes? What reporting is done on how funds are actually spent?• How are barriers to service access, quality and success accounted for? Does the PDP track the impact of program requirements or penalties on access, quality and success?• What procedures are in place to follow up on barriers to access and negative experiences with service providers? How does this impact program referrals and funding decisions?• What funding and resources are allocated outside of the program to relevant participant-, stakeholder- and community-identified and led services and supports?• What funding and resources are allocated to upstream community-based supports? How are structural determinants of health and wellbeing supported? <p>Data Sources</p> <p>The process of scoring Program Structure on Accountability may include review of a PDP’s evaluation and program improvement processes; review of the policies for complaints and reports of misconduct; the existence of clearly designated point people in charge of taking action and implementing changes based on feedback or complaints; accessibility and transparency of information about the program to the general public; and the existence of community advisory boards or other similar mechanisms for community input. Police data on who is arrested for relevant offenses can inform understanding of which people and communities are engaged by PDPs and are stakeholders, provided its limitations are managed.</p>				
Principle	Score	0	1	2	3
Structural competency		<p>Not demonstrated</p> <ul style="list-style-type: none">• No attention or resources are dedicated to structural vulnerability;• The main goal is participants’ exit from sex work; changes in the material conditions of participants are not a stated goal;• Court procedures and protocols are tedious and inaccessible for participants• Services offered to participants only include counseling or drug treatment, with no services addressing material needs.	<p>Passive recognition</p> <ul style="list-style-type: none">• Program goals include some improvements related to structural vulnerability;• Program staff are trained to identify the factors of structural vulnerability that may affect the lives of participants;• Recognition of how court procedures and protocols, including inefficiencies, impact participants and sex workers in general;• Program refers participants to some services that may address material needs; but does not allocate additional resources to those services.	<p>Partial implementation</p> <ul style="list-style-type: none">• Program goals include several improvements related to structural vulnerability;• Program allocates additional resources to services addressing material needs;• Some changes to court procedures and protocols in favor of those that better manage future participants’ needs;• Some improvements in the material conditions of participants as a result of the program.	<p>Full implementation</p> <ul style="list-style-type: none">• Program goals center improvements related to structural vulnerability;• Exit from sex work is not required or a priority;• Program allocates significant resources to services addressing material needs;• Comprehensive overhaul of harmful court procedures and protocols in favor of those that better manage participants’ needs;• Significant improvements in participants’ material conditions as a result of the program.
	<p>Guiding Questions</p> <p>Does <u>the program structure</u> demonstrate the structural competency of the program?</p> <ul style="list-style-type: none">• Does the training for program staff, including law enforcement, include language and skills to identify and address structural vulnerability and stigma?• Do program goals explicitly include an improvement in participants’ material conditions, including housing, food, employment, access to health care, transportation, immigration status, etc.? Which services coordinated through the PDP address each of these conditions?• Does the program provide assistance with legal and administrative needs, such support obtaining and paying for ID cards, expungement of criminal records?• How are services coordinated? Are providers, advocates and/or navigators present in court buildings? Are services coordinated through community-based organizations or intake centers? Are participants provided resources to access community-based services? Are there mobile outreach vans or pop-up services? Is there a 24/7 hotline or outreach service?				

	<ul style="list-style-type: none">What role do participants and community-based service providers have in defining participant goals and services? What role do they have in defining what counts as success? What autonomy is provided to participants and service providers to define adequate service provision and service planning? What funding is allocated to this process?Who are services accessible to? Who are they not accessible to? Are any participants involved in services that are not accessible because of the threat of criminal consequences? Is the accessibility of services otherwise affected by integration of services in, or referral through, PDPs?Are outreach or services conducted with police involvement? How does this impact accessibility? For whom? Is criminal legal engagement necessary to provide supports to participants or otherwise meet the goals of the PDP?Does the program engage and coordinate available services and support, based on the needs and barriers faced by individual participants? What services were available before the establishment of the PDP? How does or will the PDP impact access to services, for participants and all community members?What services are available without referral through the PDP? What benefits and downsides exist for a state-run and/or centralized program in meeting participants' needs?How does the program identify barriers to services and strategies to overcome them? What evidence is used? What feedback or accountability structures are used?How long are wait times for services? Are participants able to access services in a reasonable time to meet their needs and PDP goals?Are services evidence-based? Are they appropriate for the participants that are referred to them? Are there participants who were not referred who would have benefited from referral?What portion of program funding and resources are allocated to services that aim to meet participants' material needs? What portion of funding is allocated to expanded access (navigators, advocates, transport)? What priority is given to participant goals and success in decisions regarding services and funding?Where would PDP funding flow if it were not allocated to the PDP? Is PDP funding adding to or redirecting from community-based programming and/or organizations?Is funding provided for referrals and service provision by relevant services for populations generally engaged by PDPs before arrest or PDP referral?Does the program facilitate a reduction in the number of people surveilled, arrested, booked and/or jailed for offenses related to sex work, engaged in the criminal legal system or PDP, over time? What proportion of participants are diverted pre-arrest? What efforts are made to address factors identified leading to participants being engaged post-arrest?Does the program address vulnerabilities directly related to collateral consequences of criminalization, including fees and fines, child welfare involvement, immigration consequences, employment discrimination, etc.?Does the program aim to reduce the stigma of working in the sex trades and trading sex for survival? Does it undertake evidence-based strategies to address structural stigma? What proportion of programs referred to have service providers with experience in the sex trades? Are any services anti-sex work or adopt a 'rescue' framework?Does the program facilitate access and reconnection to family members, including children, and community spaces? <p>Data Sources</p> <p>The process of scoring Program Structure on Structural Competency may involve review of training materials for staff; review of program goals; review of the allocation of resources and funding to different kinds of services (e.g., mental health counseling and drug treatment vs housing, employment, or immigration services); and review of local, national and international research on the social determinants of health, stigma, structural vulnerability, and the availability, accessibility, acceptability and quality of services and service provision.</p>				
Principle	Score	0	1	2	3
Equity		<p>Pervasive inequity</p> <ul style="list-style-type: none">The program reproduces or aggravates pre-existing inequities across identity markers, including race, gender, sexuality, class, ability, or immigration status, and/or other structures of marginalization such as geographical distribution of services or situational factors.	<p>Minimal equity efforts</p> <ul style="list-style-type: none">Some program aspects consider equity issues;Some consideration for needs of participants related to identities or structural positionality;Respectful treatment given to participants regardless of identity or structural positionality;Program shows some modest success in reducing inequities across identity markers, including race, gender, sexuality, class, ability, or immigration status; and across other structural or situational factors.	<p>Unidimensional equity efforts</p> <ul style="list-style-type: none">Program is explicitly designed to reduce inequities across at least one identity marker, including race, gender, sexuality, class, ability, or immigration status;The particular needs of participants belonging to a specific group or community are successfully met;Program shows significant success in reducing inequities across at least one identity marker; and/or another structural or situational factor.	<p>Intersectional equity efforts</p> <ul style="list-style-type: none">Program is explicitly designed to reduce inequities across several identity markers: e.g. race, gender, sexuality, class, ability, or immigration status;The diverse needs of participants with different identity markers or structural positionality are successfully met;Program shows significant success in reducing inequities across several identity markers and their intersections, including structural/situational factors.
	<p>Guiding Questions</p> <p>Does <u>the program structure</u> maximize equity?</p> <ul style="list-style-type: none">Are funding and resources allocated to services that meet the specific needs of a range of demographics and groups?Does the design of the program include explicit consideration for the maximization of equity?Do program design and program goals address the different support structures or services needed for specific participants, including for example supports related to drug dependence, disability, reproductive healthcare or childcare?Does the training of program staff, including law enforcement, include cultural competency and awareness of issues faced by and the needs of participants belonging to different groups or with different structural vulnerabilities, or engaged in different types of sex work?Does the program track participation based on identity and situational markers? Does the program track differences in success rates across these markers? How do these rates compare to who is arrested and who is diverted across those markers?Does the program ensure that diversion occurs pre-arrest and pre-bookings for undocumented individuals, in order to avoid immigration				
<p>Note: A score of 3 can only be achieved when the Program Structure invests significant attention and resources to the needs of multiple groups and identities consistent with those represented by city residents and program participants. A score of 2 represents significant considerations for reducing inequities associated with one group or identity, but not others; for example, a program may be designed to address the specific needs and challenges faced by LGBTQ+ participants, but be blind to questions of racial equity.</p>					

	<p>consequences?</p> <ul style="list-style-type: none">• Are feedback and accountability processes equally available to all participants? Do the concerns of all participants lead to concrete changes in program structure and services?• Are the specific needs of different types of participants addressed, through adapted or different types of services, or adapted or different program goals? For example, are all program components, including for example outsourced trainings, 'completable' by a participant with significant cognitive disabilities? Are drug treatment programs accessible to women, people with children and/or LGBTQ+ people? <p>Data Sources</p> <p>The process of scoring Program Structure on Equity may involve the review of documents and materials outlining the program structure, including for staff training, allocation of funding, and the kinds of services offered to participants. They also include data on who is arrested and who is diverted, including identity and situational markers.</p>
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EVALUATION SHEET: PARTICIPANT SUCCESS

Principle	Score	Rationale
Autonomy		
Personhood		
Accountability		
Structural competency		
Equity		

SCORING GUIDE: PARTICIPANT SUCCESS

Principle	Score 0	1	2	3
Autonomy	Uninformed decision-making Participant: <ul style="list-style-type: none"> has not been given full information about: <ul style="list-style-type: none"> program requirements and expectations; available options for participation; options other than participation; the implications and consequences of different available options. does not have community, service or structural supports in the decision-making process 	Informed decision-making Participant has: <ul style="list-style-type: none"> been informed of: <ul style="list-style-type: none"> all program requirements; options other than participation in program; consequences of each option; potential physical and mental effects of participation in program; and how they were chosen to participate. some community, service or structural supports in the decision-making process 	Full decision-making Participant has: <ul style="list-style-type: none"> full information about the program and the benefits and consequences of participation; meaningful alternative options to the program; alternative options that are equally accessible and affordable to the participant; the ability to leave the program without consequences; developed community, service or structural supports in the decision-making process. 	Free decision-making Participant: <ul style="list-style-type: none"> has full information about the program and the benefits and consequences of participation; decides to participate in this program, among a meaningful, accessible and affordable option; was not offered incentives to participate; is able to refuse attending the program; is not punished or ostracized for their decisions while in the program; strong community, service or structural supports in the decision-making process.
	Guiding Questions			
	<p>Was <u>this participant</u> offered the tools and information to be able to make an autonomous decision to participate in the program?</p> <ul style="list-style-type: none"> Did the participant receive the full package of information about the PDP as expected? Was the participant provided with sufficient support and explanations to fully understand this information? Was the information provided in a language that the participant feels comfortable with? Did the participant have a meaningful understanding of the requirements, incentives, and penalties involved in their participation or no participation in the program? What impact did the threat of criminal legal involvement have on the decision-making of this participant? What assistance, including material resources, did this participant have internally or externally to the program, in their decision-making to begin, continue or exit participation? <p>Data Sources The process of scoring Participant Success on Autonomy may involve interviews or questionnaires given to participants during the program to assess their understanding of the requirements and evaluate how successfully they were provided information at point of entry.</p> <div> <p>Note: As with Program Structure, Participant Success cannot score 2 or 3 for Autonomy due to the nature of PDPs. However, an individual participant's decision to participate may be <i>informed</i> or <i>uninformed</i>, regardless of whether the program structure overall is set up to allow for informed or uninformed decisions. For instance, law enforcement may be properly trained to provide full information about the program to participants (i.e., Program Structure score of 1), but fail to do so in the preferred language of a specific participant (i.e., Participant Success score of 0). Conversely, the standard information package given to participants may not include full information about the penalties involved in failure to complete the program (i.e., Program Structure score of 0), but an entry-point provider may take it upon themselves to informally provide that information to a participant (i.e., Participant Success score of 1).</p> </div>			
Principle	Score 0	1	2	3
Personhood	Violated Participant: <ul style="list-style-type: none"> Exit from sex work and/or abstinence from drugs are program-imposed goals for all participants to achieve; Abstaining from sex work and/or drug use is a mandatory requirement while participating; 	Recognized <ul style="list-style-type: none"> Participants who continue to engage in sex work and/or use drugs can participate; However, exit from sex work and/or abstinence from drugs are still the main stated goals for participants to achieve; 	Respected <ul style="list-style-type: none"> Exit from sex work and/or abstinence from drugs are only one among various possible goals for participants; Participants can suspend participation in the program without being subject to penalties. 	Valued <ul style="list-style-type: none"> The program explicitly operates according to harm reduction principles that involve "meeting people where they are at"; Participants are encouraged and given resources to set their own goals for participation;

	<ul style="list-style-type: none">Penalties are imposed for participants who continue to engage in sex work and/or use drugs while in the program.		<ul style="list-style-type: none">Participants who decide to exit the program or otherwise fail to complete program requirements are subject to penalties.		<ul style="list-style-type: none">Participants who continue to engage in sex work and/or use drugs while in the program are connected to harm reduction resources to reduce risks associated with these activities and maximize participants' health and safety.	
	Guiding Questions					
	<p>Was the personhood of <u>this participant</u> respected, affirmed and empowered?</p> <ul style="list-style-type: none">Did the participant get to set realistic goals for themselves at the beginning of the program and could they be altered to reflect their changing needs and priorities?Does the range of services offered to the participant satisfy their needs and align with their own program goals?Does the participant feel that the program helped them achieve their own personal goals?Did the participant experience any penalties, stigma, or negative consequences for their decisions to engage in sex work or drug use during the program?Did the participant experience any penalties or punishment if they decided to drop out of the program or failed to complete program requirements?				<p>Note: As noted for Program Structure, in most PDPs, a participant who drops out of the program or fails to meet requirements will face penalties associated with non-completion. Participants' personhood cannot be said to be <i>respected or valued</i> as long as this is the case, and so only a score of 0 or 1 for this dimension is possible.</p>	
	<p>Data Sources</p> <p>The process of scoring Participant Success on Personhood may involve interviews with participants, reviews of case records for the participant to see if individualized goals were set at entry point, review of case records to assess if penalties were incurred by participants who did not complete the program, and participants' evaluations of services received.</p>					
Principle	Score	0	1	2	3	
Accountability	<p>Unaccountable</p> <ul style="list-style-type: none">No system in place to meaningfully assess whether the program is fulfilling its goals;No system in place to collect feedback on how the program functions;It is unclear if and how change can be implemented in the program.		<p>Internally accountable</p> <p>Staff, donors, and other institutional stakeholders:</p> <ul style="list-style-type: none">can meaningfully participate in processes to assess whether program goals are met;can give feedback on the program;have clear systems in place to initiate the implementation of changes in the program.		<p>Mutually accountable</p> <p>Program participants:</p> <ul style="list-style-type: none">can meaningfully participate in processes assessing whether program goals are met;can provide feedback the program;have clear systems in place to initiate the implementation of changes in the program.	
						<p>Externally accountable</p> <p>Relevant stakeholders outside the program:</p> <ul style="list-style-type: none">can meaningfully participate in processes assessing whether program goals are met;can provide feedback on the program;have clear systems in place to initiate the implementation of changes in the program.
	Guiding Questions					
<p>Were the mechanisms of accountability accessible to <u>this participant</u>? Did they work successfully for <u>this participant</u>?</p> <ul style="list-style-type: none">Was the participant informed of available pathways to provide feedback about their experience in the program?If the participant wished to provide feedback, were they able to do so?If the participant experienced misconduct by program staff, were they able to report it?Was the feedback or report of misconduct properly documented?Were any changes implemented as a result of the feedback or report of misconduct?Were relevant stakeholders associated with the participant (e.g.: family, advocacy groups, program staff who worked on the participant's case) able to provide feedback or report misconduct on the behalf of the participant, if they so wished?						
<p>Data Sources</p> <p>The process of scoring Participant Success on Accountability might involve review of incidents of misconduct and their resolution; and interviews with participants or stakeholders associated with the participant at the end of the program.</p>						
Principle	Score	0	1	2	3	
Structural competency	<p>Not demonstrated</p> <ul style="list-style-type: none">No attention or resources are dedicated to structural vulnerability;The main goal is participants' exit from sex work; changes in the material conditions of participants are not a stated goal;Court procedures and protocols are tedious and inaccessible for participants		<p>Passive recognition</p> <ul style="list-style-type: none">Program goals include some improvements related to structural vulnerability;Program staff are trained to identify the factors of structural vulnerability that may affect the lives of participants;Recognition of how court procedures and protocols, including inefficiencies, impact participants and sex workers in general;		<p>Partial implementation</p> <ul style="list-style-type: none">Program goals include several improvements related to structural vulnerability;Program allocates additional resources to services addressing material needs;Some changes to court procedures and protocols in favor of those that better manage future participants' needs;	
						<p>Full implementation</p> <ul style="list-style-type: none">Program goals center improvements related to structural vulnerability;Exit from sex work is not required or a priority;Program allocates significant resources to services addressing material needs;Comprehensive overhaul of harmful court procedures and protocols in favor of those that better manage participants' needs;

	<ul style="list-style-type: none">Services offered to participants only include counseling or drug treatment, with no services addressing material needs.Program refers participants to some services that may address material needs; but does not allocate additional resources to those services.Some improvements in the material conditions of participants as a result of the program.Significant improvements in participants' material conditions as a result of the program.				
	Guiding Questions				
	<p>Do the outcomes experienced by <u>this participant</u> demonstrate the structural competency of the program (i.e. did the program's approach address and ameliorate the structural vulnerability of <u>this participant</u>)?</p> <ul style="list-style-type: none">Does the participant experience an improvement in their material conditions, including more stable housing or employment that meets their financial needs, increased access to health care, or access to support with their immigration status, etc.? <p>Data Sources</p> <p>To score Participant Success on Structural Vulnerability, the participant's level of structural vulnerability should be measured at baseline when entering the program, and then measured again at completion of the program and subsequent follow-ups (e.g., 3 months follow-up, 6 months follow-up; one year follow-up). A variety of indicators of structural vulnerability may be chosen as benchmarks, including, but not limited to: housing stability, employment, financial security, access to healthcare, food insecurity, social support, immigration status, experiences of incarceration, and safety. Standardized tools to screen for structural vulnerability or social determinants of health, such as the Structural Vulnerability Assessment Tool³⁶, the Accountable Health Communities (AHC) Health-Related Social Needs (HRSN) Screening Tool,³⁷ or the PREPARE Assessment Tool³⁸ provide possible templates for assessment, although attention should be paid to adapting questions for cultural acceptability and to avoid language that stigmatizes drug use or sex work. Participants who drop out of the program or fail to satisfy program completion requirements should be included in this assessment and their results should be compared to those of participants who complete the program, as well as individuals who go through the criminal system as usual.</p>				
Principle	Score	0	1	2	3
Equity	<p>Pervasive inequity</p> <ul style="list-style-type: none">The program reproduces or aggravates pre-existing inequities across identity markers, including race, gender, sexuality, class, ability, or immigration status; and/or other structures of marginalization such as geographical distribution of services or situational factors.	<p>Minimal equity efforts</p> <ul style="list-style-type: none">Some program aspects consider equity issues;Some consideration for needs of participants related to identities or structural positionality;Respectful treatment given to participants regardless of identity or structural positionality;Program shows some modest success in reducing inequities across identity markers, including race, gender, sexuality, class, ability,	<p>Unidimensional equity efforts</p> <ul style="list-style-type: none">Program is explicitly designed to reduce inequities across at least one identity marker, including race, gender, sexuality, class, ability, or immigration status;The particular needs of participants belonging to a specific group or community are successfully met;	<p>Intersectional equity efforts</p> <ul style="list-style-type: none">Program is explicitly designed to reduce inequities across several identity markers: e.g. race, gender, sexuality, class, ability, or immigration status;The diverse needs of participants with different identity markers or structural positionality are successfully met;Program shows significant success in reducing inequities across several identity markers and their	

³⁶ Philippe Bourgois, Seth M Holmes, Kim Sue, James Quesada, Structural Vulnerability: Operationalizing the Concept to Address Health Disparities in Clinical Care, 92(3) ACAD. MED. 299 (2017).

³⁷ Center for Medicare and Medicaid Innovation, The Accountable Health Communities Health-Related Social Needs Screening Tool, <https://innovation.cms.gov/files/worksheets/ahcm-screeningtool.pdf>

³⁸ PRAPARE®: Protocol for Responding to and Assessing Patient Assets, Risks, and Experiences (2016), http://www.nachc.org/wp-content/uploads/2018/05/PRAPARE_One_Pager_Sept_2016.pdf

		or immigration status; and across other structural or situational factors.	<ul style="list-style-type: none"> Program shows significant success in reducing inequities across at least one identity marker; and/or another structural or situational factor. 	intersections, including structural/situational factors.
	Guiding Questions <p>Was <u>this participant</u> treated equally to other participants, allowing them the opportunity to achieve positive outcomes through the program?</p> <ul style="list-style-type: none"> Did the participant experience stigma or discrimination through the program based on their identity or belonging to a particular group? Does the participant feel that the program structure and requirements were compatible with their unique needs and situation? Does the participant feel that the services they were offered were designed with their unique needs and situation in mind? Does the participant feel that their belonging to a particular group or their structural position was an obstacle to completion or success through the program? <p>Data Sources</p> <p>The process of scoring Participant Success may involve interviews and questionnaires with participants. Standardized tools such as the Everyday Discrimination Scale³⁹ may be adapted to inform development of appropriate evaluation tools to capture participants' experiences.</p>			

³⁹ David R. Williams, Everyday Discrimination Scale, <https://scholar.harvard.edu/davidrwilliams/node/32397>

EVALUATION SHEET: PROGRAM SUCCESS

Principle	Score	Rationale
Autonomy		
Personhood		
Accountability		
Structural competency		
Equity		

SCORING GUIDE: PROGRAM SUCCESS

Principle	Score	0	1	2	3
Autonomy		Uninformed decision-making Participant: <ul style="list-style-type: none">has not been given full information about:<ul style="list-style-type: none">program requirements and expectations;available options for participation;options other than participation;the implications and consequences of different available options.does not have community, service or structural supports in the decision-making process	Informed decision-making Participant has: <ul style="list-style-type: none">been informed of:<ul style="list-style-type: none">all program requirements;options other than participation in program;consequences of each option;potential physical and mental effects of participation in program; andhow they were chosen to participate.some community, service or structural supports in the decision-making process	Full decision-making Participant has: <ul style="list-style-type: none">full information about the program and the benefits and consequences of participation;meaningful alternative options to the program;alternative options that are equally accessible and affordable to the participant;the ability to leave the program without consequences;developed community, service or structural supports in the decision-making process.	Free decision-making Participant: <ul style="list-style-type: none">has full information about the program and the benefits and consequences of participation;decides to participate in this program, among a meaningful, accessible and affordable option;was not offered incentives to participate;is able to refuse attending the program;is not punished or ostracized for their decisions while in the program;strong community, service or structural supports in the decision-making process.
	Guiding Questions				
	<u>What proportion of</u> program participants were offered the tools and information to be able to make an autonomous decision to participate in the program?			Note: The Program Success score for builds upon individual Participant Success scores and so is similarly limited, evaluating therefore only whether a satisfactory portion of the PDP's participants are in practice able to make an <i>informed</i> or <i>uninformed</i> decision to participate. Attention should also be paid to context in interpreting low or high participation. Low participation may be a symptom of a program not meeting participant needs as a whole. High participation is nonetheless also complicated as an indicator of program adherence, as it may be the result of a high level of coercion maintaining participants in a program that is not meeting their needs. Evaluations should be explicit about what percentage of participants need to achieve a Participant Success score of 1 for the program overall to be able to achieve a Program Success score of 1.	
	<ul style="list-style-type: none">Do most program participants receive the full package of information about the PDP as expected?Are most participants provided with sufficient support and explanations to fully understand this information?Are most participants provided this information in a language they feel comfortable with?Do most participants have a meaningful understanding of the requirements, incentives, and penalties involved in their participation or no participation in the program? What impact did the threat of criminal legal involvement have on the decision-making of participants?Are most participants provided with assistance, including material resources, internally or externally to the program, in their decision-making to begin, continue or exit participation?				
	Data Sources The process of scoring Program Success on Autonomy may involve aggregating Participant Success scores under the rubric, as well as aggregating questionnaire results and analyzing themes and barriers across both participants generally, and different types of participants, with attention to vulnerable groups and the differential impact of systemic barriers.				
Principle	Score	0	1	2	3
Personhood		Violated Participant: <ul style="list-style-type: none">Exit from sex work and/or abstinence from drugs are program-imposed goals for all participants to achieve;	Recognized <ul style="list-style-type: none">Participants who continue to engage in sex work and/or use drugs can participate;However, exit from sex work and/or abstinence from drugs are still the main stated goals for participants to achieve;	Respected <ul style="list-style-type: none">Exit from sex work and/or abstinence from drugs are only one among various possible goals for participants;Participants can suspend participation in the program without being subject to penalties.	Valued <ul style="list-style-type: none">The program explicitly operates according to harm reduction principles that involve “meeting people where they are at”;Participants are encouraged and given resources to set their own goals for participation;

	<ul style="list-style-type: none">Abstaining from sex work and/or drug use is a mandatory requirement while participating;Penalties are imposed for participants who continue to engage in sex work and/or use drugs while in the program.		<ul style="list-style-type: none">Participants who decide to exit the program or otherwise fail to complete program requirements are subject to penalties.		<ul style="list-style-type: none">Participants who continue to engage in sex work and/or use drugs while in the program are connected to harm reduction resources to reduce risks associated with these activities and maximize participants' health and safety.
	Guiding Questions				
	<p>Do the overall outcomes of the program respect personhood goals?</p> <ul style="list-style-type: none">What are the views and attitudes towards sex work and drug use of program staff, including law enforcement? Do they present obstacles to the respect of the personhood of participants to engage in sex work and use drugs?Do a majority of participants feel that the program empowered them to reflect on and set personal goals?Do a majority of participants feel that the program expanded the range of options and achievable goals available to them?Do a majority of participants achieve their desired goals through the program (e.g., leaving sex work; drug abstinence; changing frequency of engaging of sex work or drug use to better suit their needs; moving to a different sex work setting or changing mode of drug use; etc.)?				<p>Note: Evaluations should be explicit about what percentage of participants need to feel empowered to set their own personal goals; be given access to appropriate support and options to achieve their goals; and in fact achieve their goals for Program Success to receive a given score.</p>
	<p>Data Sources</p> <p>The process of scoring Program Success on Personhood may involve questionnaires or interviews about attitudes held by program staff, as well as aggregated results from Participant Success scores.</p>				
Principle	Score	0	1	2	3
Accountability	<p>Unaccountable</p> <ul style="list-style-type: none">No system in place to meaningfully assess whether the program is fulfilling its goals;No system in place to collect feedback on how the program functions;It is unclear if and how change can be implemented in the program.		<p>Internally accountable</p> <p>Staff, donors, and other institutional stakeholders:</p> <ul style="list-style-type: none">can meaningfully participate in processes to assess whether program goals are met;can give feedback on the program;have clear systems in place to initiate the implementation of changes in the program.		<p>Mutually accountable</p> <p>Program participants:</p> <ul style="list-style-type: none">can meaningfully participate in processes assessing whether program goals are met;can provide feedback the program;have clear systems in place to initiate the implementation of changes in the program.
	<p>Externally accountable</p> <p>Relevant stakeholders outside the program:</p> <ul style="list-style-type: none">can meaningfully participate in processes assessing whether program goals are met;can provide feedback on the program;have clear systems in place to initiate the implementation of changes in the program.				
	Guiding Questions				
<p>Do mechanisms of accountability of the program work in practice to make the program accountable to a range of relevant stakeholders, resulting in actions taken and changes being made by the program when needed?</p> <ul style="list-style-type: none">Are periodic reviews or evaluations of program functioning and benchmarks of 'success' happen periodically per program guidelines?Do periodic reviews or evaluations occur following the expected process and timeline?What stakeholders typically participate in the review or evaluation process?Are any changes implemented as a result of each review or evaluation?Are decisions to implement or not implement changes based on the review or evaluation process communicated back to relevant stakeholders and the general public?					
<p>Data Sources</p> <p>The process of scoring Program Success on Accountability might involve the reviewing of changes made to the program throughout its duration as a result of feedback from a range of stakeholders; the review of agendas, notes, and records from community advisory board meetings or similar bodies; the review of communications to the general public about the program; and interviews with various stakeholders.</p>					
Principle	Score	0	1	2	3
Structural competency	<p>Not demonstrated</p> <ul style="list-style-type: none">No attention or resources are dedicated to structural vulnerability;The main goal is participants' exit from sex work; changes in the material conditions of participants are not a stated goal;Court procedures and protocols are tedious and inaccessible for participants		<p>Passive recognition</p> <ul style="list-style-type: none">Program goals include some improvements related to structural vulnerability;Program staff are trained to identify the factors of structural vulnerability that may affect the lives of participants;Recognition of how court procedures and protocols, including inefficiencies, impact participants and sex workers in general;		<p>Partial implementation</p> <ul style="list-style-type: none">Program goals include several improvements related to structural vulnerability;Program allocates additional resources to services addressing material needs;Some changes to court procedures and protocols in favor of those that better manage future participants' needs;Some improvements in the material conditions of participants as a result of the program.
	<p>Full implementation</p> <ul style="list-style-type: none">Program goals center improvements related to structural vulnerability;Exit from sex work is not required or a priority;Program allocates significant resources to services addressing material needs;Comprehensive overhaul of harmful court procedures and protocols in favor of those that better manage participants' needs;				

	<ul style="list-style-type: none">Services offered to participants only include counseling or drug treatment, with no services addressing material needs.		<ul style="list-style-type: none">Program refers participants to some services that may address material needs; but does not allocate additional resources to those services.		<ul style="list-style-type: none">Significant improvements in participants' material conditions as a result of the program.	
	Guiding Questions					
	<p>Do <u>the overall outcomes</u> of the program demonstrate structural competency?</p> <ul style="list-style-type: none">What is the level of understanding of structural vulnerability of program staff, including law enforcement? Is that understanding translated into achievable benchmarks?Do a majority of program participants experience an improvement in their material conditions? <p>Data Sources</p> <p>To score Program Success on Structural Competency, the structural competency of program staff should be measured to assess whether the training received by staff is successful in equipping them with skills to adequately identify structural vulnerability factors and intervene appropriately. Aggregated results from Participant Success scores should also be considered to determine whether the overall impact of the program shows success in addressing and ameliorating the structural vulnerability of participants.</p>				<p>Note: Evaluations should be explicit about what proportion of participants needs to experience these positive outcomes for Program Success to achieve a score of 2 or 3.</p>	
Principle	Score	0	1	2	3	
Equity	<p>Pervasive inequity</p> <ul style="list-style-type: none">The program reproduces or aggravates pre-existing inequities across identity markers, including race, gender, sexuality, class, ability, or immigration status; and/or other structures of marginalization such as geographical distribution of services or situational factors.		<p>Minimal equity efforts</p> <ul style="list-style-type: none">Some program aspects consider equity issues;Some consideration for needs of participants related to identities or structural positionality;Respectful treatment given to participants regardless of identity or structural positionality;Program shows some modest success in reducing inequities across identity markers, including race, gender, sexuality, class, ability, or immigration status; and across other structural or situational factors.		<p>Unidimensional equity efforts</p> <ul style="list-style-type: none">Program is explicitly designed to reduce inequities across at least one identity marker, including race, gender, sexuality, class, ability, or immigration status;The particular needs of participants belonging to a specific group or community are successfully met;Program shows significant success in reducing inequities across at least one identity marker; and/or another structural or situational factor.	
	<p>Intersectional equity efforts</p> <ul style="list-style-type: none">Program is explicitly designed to reduce inequities across several identity markers: e.g. race, gender, sexuality, class, ability, or immigration status;The diverse needs of participants with different identity markers or structural positionality are successfully met;Program shows significant success in reducing inequities across several identity markers and their intersections, including structural/situational factors.					
	Guiding Questions					
<p>Are <u>the outcomes</u> of the program distributed equally across participants?</p> <ul style="list-style-type: none">Is the proportion of individuals referred to diversion by law enforcement equal to the proportion going through the system as usual across different groups and identity markers, including race, gender, sexuality, class, ability, or immigration status?Is the proportion of individuals who decide to enroll¹³ in the program equal across different groups and identity markers?Is the proportion of participants who are able to make an informed decision to participate in the program equal across different groups and identity markers?Is the proportion of participants who felt meaningfully able to provide feedback or report misconduct and see change implemented equal across different groups and identity markers?Is the proportion of participants who are able to meet their goals through the program equally distributed across different groups and identity markers? <p>Are improvements in the material conditions of participants equally distributed across different groups and identity markers?</p> <p>Data Sources</p> <p>The process of scoring Program Success on Equity may involve analysis of demographic data of individuals participating in the program.</p>						
<p>Note: Evaluations should set explicit cut-offs to distinguish cases where Program Success can achieve a score of 2 or 3, looking at revealed inequities in the distribution of participants who are able to achieve rights-based outcomes consistent with other key principles: autonomy, accountability, personhood, and structural competency.</p>						

SAMPLE EVALUATION OF A PDP

The tables below show the scoring of a hypothetical PDP according to the evaluation rubric:

Program Structure

Principle	Score	Rationale
Autonomy	1	Information package designed for participants at entry point includes clear and exhaustive explanation of program requirements and consequences of non-completion.
Personhood	0	Participants are required to undergo drug tests throughout the program and a positive test results in failure to complete the program.
Accountability	2	Multiple avenues for participants to provide feedback are built into the program. It is clear who is in charge of reviewing this feedback and making changes accordingly. However, there are no avenues for communication about the program to the general public, limiting external stakeholders' ability to seek accountability.
Structural competency	1	Program goals include stable housing and employment for participants. However, little funding is allocated to services addressing these goals.
Equity	1	Training for staff mentions the higher rates of housing insecurity faced by LGBTQ+ sex workers and sex workers of color. However, the women's shelters that participants are connected to through the program do not admit trans women.

Participant Success

Principle	Score	Rationale
Autonomy	0	The participant has limited English fluency and prefers to communicate in Spanish. However, the entry interview was conducted in English with no interpreter.
Personhood	0	The participant felt that the program was not useful to them because they did not wish to leave sex work at the time.
Accountability	2	Although the entry interview was conducted in English, the participant was asked about their language preference and was then assigned a Spanish-speaking case-worker for subsequent meetings. Enrollment material in Spanish was developed to facilitate future entry interviews.
Structural competency	1	The participant was connected to a legal aid organization that will support them with their immigration status. However, they were not able to find more stable work through the job services offered by the program and as a result, their level of food insecurity did not improve.
Equity	0	The participant felt that the job services they were referred to through the program were not useful because all the job applications they were recommended to apply to required a Social Security Number, which the participant does not have due to their immigration status.

Program Success

Principle	Score	Rationale
Autonomy	1	Most participants demonstrate a good understanding of the program requirements and penalties associated with non-completion.
Personhood	0	The biggest barrier to program completion is the requirement to obtain negative drug tests throughout the program, which causes a third of all initial participants to not complete the program to the end.
Accountability	1	Reviews of the program happen once a year. However, only program staff and law enforcement are interviewed for the review.
Structural competency	1	Program staff is able to identify various factors of structural vulnerability faced by participants. Program participants experience a modest improvement in food security compared to baseline thanks to case workers' support for participants who wish to enroll in food assistance programs. However, there is no significant improvement in employment access or housing stability.
Equity	0	White individuals are referred to the program by law enforcement at higher rates than individuals of color with equivalent legal standing. Some trans participants report having felt discriminated against when trying to access the shelter they were referred to by the program. Satisfaction with the help received through the program is reported at higher rates by white participants.

CONCLUSION

The evaluation rubric responds to shortcomings in current PDP evaluation frameworks. It seeks particularly to integrate metrics that overcome their inability to accurately capture the serious impacts of PDPs on participant wellbeing, stability and opportunities, and PDPs' structural limitations. It does so by providing an alternative framework to holistically assess program structure, participant success and program success against five guiding principles: autonomy, accountability, personhood, structural competency, and equity.

As a diagnostic tool, we propose this alternative rubric to facilitate analysis of specific areas of concern: especially, the need for restructuring in resources and services, and the fundamental failures written into the structure of PDPs themselves. In providing for a more complete and nuanced view of the functioning of PDPs, it enables a broadened scope for attributing responsibility for PDPs' shortcomings, and for linking those shortcomings to political structures, policy decisions and regulatory systems. We hope to highlight the decisions and policies that position PDPs as a 'kinder, more helpful' response to criminalized activities, and that heavily invest in carceral structures. In this process, the guiding principles ground analysis in respect for the dignity, equality, lived realities and self-directed priorities of participants.

We hope that the rubric will be engaged with and taken up by institutions that promote, develop frameworks to fund, help implement, assess, and/or research PDPs, as well as those working on other types of diversion programs more generally; by the entities responsible for everyday management, administration, and monitoring and evaluation of the programs; and by communities organizing around issues faced by their members related to PDPs. We hope that the rubric – supported by their work and findings – will shift the basis for research on diversion programs, what counts as credible evidence, and transform conceptions of 'success' in outcomes.

This rubric raises difficult questions, and encourages active engagement with challenges in its implementation, including shifts in perspective, complex and highly disaggregated analysis, and the need for data that is difficult or complicated to collect. We invite active engagement and feedback with us on the modalities and methodologies of its use, including as its contextual application, and adaptation; on the findings that it enables, and in its revision. We hope it encourages reflection, concerted action and dedicated community-focused funding. We hope it inspires new ways of looking at diversion programs.

Appendix A:

Landscape and Evaluation of Prostitution Diversion Programs

This appendix explores the landscape of PDPs, including their structures, eligibility criteria, goals, values and services offered. It then surveys the metrics used to evaluate PDPs, as gleaned from our review of select studies and reports. It ends with a discussion of the core values and assumptions of PDPs and their evaluations, noting important shortcomings that have informed the development of this evaluation rubric.

Taxonomy of Prostitution Diversion Programs

In previous work on our *Diversion from Justice* working paper, GHJP identified reports of 61 PDPs across 30 states and the District of Columbia as of May 2016. In focusing specifically on sourcing PDP evaluations in 2020-22, we identified a further four programs with relevant evaluations.

This research underscores that the lack of publicly available information on PDPs includes also a lack of information on whether they continue to be operational. While programs closing without clear public communication or transparency poses a particular problem for accountability, the current status of each program is less relevant for the following sections, as our focus is providing a general overview of PDPs generally, and the ways that they have been evaluated.

Types of Programs

Prostitution diversion programs can be roughly organized into two different types: pre-arrest diversion programs, and post arrest/deferred prosecution programs.

Pre-arrest diversion programs, dominated largely by the Law Enforcement Assisted Diversion Program (LEAD), divert sex workers into supervised or monitored programs in lieu of arrest, ticketing, or fines. Post arrest, or deferred action programs, offer arrested sex workers participation in a diversion program *after* they have already been entered into the criminal legal system. Some programs require sex workers to enter a guilty plea, which may be expunged upon their completion of the program.⁴⁰ Others retain the authority to charge sex workers criminally if they falter in the program.

Within the broad categories of pre- and post-arrest diversion, there are different ways of organizing participation. Some programs, such as the *CATCH Program* in Columbus, are organized around a single judge.⁴¹ Other municipalities work with external service providers, who themselves may also partner with national organizations. For example, Chicago's *Prostitution and Trafficking Intervention Program* works with an external service program called *Footprints*, which partners with the Center for Court Innovation.⁴²

Some of these external programs are religiously affiliated. The *Footprints* program, for instance, is housed within the Christian Community Health Center.⁴³ Milwaukee's *Sisters Program* is a religiously based pre-arrest diversion program

⁴⁰ See, e.g., RISE in Fort Worth, Texas: *Diversion from Justice*, at 22; the SEPP court in Texas: Blakeley, J. M. et al. (2017) Strengths and Challenges of a Prostitution Court Model. *Justice System Journal*, 38(4), 367. Notably, in our prior interviews, several individuals from pre-plea deal programs indicated that they had assumed that they had to plead guilty and "giv[e] up all your rights and things of that nature" in order to participate in programs and receive services. This directly contrasted with the reports of court staff in the same jurisdictions, pointing to either miscommunications about criteria for program entry impacting individuals' due process rights, or differential treatment of cases. Both possibilities threaten fair adjudication for sex workers, and lack of clarity around program entry—by design or by default—contributes to overarching coercive practices. *Diversion from Justice*, at 54.

⁴¹ See Miner-Romanoff, K. (2015). CATCH Court: Changing Actions to Change Habits – A Preliminary Evaluation Study. *Journal of Human Trafficking*, 3(2), 1-27; Paige Pflieger, A Pioneering Ohio Courtroom Helps Trafficking Victims Find Hope, NPR (Oct. 7, 2019), <https://www.npr.org/2019/10/07/767850332/a-pioneering-columbus-courtroom-helps-trafficking-victims-find-hope>

⁴² See Valente, B.M. (2019). Treatment with a Side of Stigma: The Influence of Sex Work Stigma on the Chicago Prostitution and Trafficking Intervention Court. *DePaul Law Review*, 68(4), 777, 785-786.

⁴³ See Valente, B.M. (2019), at 784.

that partners with the Medical College of Wisconsin, the District Attorney's Office, the County Housing Division, and various religious groups.⁴⁴

Programs also employ a variety of approaches to sex work and sex work diversion. Columbus's *CATCH* program, for instance, employs an intentional "carrot and stick" approach, combining punitive sentences with a two-year supervised treatment program.⁴⁵ Participants are closely monitored and subject to sanctions, such as extended completion time or incarceration, if they diverge from the program's requirements.⁴⁶ They are also required to attend weekly potluck suppers with Judge Herbert.⁴⁷ Others employ an educational approach, such as Minneapolis' *Breaking Free* program, which provides an intensive 14-week training program to "examine sex trafficking as a slave-based system, the impact it has on victims, and issues related to addiction and recovery."⁴⁸ Many programs are organized around mental health counseling, life skills counseling, and substance abuse treatment.⁴⁹

⁴⁴ Sisters Program. Benedict Center (2022), <https://www.benedictcenter.org/programs/sisters-program.php>; Mendez, E. Program Has New Approach to Prostitution. Urban Milwaukee (Apr. 21, 2021), <https://urbanmilwaukee.com/2021/04/21/program-has-new-approach-to-prostitution/>.

⁴⁵ Franklin County Municipal Court. (2016). Changing Actions to Change Habits (CATCH): Program Description, 18-19.

⁴⁶ Franklin County Municipal Court. (2016). 21.

⁴⁷ Wolfe, J. M. Franklin County Ohio Catch Court: Hope For Former Prostitutes (May 24, 2016), <https://www.ohiolaw.net/ohio-legal-news/2016/05/24/franklin-county-catch-court-for-prostitutes/>; Columbus Podcasts. Trafficking – Judge Paul Herbert of CATCH Court (Sept. 2, 2019), 18:30.

⁴⁸ Breaking Free. (2019). Women's Program. <https://breakingfree.net/womens-program>; Breaking Free. (2015). Pre-Court Diversion. https://breakingfree.net/diversion_programs.aspx

⁴⁹ Programs reported to involve the provision of mental health services include the Baltimore LEAD in Maryland; the CATCH program in Franklin County, Ohio; the GIFT Court in Minneapolis, Minnesota; the Project Dawn Court in Philadelphia, Pennsylvania; the STAR Court in Dallas, Texas; the TIP Court in New Castle County (Wilmington), Delaware; and the Specialized Pre-Trial Diversion Program in Baltimore, Maryland. Programs reported to involve life skills counseling include the CATCH Docket in Columbus, Ohio; the Phoenix Court in Travis County (Austin), Texas; and the WIN Court in Las Vegas, Nevada. Programs reported to involve substance abuse treatment include the CATCH program in Franklin County, Ohio; the PRIDE Court in Dallas, Texas; the SEPP court in Texas; the Project Dawn Court in Philadelphia, Pennsylvania; the STAR Court in Dallas, Texas; the TIP Court in New Castle County (Wilmington), Delaware; the WIN Court in Las Vegas, Nevada; and the Specialized Pre-Trial Diversion Program in Baltimore, Maryland; Mueller, D. (2012); Amara Legal Center. (2018). Survey of United States Diversion Programs; Diversion from Justice; Blakeley, J. M. et al. (2017) Strengths and Challenges of a Prostitution Court Model. *Justice System Journal*, 38(4), 364-379.

Eligibility

Programs differ as to who is eligible for participation. Notably, our past interviews and research have made clear that eligibility requirements are not always clear, and, in some cases, established guidelines for eligibility may not exist. The following criteria are commonly used to determine eligibility:

- **Criminal Record:** Some programs work only with “first time offenders,” while others, such as Philadelphia’s *Project Dawn* court, preference sex workers with a history of multiple arrests.⁵⁰ Prior convictions may mean that more intensive services are mandated, or a less favorable plea deal follows completion. Almost all programs require that participants have no history of violent offenses.⁵¹
- **Age:** Most programs work exclusively with adults 18 years of age or older, with no upper age limit. Houston’s *SAFE Program* is a notable exception, working exclusively with individuals between the ages of 17 and 25.⁵²
- **Sex/Gender:** Some programs, such as the Supporting the End of Prostitution Permanently court in Texas are restricted to cis women (our phrasing) only,⁵³ and some are restricted to cis or trans women.⁵⁴ Others, such as Austin’s *Phoenix Court*, are also open to men.⁵⁵ Overall, programs restricted to women outnumber those open to all genders or specifically catering to men.⁵⁶
- **Substance Use:** Many programs require that participants abstain from alcohol and substance use.⁵⁷ Some programs provide drug and alcohol treatment services; others, including staff and judges in several locations in Texas, monitor participants for drug and alcohol use but do not provide treatment services, either because they are not aware of or do not believe in the use of biomedical forms of substance abuse treatment.⁵⁸
- **Trauma/PTSD:** Nearly all programs include counselling and mental health services for sexual and other forms of trauma.⁵⁹ However, some programs screen explicitly for childhood sexual trauma, adult sexual trauma, or Post Traumatic Stress Disorder as an eligibility criterion.⁶⁰ Dallas-Fort Worth’s *RISE Program* for instance, “seeks to identify women who have a history of experiencing significant trauma in their past which has contributed to their involvement in the criminal justice system. This involvement commonly results in charges of prostitution, controlled substance violations and theft.”⁶¹

⁵⁰ Mueller, D. (2012), at 31; See, generally, *Diversion from Justice*, at 31.

⁵¹ See, e.g. Muftic, L. R. & Updegrove, A. H. (2019). The Effectiveness of a Problem-Solving Court for Individuals Charged with Misdemeanor Prostitution in Harris County Texas. *Journal of Offender Rehabilitation*, 58(2), 117, 120 (“Nontrafficked defendants facing a misdemeanor prostitution charge are eligible for SAFE Court if they are between the ages of 17 and 25 and have not been previously convicted of a violent felony.”) See, generally, *Diversion from Justice*, at 31-32.

⁵² Muftic, L. R. & Updegrove, A. H. (2019). 118.

⁵³ See Blakeley, J. M. et al. (2017) Strengths and Challenges of a Prostitution Court Model. *Justice System Journal*, 38(4), 364, 367. See, generally, GHJP & SWP. (2018), at 31-32.

⁵⁴ See, generally, *Diversion from Justice*, at 31-32.

⁵⁵ Phoenix Court. Travis County, Texas (2022), <https://www.traviscountytx.gov/counseling-education/phoenix-court>; Jacquelyn Powell, Phoenix Court program cutting down on prostitution in Travis Co., KXAN (Aug. 21, 2018), <https://www.kxan.com/news/local/austin/phoenix-court-program-cutting-down-on-prostitution-in-travis-co/>. Other programs include the PRIDE Court in Dallas County, Texas and the Specialized Pre-Trial Diversion Program in Baltimore, Maryland: Mueller, D. (2012). See, generally, GHJP & SWP. (2018), at 31-32. These inclusive programs are for sex workers, and are distinct from ‘john schools’, which we do not include in the rubric as they employ different rationales and engage different populations from our focus: see ‘Criteria for inclusion as a PDP’ in *Diversion from Justice*, at 9.

⁵⁶ See, generally, *Diversion from Justice*, at 31-32.

⁵⁷ For example, participants in the SEPP court in Texas must maintain sobriety: Blakey, J. M., Mueller, D. J. & Richie, M. (2017). Strengths and Challenges of a Prostitution Court Model. *Justice System Journal*, 38(4), 364, 367-68. Other programs requiring this include: the GIFT Court in Minneapolis, Minnesota, the PRIDE Court in Dallas, Texas, the Project Dawn Court in Philadelphia, Pennsylvania, and the WIN (Women In Need) Court in Las Vegas, Nevada: Mueller, D. (2012).

⁵⁸ See *Diversion from Justice*, at 36.

⁵⁹ Such programs include the CATCH program in Franklin County, Ohio; the Project Dawn Court in Philadelphia, Pennsylvania; the STAR Court in Dallas, Texas, the TIP Court in New Castle County (Wilmington), Delaware, and the Specialized Pre-Trial Diversion Program in Baltimore, Maryland: Mueller, D. (2012).

⁶⁰ See, e.g., the Project Dawn court in Philadelphia, Pennsylvania, which includes services for all three: U.S. Department of Justice Bureau of Justice Assistance, Association of Prosecuting Attorneys. (2022). Prosecution-Led Diversion Toolkit: Project Dawn Court. <https://www.diversiontoolkit.org/wp-content/uploads/2021/08/Philadelphia-DA-Project-Dawn-Project-Description.pdf>

⁶¹ Tarrant County, Texas. (2022). Reaching Independence through Self-Empowerment (RISE). <https://www.tarrantcounty.com/en/criminal-courts/specialty-programs/reaching-independence-through-self-empowerment.html>

- **Mental Illness:** Many programs include individuals with mental illness,⁶² and mental health is included among the most commonly reported components of intake needs assessments.⁶³ However, some programs exclude individuals with significant mental illness on the basis that they may be better served in a mental health or drug court.⁶⁴

Program Goals

Some programs frame their goals explicitly in terms of the criminal legal system. Philadelphia's *Project Dawn* court, for instance, identifies three goals: (1) to connect nonviolent offenders with re-entry services, (2) to reduce recidivism, and (3) to decrease the taxpayer burden of incarcerating non-violent offenders.⁶⁵

More often, however, diversion programs state their goals in social or moral terms; namely, ending demand for sex work or ending women's involvement in commercial sex work. The names of many prostitution diversion programs alone encapsulate these goals: Austin's *Phoenix* court, Sarasota's *Turn Your Life Around* program, Miami-Dade's *Growth Renewed through Acceptance, Change, and Empowerment (GRACE)* court, and Shreveport's *Exit Strategy* program.

Exit Strategy's mission statement is a paradigmatic example of programs with social and moral goals. It proclaims as its core mandate:

"to divert females with criminal charges related to the sex industry out of the criminal justice system. The 4-phase intensive program works to transform participants from a victim of the sex industry to an independent, whole and successful woman with a permanent place to live, an education, life skills and gainful employment outside of the sex industry."⁶⁶

Dallas/Fort-Worth's *Reaching Independence through Self-Empowerment (RISE)* program similarly identifies as its mission to:

"identify vulnerable women with extensive histories of prostitution or prostitution-related offenses, expedite them through the criminal justice system and help them achieve abstinence from all mood altering substances, mental stability, permanent housing and educational/work opportunities that provide them with the legal means to maintain a healthy, productive lifestyle. The vision of the RISE program is that every woman reaches her full potential and lives a healthy, productive, drug free and non-criminal lifestyle."⁶⁷

Services Offered

The three primary kinds of services offered by PDPs are trauma or mental health counseling; life skills counseling; and drug and alcohol treatment. While several programs, such as *RISE* and *Phoenix*, include housing and educational assistance among their stated goals,⁶⁸ it is unclear how much, if any, material assistance is provided towards housing, education, or employment. The programmatic focus of PDPs, generally, on emergency or trauma assessments means

⁶² Such programs include the GIFT Court in Minneapolis, Minnesota and the STAR Court in Dallas, Texas: Mueller (2012).

⁶³ See *Diversion from Justice*, at 34.

⁶⁴ Labrola, M., et al. (2018). Prosecutor-Led Pretrial Diversion: Case Studies in Eleven Jurisdictions. Center for Court Innovation. 26. See generally, U.S. Department of Justice Bureau of Justice Assistance, Mental Health Courts Program, <https://bja.ojp.gov/program/mental-health-courts-program/overview>. See also Robertson, A. G. et al, (2020). Gender-specific participation and outcomes among jail diversion clients with co-occurring substance use and mental health disorders. *Journal of Substance Abuse Treatment*, 115:108035. doi:10.1016/j.jsat.2020.108035.

⁶⁵ Human Trafficking and State Courts Collaborative. (2022). Philadelphia. <http://www.htcourts.org/pennsylvania.htm>

⁶⁶ Caddo Parish District Attorney. (2016). Sex Industry Diversion: Exit Strategy. <https://www.caddoda.com/diversion/sex-industry-diversion/>

⁶⁷ Tarrant County, Texas. (2022). Reaching Independence through Self-Empowerment (RISE). <https://www.tarrantcounty.com/en/criminal-courts/specialty-programs/reaching-independence-through-self-empowerment.html>.

⁶⁸ Tarrant County, Texas. (2022); City of Phoenix. (n.d.). Diversion Program Descriptions. <https://www.phoenix.gov/law/prosecutor/diversion-programs/descriptions>. See also the Esperanza court in Bexar County (San Antonio), Texas: Bexar County. (2021). The Bexar County Specialty Courts Coalition Resource Guide, at 15.

that they are often less concerned with fundamental and structurally-relevant resources such as stable housing, economic opportunities, and immigration assistance.⁶⁹

In some cases, the goals of the programs and the services provided to participants are misaligned. *Exit Strategy*, for instance, is paradigmatic example of the mismatch between stated goals and services offered: while its goals aim to transform participants into stably housed, educated, employed women, the program provides little by way of education, housing, or employment services. Rather, the *Exit Strategy* program focuses predominantly on mental health counseling, basic medical care, and substance abuse therapy.⁷⁰

⁶⁹ See *Diversion from Justice*, at 34.

⁷⁰ Caddo Parish District Attorney. (2016).

Evaluation Metrics for Prostitution Diversion Programs

Of the range of reports and articles we reviewed, we ultimately included 17 in this summary of evaluation metrics.⁷¹ These 17 articles detail the results of evaluation studies conducted to assess 27 distinct PDPs in 17 different jurisdictions in the United States and one province in Canada. Some studies looked at more than one PDP, and some PDPs were evaluated by more than one study. Mueller's *Treatment Courts and Court-Affiliated Diversion Projects for Prostitution in the United States*, for example, was an aggregate report that evaluated 19 programs, while four studies by Collins, Clifasefi, and Lonczak, as well as another by Clifasefi and Collins, all evaluated Seattle's LEAD program. PDP evaluations were completed either by the program itself or by an outside evaluator or researcher.

To understand the metrics used for evaluations, our team read these reports or articles, identified measures of success, and then coded these measures to visualize the extent to which certain metrics appeared.

We reviewed these existing metrics of success with the intent to use their weaknesses to signal the directions a new rubric must take.

Metrics of “success”

Measures of success appeared with differing frequency across the studies. Sometimes the metrics used align closely with the stated goals of the particular programs that are being evaluated. Yet, several studies did not analyze whether the diversion program “succeeded” or “failed” in relation to a specific metric, but instead related participants' and stakeholders' perceptions of the program.

Among the evaluations that did measure success among specific measures, the metrics by which they define “success” can be divided into two types:

Participant success

Participant success metrics seek to define and measure what constitutes a “successful” participant, typically determined by the PDP itself based on its completion requirements and goals.

Reduced involvement in the criminal legal system and program completion were the two most commonly mentioned participant success metrics. Program completion was measured by the metric of participation in a minimum number of program meetings or, less commonly, the completion of community service requirements. **Drug testing** was also a commonly mentioned participant success metric measuring drug abstinence/sobriety. **Exit from sex work** was also a ‘participant success’ goal, assessed, for example, through the metrics of a participant not being rearrested prior to program completion or their commitment to exiting sex work. In rare cases, such as in the Baltimore City Specialized Pretrial Diversion (SPD) program, PDPs may measure participant success using participants' self-identified goals in the hopes of addressing individual underlying circumstances (but even there, the focus was on what led to the participants' involvement in the sex trades).⁷²

Participant success goals (either as stated in the PDP or developed by the study in order to evaluate successful program completion by individual participants) were:

⁷¹ See “Ambiguous Cases” table in Appendix D for more information on why 4 articles reviewed were not included.

⁷² Bailey-Kloch, M., Shmdaimah, C., & Osteen, P. (2016). Finding the right fit: Disparities between cisgender and transgender women arrested for prostitution in Baltimore. *Journal of Forensic Social Work*, 5(1-3), 82–97. <https://doi.org/10.1080/1936928x.2015.1115797>

Participant Success Goals	Number of Studies	Metrics	Number of Studies	Citations
Reduced involvement in criminal legal system	8	Recidivism rates	8	Vargas and Zamayoa 2018; Mueller 2012; Svirdoff, Rottman, and Weidner 2000; Miner-Romanoff 2015; Clifasefi, Lonczak, and Collins 2017; Roe-Sepowitz, Hickie, Perez Loubert, and Egan 2011; Muftic and Updegrove 2019; Koegler, Preble, Cimino, and Diehl 2019
		Criminal charges	1	Mueller 2012
Program completion	6	Attendance of most or all program meetings	6	Koegler, Preble, Cimino, and Diehl 2019; Wahab 2006; Mueller 2012; Miner-Romanoff 2015; Roe-Sepowitz, Hickie, Perez Loubert, and Egan 2011; Roe-Sepowitz, Gallagher, Perez Loubert, and Tutelman 2014
		Completion of community service requirements	2	Mueller 2012; Miner-Romanoff 2015
Drug abstinence or sobriety	5	Drug testing	5	Koegler, Preble, Cimino, and Diehl 2019; Wahab 2006; Mueller 2012; Miner-Romanoff 2015; Muftic and Updegrove 2019
Exit from sex work	5	Not being rearrested prior to program completion	4	Koegler, Preble, Cimino, and Diehl 2019; Mueller 2012; Muftic and Updegrove 2019; Roe-Sepowitz, Hickie, Perez Loubert, and Egan 2011
		Reducing sex work	1	Mueller 2012
		Self-reported exit	1	Wahab 2006
Quality of life	5	Gaining housing	4	Camp 2018; Mueller 2012; Miner-Romanoff 2015; Clifasefi, Lonczak, and Collins 2017
		Gaining employment	1	Mueller 2012
		Enrolling in education opportunities	2	Mueller 2012; Miner-Romanoff 2015
		Awareness of resources	1	Vargas and Zamayoa 2018
Connection to resources	4	Knowledge on risks related to sex work	4	Camp 2018; Miner-Romanoff 2015; Vargas and Zamayoa 2018; Wahab 2006
		Knowledge of services	1	Vargas and Zamayoa 2018
		Service utilization patterns	1	Vargas and Zamayoa 2018
Court compliance	3	Attending court; reduced “failures to appear”	3	Mueller 2012; Miner-Romanoff 2015; Camp 2018
Personal relationships	2	Reconnecting with family/friends	2	Mueller 2012; Miner-Romanoff 2015
		Regaining custody/visitation of children	1	Mueller 2012

Program success

Program success metrics seek to define and measure what constitutes a “successful” PDP. These metrics address the success of the PDP overall and whether the program represents a fruitful alternative to the status quo with reference to specifically identified goals from various ideological positions.

Recidivism rates of defendants / participants was the most commonly used metric for evaluating program success. Reports concerned with recidivism measured whether the PDP reduced recidivism among participants as compared to those who went through the “system as usual.” Recidivism was used as a metric for participants’ exit from sex work and positive change in the ‘quality of life’ of participants, both primary goals used to evaluate program success. Changes in quality of life were also measured through access to housing, employment, education, and resources and information; feeling of purpose as reported by participants; improved personal relationships; care management; and decreased drug use.

Other common goals to evaluate program success also included the quality of interactions between participants and program staff, measured through participants’ feelings towards the program and regarding interactions with program staff; the accessibility and inclusivity of the programs themselves, measured through the metrics of barriers to entry, program eligibility criteria, and equity in participants selection; as well as procedural improvements and cost reduction.

Program Success Goals	Number of Studies	Metrics	Number of Studies	Citations
Reducing sex work / related criminalized activity	13	Recidivism rates	13	Wahab 2006; Mueller 2012; Collins, Lonzak, and Clifasefi 2017; Miner-Romanoff 2015; Clifasefi and Collins 2016; Clifasefi, Lonzak, and Collins 2017; Clifasefi, Lonzak, and Collins 2015; Roe-Sepowitz, Hickie, Perez Loubert, and Egan 2011; Roe-Sepowitz, Gallagher, Perez Loubert, and Tutelman 2014; Muftic and Updegrove 2019; Koegler, Preble, Cimino, and Diehl 2019; Svirdoff, Rottman, and Weidner 2000; Camp 2018
		Criminal charges	3	Collins, Lonzak, and Clifasefi 2017; Clifasefi, Lonzak, and Collins 2017; Clifasefi, Lonzak, and Collins 2015
		Prostitution activity in region	3	Svirdoff, Rottman, and Weidner 2000; Mueller 2012; Wahab 2006
		Reduce jail time	1	Miner-Romanoff 2015
Improving quality of life	8	Access to housing	7	Wahab 2006; Vargas and Zamayoa 2018; Mueller 2012; Miner-Romanoff 2015; Clifasefi and Collins 2016; Clifasefi, Lonzak, and Collins 2017; Shaimah and Bailey-Kloch 2014
		Access to employment opportunities	6	Mueller 2012; Wahab 2006; Vargas and Zamayoa 2018; Miner-Romanoff 2015; Clifasefi, Lonzak, and Collins 2017; Shaimah and Bailey-Kloch 2014

		Connection to resources/information	5	Mueller 2012; Wahab 2006; Vargas and Zamayoa 2018; Miner-Romanoff 2015; Shaimah and Bailey-Kloch 2014
		Access to education opportunities	3	Mueller 2012; Miner-Romanoff 2015; Shaimah and Bailey-Kloch 2014
		Decreased drug misuse	3	Mueller 2012; Wahab 2006; Vargas and Zamayoa 2018
		Improving personal relationships	3	Wahab 2006; Miner-Romanoff 2015; Shaimah and Bailey-Kloch 2014
		Intensive/tailored care management	3	Camp 2018; Shaimah and Bailey-Kloch 2014; Clifasefi and Collins 2016
		Participants' reported positive feelings	3	Miner-Romanoff 2015; Shaimah and Bailey-Kloch 2014; Clifasefi and Collins 2016
		Improved interactions with police	1	Clifasefi and Collins 2016
		Prevent spread of HIV/AIDS	1	Wahab 2006
Quality of interactions	6	Participants' feelings towards program	6	Wahab 2006; Camp 2018; Mueller 2012; Miner-Romanoff 2015; Clifasefi and Collins 2016; Shaimah and Bailey-Kloch 2014
		Participants' feelings regarding interactions with program staff and service providers	5	Mueller 2012; Wahab 2006; Miner-Romanoff 2015; Shaimah and Bailey-Kloch 2014; Clifasefi and Collins 2016
		Willingness to voluntarily maintain relationship with program upon completion	2	Mueller 2012; Shaimah and Bailey-Kloch 2014
Accessibility and inclusivity	4	Reducing barriers to entry	5	Camp 2018; Mueller 2012; Miner-Romanoff 2015; Shaimah and Bailey-Kloch 2014; Clifasefi and Collins 2016
		Program eligibility criteria	1	Mueller 2012
		Accessibility of services	3	Mueller 2012; Shaimah and Bailey-Kloch 2014; Clifasefi and Collins 2016
Cost reduction	4	Reduced expenditures	4	Camp 2018; Collins, Lonzak, and Clifasefi 2019; Miner-Romanoff 2015; Roe-Sepowitz, Gallagher, Perez Loubert, and Tutelman 2014
Procedural improvements	4	Court decorum/efficiency	4	Camp 2018; Beckett 2014; Roe-Sepowitz, Gallagher, Perez Loubert, and Tutelman 2014; Miner-Romanoff 2015
		Protocol changes	1	Mueller 2012

Discussion

A PDP's eligibility criteria, goals, the metrics used to evaluate such goals, and the services offered to program participants reveal important information about the underlying values and assumptions of the program. We discuss here some key themes regarding the set of commitments, principles, and underlying assumptions that animate many PDPs by juxtaposing program goals, evaluation metrics, and services offered. These insights informed the development of our proposed evaluation rubric.

The predominance of mental health counseling, drug or alcohol treatment, and life skills counseling among the services offered reveals many programs' core assumptions about what sex work is, and the kind of assistance people need to exit sex work (with the added assumption of exit as a goal).

Some programs' explicit preference for trauma survivors, such as the Dallas-Fort Worth's *RISE Program* described above in the Eligibility section, reveals some PDPs' assumptions about the causes of sex work and the reasons why individuals engage in commercial sex work. Sex work is presented as a state of mind, an absence of life skills, an invariable consequence of substance abuse, or the result of trauma. The concept of trauma is a motivating and empathizing force to determine the types of interventions used. However, in the case of PDPs, it is ultimately useless in changing the social structures that cause trauma.⁷³ Comparatively little attention is paid to the economic dimensions of sex work, and/or material benefits such as housing or food security as part of sex workers' 'exit strategy'.

The predominance of PDPs aimed at women (cis or trans women) only, and the relative dearth of programs open to or targeted at male participants, also reveals that most PDPs operate based on the dichotomous understanding of sex work that sees women as sex workers and men as clients.

This is despite the growing body of literature pointing to the range of sexual and gender diversity among individuals in the sex trade, whether as workers or as clients.⁷⁴ It is also unclear to what extent programs are trans-inclusive in their participation criteria, and to what extent services are attentive to trans women.

Notably missing from most evaluations is a robust set of metrics assessing PDPs' success in increasing participants' stability, agency, and sense of control over their lives.

For example, few PDPs assess participants' access to housing, employment or other services that would stabilize their lives. In the evaluation we have suggested what one possible set of such metrics may look like. We identified only one program, the Baltimore City Specialized Pretrial Diversion (SPD) program, that utilized self-identified goals as developed by participants developed. In the case of one transgender participant, for example, receiving a name change was a major goal that was ultimately met.⁷⁵

⁷³ Leon, C. S., & Shdaimah, C. S. (2019). "We'll take the tough ones" -- expertise in multi-door justice: A case study of prostitution diversion. *New Criminal Law Review*, 22(4), 542–584. <https://doi.org/10.1525/nclr.2019.22.4.542>

⁷⁴ See, e.g., Jones, A. (2020). Where The Trans Men and Enbies At?: Cissexism, Sexual Threat, and the Study of Sex Work. *Sociology Compass*, 14, e12750; Rev, N. & Geist, F. M. (2017). Staging the Trans Sex Worker. *Transgender Studies Quarterly*, 4(1), 112-127; Global Network of Sex Work Project. (2015). Briefing Paper #09: The Needs and Rights of Trans Sex Workers. <https://www.nswp.org/sites/nswp.org/files/Trans%20SWs.pdf>; Appenroth, M. N. (2021). Trans men in sex work: Prevalent but overlooked. In Scott, J., Grov, C. & Minichiello, V (Eds.), *The Routledge Handbook of Male Sex Work, Culture, and Society* (352-362). Routledge; Minichiello, V., Scott, J. & Callander, D. (2015). A new public health context to understand male sex work. *BMC Public Health*, 15, 282; Oliveira, A. & Janssen, M.-L. (2021). Introduction: Special section 'female clients of commercial sex'. *Sexualities*, 24(4), 517–526.

⁷⁵ Bailey-Kloch, M., Shdaimah, C., & Osteen, P. (2016). Finding the right fit: Disparities between cisgender and transgender women arrested for prostitution in Baltimore. *Journal of Forensic Social Work*, 5(1-3), 82–97. <https://doi.org/10.1080/1936928x.2015.1115797>

Evaluators of both *LEAD* and Baltimore's *Specialized Prostitution Diversion Program* (SPD) conducted qualitative studies in which they assessed clients' feelings towards the programs and the quality of interactions with program staff. An example of how such a metric is employed to assess program success can be found in this quote from the evaluation of SPD:

"A number of participants told us that their belief that program staff were looking to help them—rather than 'catch them' when they relapsed or 'slipped up' made them more willing to be honest about their breaches and stay in or return to the program despite the temptation to give up. This was implicitly contrasted with their expectations of criminal justice professionals, who they rationally assumed would focus on apprehending, convicting, and punishing lawbreakers rather than providing assistance."⁷⁶

While there is merit to an evaluation that centers the perspectives and suggestions of the participants directly involved in the program, we note that individual participants' positive feelings towards a program or its staff should not stand in for the viewpoints of all participants, and should be complemented and contextualized by a rigorous assessment of the structure and usefulness of the program to participants.

We note that the common use of recidivism rates as a metric to measure participant and program success served multiple functions,⁷⁷ depending on the program, evaluation, and whether/how evaluators saw PDPs as part of a reform effort.

For some evaluators, reduced recidivism was important as a *proxy of reduced interactions with the carceral state*,⁷⁸ with authors noting the long-term and multifaceted individual and collateral community harms of punitive approaches and diversion as an ostensibly less punitive approach,⁷⁹ but also the impact of PDPs on criminal legal system utilization and reducing public costs related to arrests for prostitution crimes.⁸⁰

For other evaluators, reduced recidivism was a *proxy for evidence of participants exiting sex work*.⁸¹ The focus in this case was on lessened engagement in sex work itself rather than reduction in harm or an improvement in overall life conditions. Some studies linking recidivism to exiting sex work devoted analysis to "economic and personal costs"⁸² related to sex work, with one suggesting that "[g]iven the many risks associated with prostitution, helping women exit prostitution is an important goal."⁸³

They also forefronted the criminalization of sex work,⁸⁴ with the same study stating, "[g]iven that prostitution is illegal in most of the United States, it is important that there is evidence to support the widespread use of prostitution diversion programs as an intervention to help women leave or exit prostitution."⁸⁵ Relevantly, it also noted that criminalization posed an "immense" barrier to exit due to the collateral consequences of a criminal record.⁸⁶ In contrast, an evaluation

⁷⁶ Shdaimah, C. & Bailey-Kloch, M. (2014). "Can You Help With That Instead of Putting Me in Jail?": Participant Insights on Baltimore City's Specialized Prostitution Diversion Program. *Justice System Journal*, 35:3, 287, 294.

⁷⁷ See e.g., Collins, S. E., Lonczak, H. S. & Clifasefi, S. L. (2019). Seattle's Law Enforcement Assisted Diversion (LEAD): Program Effects on Criminal Justice and Legal System Utilization and Costs. *Journal of Experimental Criminology*, 15, 201-211; Dole, J. & Freeman, L. (2018). Evaluation of Santa Fe's LEAD Program: Criminal Justice Outcomes; New Mexico Sentencing Commission. (2018). Evaluation of LEAD Santa Fe: A Summary Report of Findings of a 3-Year Pilot Period; Muffic, L. R. & Updegrove, A. H. (2019). The Effectiveness of a Problem-Solving Court for Individuals Charged with Misdemeanor Prostitution in Harris County Texas. *Journal of Offender Rehabilitation*, 58(2), 117, 118.

⁷⁸ Muffic & Updegrove. (2019), at 127-28.

⁷⁹ Muffic & Updegrove. (2019), at 117-18.

⁸⁰ Collins, S. E., Lonczak, H. S. & Clifasefi, S. L. (2019). Seattle's Law Enforcement Assisted Diversion (LEAD): Program Effects on Criminal Justice and Legal System Utilization and Costs. *Journal of Experimental Criminology*, 15, 201, 206; Roe-Sepowitz et al. (2011), at 273.

⁸¹ Koegler, E., Preble, K. M., Cimino, A. N., Stevens, J. E. & Diehl, S. (2020). Examining Recidivism in a Prostitution Diversion Program. *International Journal of Offender Therapy and Comparative Criminology*, 64(2-3), 232-248; Roe-Sepowitz, D.E., Hickie, K.E., Pérez Loubert, M. & Egan, T. (2011). Adult Prostitution Recidivism: Risk Factors and Impact of a Diversion Program. *Journal of Offender Rehabilitation*, 50, 272-285.

⁸² Roe-Sepowitz et al. (2011), at 273.

⁸³ Koegler et al. (2020), at 234.

⁸⁴ Roe-Sepowitz et al. (2011), at 273.

⁸⁵ Koegler, E., Preble, K. M., Cimino, A. N., Stevens, J. E. & Diehl, S. (2020). Examining Recidivism in a Prostitution Diversion Program. *International Journal of Offender Therapy and Comparative Criminology*, 64(2-3), 232-233.

⁸⁶ Koegler et al. (2020), at 243.

questioning whether a diversion court was “preferable over a less intrusive alternative like community supervision” on the basis of days spent in jail on rearrest concludes with a call to consider decriminalization.⁸⁷

As noted, program completion, in itself, was often a metric used to measure participant success. Yet, engagement with a program proved to be an unstable predictor of benefits.

Some studies suggest participants who complete diversion programs may have some better outcomes compared to those who go through the ‘system as usual’,⁸⁸ (even in cases of partial completion for some metrics).⁸⁹ Other studies suggested that *those who do not or are unable to complete a program may, in some cases, face worse outcomes than both ‘successful’ program participants and individuals who were not enrolled in a diversion program at all.*

This outcome is particularly concerning given low rates of program completion.⁹⁰ While some programs have no adverse legal consequences for having tried diversion,⁹¹ many have punitive sanctions. The two most common responses for program non-completion nationally are bench warrants – likely followed by jail time if the individual is unable to post bail – or returning the case to the traditional court process.⁹² For post-arrest diversion programs, non-completion results in the criminal charges not being dismissed and/or expunged and remaining on the individual’s record.⁹³ Additional charges (potentially convictions) on the individual’s record may extend the length and intensiveness of mandated services if they are re-referred to the program in the future or impact the plea deal offered after mandate completion.

Notably, post-arrest programs may have plea requirements at program entry that limit an individual’s ability to fight a charge in court if they do not complete the program: some require participants plead guilty or no contest, or have unclear requirements. In our previous work, we note reports of participants pleading guilty when they were not required to do so.

In any case, PDP participation may lead to longer sentences for PDP participants than those who abstained from such programs, given that multiple studies into drug courts – a similar diversionary intervention – have found that unsuccessful participants faced longer sentences, including sentences exceeding customary plea prices, and higher recidivism risk.⁹⁴ Penalties for non-completion also mean that PDP participants face increased criminalization due to their required involvement in both the program and the traditional criminal legal response to criminalized conduct. Therefore, when evaluating the role of participants’ program completion in determining the success of a program, it is crucial that a comparison of outcomes between those who do and those who do not complete a diversion program is included in the evaluation of program success.

Moreover, diversion programs can have a “net widening” effect in programs such as Seattle LEAD, where police referral may occur without probable cause through *social contacts* in which police believe individuals are at high risk for future arrest.⁹⁵ This suggests that evaluations should also include impacts on those individuals who, but for this effect, would

⁸⁷ Muftic & Updegrave. (2019), at 128, 130.

⁸⁸ See summary in Blakey, J. M., Mueller, D. J. & Richie, M. (2017). Strengths and Challenges of a Prostitution Court Model. *Justice System Journal*, 38(4), 364,366.

⁸⁹ Roe-Sepowitz et al. (2011), at 282.

⁹⁰ For example, an evaluation of the CATCH Court in Columbus, Ohio found that the graduation rate for its first four years was 12%, rising to 21% in the fifth year: Miner-Romanoff et al. (2015)

⁹¹ Baltimore City’s Specialized Prostitution Diversion Program Shdaimah, C. & Bailey-Kloch, M. (2014). “Can You Help With That Instead of Putting Me in Jail?": Participant Insights on Baltimore City’s Specialized Prostitution Diversion Program. *Justice System Journal*, 35(3), 287, 290.

⁹² See Diversion from Justice, at 39.

⁹³ Muftic & Updegrave. (2019), at 119; Labriola, M., Reich, W. A., Davis, R. C., Hunt, P., Rempel, M. & Cherney, S. (2018). Prosecutor-Led Pretrial Diversion: Case Studies in Eleven Jurisdictions. Center for Court Innovation. 2.

⁹⁴ Wolf, R. V. (2008). Race, Bias, and Problem-solving Courts. *National Black Law Journal*, 21, 27, 40, 44.. Blakely et al. raised this literature to suggest that “some individuals who participate in prostitution courts and programs may be worse off than if they had abstained from the program, because many participants who fail to complete the program receive harsher sentences”: Blakey, J. M., Mueller, D. J. & Richie, M. (2017), at 366. See also Sevigny, E. L., Fuleihan, B. K. & Ferdik, F. V. (2013). Do drug courts reduce the use of incarceration?: A meta-analysis. *Journal of Criminal Justice*, 41(6), 416-425 (finding that any benefits realized from a lower incarceration rate from drug courts were offset by the long sentences imposed on participants when they failed the program) and Miethe, T. D., Lu, H. & Reese, E. (2000). Reintegrative Shaming and Recidivism Risks in Drug Court: Explanations for Some Unexpected Findings. *Crime & Delinquency*, 42, 522-541 (finding that higher recidivism risk for drug court participants compared to those processed outside drug court was due to drug court being more stigmatizing than conventional courts and not reintegrative enough in its orientation toward punishment)..

⁹⁵ See Diversion from Justice, at 33.

not have been involved in either PDPs or the criminal legal system. On a fundamental level, a low completion rate should be considered a *structural* issue of *program* success, indicating an inability of the program to meet participant needs, with careful attention also to the role that coercion plays in maintaining participants in programs that are not meeting their needs.

Comparing treatment of participants in a diversion program versus standard treatment in the criminal justice system, as many PDP evaluations do, ignores a wide range of possible other comparison points and possibilities for participants.

At best, diversion programs are pragmatic but notably not harm reduction-based programs, in the sense that they do not even extract the affected persons from one of the systems that is causing harm to their lives. These programs are based on the assumption that sex workers must go through the criminal legal system OR diversion: missing from this setup is the possibility of removing participants from surveillance and/or criminalization (whether in the context of pre-arrest diversion, post-arrest diversion, or the 'system as usual'), in order to be connected to and access the services offered by PDPs (and more) autonomously, rather than being bound by PDP requirements.

The threat of legal charges if an individual chooses not to participate in, or does not or is unable to complete, a PDP makes referral to these programs coercive,⁹⁶ even more so if it is not their first charge.

We argue that the structurally coercive nature of diversion in the context of criminalization of sex work must be accounted for in any program evaluation interested in measuring the extent to which a PDP respects and enhances participants' rights and agency. We have proposed metrics in the evaluation rubric that move beyond quality of interaction goals towards a rights-based analysis.

Looking across PDPs' stated goals, services offered, and the evaluation metrics used, some key values and assumptions begin to emerge, with only rare exceptions:

- One of these assumptions is that sex work is not a form of labor that persons engage in to meet their financial needs. Instead, sex work is presented as a lifestyle or mindset from which women need to be rescued. Thus, it is suggested that educating women about the inherently coercive nature of sex work is essential, and a core part of these programs and their goal of women's exit from sex work.⁹⁷
- Another assumption is that it is primarily women engage in sex work, and that this is because of sexual, physical, or emotional trauma and lack of life skills. Thus, it is suggested that responding to underlying trauma through counseling and equipping women with life skills training will effectuate exit from sex work, and be sufficient to do so, even if underlying trauma is pertinent as a causative factor.⁹⁸

⁹⁶ Wiechelt, S. A. & Shdaimah, C. S. (2011). Trauma and Substance Abuse Among Women in Prostitution: Implications for a Specialized Diversion Program. *Journal of Forensic Social Work*, 1, 159, 179; Wahab, S. & Panichelli, M. (2013). Ethical and Human Rights Issues in Coercive Interventions With Sex Workers. *Journal of Women and Social Work*, 28(4), 344-349.

⁹⁷ On sex work as work, see Global Network of Sex Work Projects. (2017). Policy Brief: Sex Work as Work; Holston-Zannell, L. B. (2020, June 10). *Sex Work is Real Work, and it's Time to Treat it That Way*. ACLU. <https://www.aclu.org/news/lgbtq-rights/sex-work-is-real-work-and-its-time-to-treat-it-that-way>. For an examination of the assumptions as they appears in studies, see Gerassi, L. (2015). A Heated Debate: Theoretical Perspectives of Sexual Exploitation and Sex Work. *Journal of Sociology and Social Welfare*, 42(4), 79-100.

⁹⁸ Roe-Sepowitz et al. have linked history of physical and sexual abuse and trauma symptoms to early dropout from a PDP: Roe-Sepowitz, D. E., Hickle, K. E., & Cimino, A. (2012). The impact of abuse history and trauma symptoms on successful completion of a prostitution-exiting program. *Journal of Human Behavior in the Social Environment*, 22, 65-77. The focus on emergency or trauma assessments in PDPs also means less concern is given to fundamental and structurally-relevant resources such as stable housing, economic opportunities, and immigration assistance, which are some of the common needs voiced by advocates for sex worker health and rights. When participants cannot access resources to meet basic needs like adequately- paid employment or stable housing, engaging in a treatment plan for a substance use issue or another medical or social service challenge is made much more difficult: see Diversion from Justice, at 34; Dank, M., et. al. (2015). *Surviving the Streets of New York* Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex. Urban Institute.

- A third common assumption is that sex work and substance abuse are inextricably linked, and thus abstinence from both is defined as the goal, although at least one evaluation engaged with this assumption to inform PDP implementation.⁹⁹

The centrality of these core assumptions and values to the majority of PDPs calls into question their validity for participants who may not wish to exist sex work or stop using drugs, as well as for those who do but may fail to achieve these goals through the course of the program because of personal or contextual circumstances. These may include, but are not limited to, financial precarity, lack of alternative livelihood options, pre-existing criminal records, struggles with addiction, mental or physical disabilities, and lack of stable housing.

The assumption that sex work or drug use are undesirable practices to be discouraged inevitably undergirds all PDPs to some extent, given that the criminalization of these activities makes the existence of diversion necessary in the first place.

Evaluations should aim to capture the limitations of these core assumptions and values, including by measuring the degree to which PDPs are respectful of the subjectivity and rights of participants who cannot or do not want to cease these activities at the time of their participation in the program.

⁹⁹ Wiechelt, S. A. & Shdaimah, C. S. (2011), at 162 (citations omitted) ("not all women in prostitution abuse substances and not all women who abuse substances engage in prostitution. The argument that drug use primarily causes women to enter or remain in prostitution is specious in that it fails to capture the cascade of factors that influences prostitution behaviors among women and essentializes the relationship between these constructs.")

Appendix B: Development Process and Methods

The development of the evaluation rubric progressed in **three phases**:

In the **first phase**, GHJP students and fellows conducted an initial desk research review of existing PDPs and the metrics used by evaluators to assess their impact, as well as literature on non-coercive, justice-oriented, and rights-based service provision. A full list of the programs reviewed is provided in **Appendix C**. This research and analysis was supplemented by interviews with key stakeholders, including legal experts working within diversion court circles, diversion program coordinators, community activists, and academic researchers. Initial research and interviews occurred over 2019-2021, with updated literature reviews in 2022.

In the **second phase**, we conceptualized an alternative set of metrics to create an evaluation rubric for PDPs grounded in valuing the dignity, agency, and equity of participants. To do so, we reviewed literature on consent and coercion in program delivery, the integration of equity indicators into program success metrics, and participatory monitoring and evaluation. We also interviewed evaluation experts who have sought to incorporate similar values in their work.

We conducted interviews with 14 key informants and experts across the first two phases, including 5 academic experts, 7 community-based experts, and 2 diversion program officers. Experts were based across the United States. Interviews are covered by an exemption obtained from the Yale Institutional Review Board (IRB) to conduct key stakeholder and subject matter expert interviews. Participants were recruited through a snowball recruitment method, meaning that the first interviewees were recruited based on convenience and then asked to provide referrals to other relevant stakeholders. Interviewees were asked about the strengths and weaknesses of current PDP evaluation metrics generally, and of diversion programs overall in the jurisdiction where they were based; relationships between the police and the community and how it affected diversion programs; and alternative measures of evaluation that the interviewee thought should be considered. A summary of interview themes is included in **Appendix D**.

Our literature review in 2020-21 and updated in 2022 included a range of conceptual materials, summaries and surveys of different programs, and studies and evaluations of PDPs and other types of diversion programs. Ultimately, our analysis of existing rubrics includes 17 publications: 9 peer reviewed publications in journals, 7 white paper reports, and 1 student thesis evaluating prostitution-related diversion programs. Some examined prostitution specific programs, whereas others evaluated diversion programs, such as LEAD, that target a range of low-level non-violent offenses, including prostitution. Evaluations by faculty members at universities in the jurisdictions considered were typically published in disciplinary peer-reviewed journals, while the evaluations of nonprofit organizations and governmental agencies were published as white papers. Evaluations examined diversion courts in Baltimore, Maryland; Harris County and Dallas, Texas; Philadelphia and Pittsburgh, Philadelphia; New York City, New York; Phoenix, Arizona; Las Vegas, Nevada; Sacramento, California; Salt Lake City, Utah; Wilmington, Delaware; Seattle, Washington; Wayne County, Michigan; Cook County Maywood, Illinois; Portland, Oregon; Minneapolis, Minnesota; and Franklin County, Ohio. A full bibliography is provided in **Appendix E**.

In the **third phase**, we circulated a draft concept paper to the key informants and experts consulted during the first two phases, as well as additional participants, collecting their feedback, and engaging them in critical discussion through roundtable workshops. Participants in these discussions were asked to consider the representativeness and rigor of our review of existing PDP evaluations and their metrics; whether our proposed alternative rubric engaged the right issues,

values and framing; to reflect on who else should be brought into the rubric's development and future implementation; and how we might engage stakeholder groups in feedback and revision processes. A full list of the questions provided to participants is included in **Appendix F**. We then revised the concept paper in line with their feedback.

The proposed evaluation rubric is the product of this multi-stage process involving integrated research, interviews, collaborative expert discussion and revision.

Appendix C: Diversion Programs Examined

Diversion program	Location
CATCH Court *	Franklin County, OH
New Futures	Baltimore, MD
SAFE Court	Harris County, Texas
Project RESET	Sacramento, CA
Phoenix Court	Travis County, TX
GIFT Court*	Minnesota
Project ROSE	Phoenix, AZ
Specialized Prostitution Diversion Program (SPD)	Baltimore, MD
Phoenix Prostitution Diversion Program	Phoenix, AZ
PRIDE Court*	Pittsburgh, PA
Prostitution Diversion Project (PDP)	Salt Lake City, UT
Project Dawn Court*	Philadelphia, PA
Law Enforcement Assisted Diversion (LEAD)	Seattle, WA
Trauma-Informed Probation Court*	Wilmington, DL
WIN Court*	Las Vegas, NV
Midtown Community Court*	New York City, NY
WINGS Project*	Chicago, IL
Brooklyn Criminal Court*	New York City, NY
Queens County Criminal Court*	New York City, NY
Bronx Community Solutions*	New York City, NY
PRIDE Court*	Dallas, TX
STAR Court*	Dallas, TX
Misdemeanor prostitution court call with Pillars and Footprints programs	Cook County Maywood, IL
Project Fresh Start	Wayne County, MI

New Options for Women (NOW)	Portland, OR
Prostitution Diversion Initiative/New Life	Dallas, TX
Specialized Pre-trial Diversion Program at the Early Resolution Court	Baltimore, MD

*PDPs with an asterisk were included in a single study, with some overlap with other studies: Mueller, D. (2012). Treatment Courts and Court-Affiliated Diversion Projects for Prostitution in the United States.

Appendix D: Interview Themes

The scope of each of our interviews was tailored to the expertise, experience and focus areas of specific interviewees. In general, interviews sought to examine the following themes:

Evaluation Conception

- What counts as an evaluation study and evaluation research?
- What are the ways that people do program evaluation? How is it done well? How are evaluations updated?
- What does a successful rubric evaluating programs for sex workers and programs that may be applied to victims of trafficking look like?
- What other evaluation models center equity, dignity, and non-coercion? How do they conceptualize and operationalize these ideas in ways that can be applied to specific programs, and that are most important to program users?
- What was the process of putting different evaluation tools together? What literatures did evaluators find useful?
 - What are the histories and discourses around sex, family, criminal law, labor and markets, sex work, trafficking and reproductive health and justice that contribute to why sex work is criminalized, and shape the operations of these programs?
 - What conceptualizations of coercion and autonomy can inform the exploration of monitoring, and mandated services (including service availability and array) by different PDPs?
 - How have mental health courts and treatment courts been evaluated?
- How should 'success' be defined? What metrics have been used in different evaluation tools? What metrics did evaluators decide to stay away from?
 - In our preliminary research, we found that diversion programs that are operating today gauge "success" on measures like recidivism, successful completion of the program, etc. What are the limitations of measuring success based on these metrics? Who are the metrics, and their retention, important for? What other measures should we suggest?
 - What types of considerations should be included about the reproductive health needs and autonomy of sex workers and people who are going through PDPs?
- What does it mean for evaluation tools to be available, accessible and useful?
- How do evaluators engage relationships with local stakeholders and balance different priorities among these stakeholders? How is this represented in what is included or not in evaluation rubrics?
 - How does the experience and expertise of sex workers direct conception and the process of evaluation?
 - What has been included in police training? What is the role of relationships with or the perspectives of police, given that many people are trying to remove law enforcement from interacting with vulnerable populations and focus more on community services?

Relevant Aspects of the Operation of PDPs

- What are the weaknesses and strengths of the LEAD model, and its different implementations? What are the weaknesses and strengths of other programs?
- What work is being done now in terms of court operations, communications, and dynamics, and knowledge and expertise around understandings of sex work, trafficking, substance use, trauma, harm reduction, etc.?
- What factors are preventing PDP completion?
- How is the need for adequate structural support (adequate housing support, healthcare support, employment and academic options, etc.) addressed? How does this impact the 'success' of people who go through diversion programs? If there were enough of these resources for everyone who needed them, would that affect program completion? What other resources need to be provided? How must this support be analyzed?
- How do diversion programs differentially engage and function for Black and Brown people, and other people targeted by the criminal legal system differently? How do they function for massage workers? To what extent are undocumented people given the option of diversion programs? How are LGBTQ people / people with disabilities / young people treated?
- How are people across different populations and needs connected to appropriate services? How are services and the training of those providing services evaluated? How are provider relationships compromised by court involvement?
- Are there ways for sex workers to have individualized plans for success? What does that look like?
- How do the programs engage with trafficking? Should there be other methods for screening for trafficking?
- What are the health impacts of PDPs? How do they engage with or impact the social determinants of health? How does a health, healthcare or medical framing impact conceptions of success?
- Are PDPs in any way a beneficial next step toward addressing the criminalization of sex work? How do they address other non-prostitution offenses related to sex work or used to arrest sex workers?
- What are the alternatives to incarceration? What are the alternatives to diversion courts? What is the state of PDPs? What comes next?
 - What have been effective ways of enacting reform from the grassroots, particularly by sex workers' rights groups?

Appendix E: Literature Review Bibliography

Evaluations

17 studies were ultimately included in our survey of evaluation metrics in Ap: 11 examining prostitution diversion program and 6 examining Seattle's Law Enforcement Assisted Diversion (LEAD) program, which includes individuals with prostitution charges. The studies included evaluate diversion programs according to clearly established and defined metrics. Studies without such metrics were not included. In some cases, the decision to include a study or not was less clear, so a table in this appendix provides our reasoning in those cases.

PDP Evaluations

Camp, T. (2018). Phoenix Court: An Evaluation of Travis County's Prostitution Diversion Program.

Koegler, E., Preble, K. M., Cimino, A. N., Stevens, J. E. & Diehl, S. (2020). Examining Recidivism in a Prostitution Diversion Program. *International Journal of Offender Therapy and Comparative Criminology*, 64(2-3), 232-248.
Doi:10.117/0306624X19866115

Miner-Romanoff, K. (2015). CATCH Court: Changing Actions to Change Habits – A Preliminary Evaluation Study. *Journal of Human Trafficking*, 3(2), 1-27.

Mueller, D. (2012). Treatment Courts and Court-Affiliated Diversion Projects for Prostitution in the United States.

Muftic, L. R. & Updegrove, A. H. (2019). The Effectiveness of a Problem-Solving Court for Individuals Charged with Misdemeanor Prostitution in Harris County Texas. *Journal of Offender Rehabilitation*, 58(2), 117-132.
Doi:10.1080/10509674.2018.1562506

Roe-Sepowitz, D.E., Gallagher, J., Hickie, K.E., Pérez Loubert, M. & Tutelman, J. (2014). Project ROSE: An Arrest Alternative for Victims of Sex Trafficking and Prostitution. *Journal of Offender Rehabilitation*, 53, 57-74.
Doi:10.1080/10509674.2013.861323

Roe-Sepowitz, D.E., Hickie, K.E., Pérez Loubert, M. & Egan, T. (2011). Adult Prostitution Recidivism: Risk Factors and Impact of a Diversion Program. *Journal of Offender Rehabilitation*, 50, 272-285.
Doi:10.1080/10509674.2011.574205

Shdaimah, C. & Bailey-Kloch, M. (2014). "Can You Help With That Instead of Putting Me in Jail?": Participant Insights on Baltimore City's Specialized Prostitution Diversion Program. *Justice System Journal*, 35(3), 287-300.
doi:10.1080/0098261X.2013.869154

Svirdoff, M., Rottman, D., & Weidner, R. (2020). Dispensing Justice Locally: The Impact, Costs and Benefits of the Midtown Community Court. Retrieved November 4, 2022, from <https://www.ojp.gov/library/publications/dispensing-justice-locally-impact-costs-and-benefits-midtown-community-court>

Vargas, K., & Zamayoa, S. (2018). Program Evaluation of RESET (A Prostitution Diversion Program). Division of Social Work, California State University Sacramento.

Wahab, S. (2006). Evaluating the Usefulness of a Prostitution Diversion Project. *Qualitative Social Work*, 5:1, 67-92. doi:10.1177/1473325006061539

LEAD Evaluations

Becket, K. (2014). Seattle's Law Enforcement Assisted Diversion Program: Lessons Learned from the First Two Years.

Clifasefi, S. L. & Collins, S. E. (2016). LEAD Program Evaluation: Describing LEAD Case Management in Participants' Own Words.

Collins, S. E., Lonczak, H. S., & Clifasefi, S. L. (2015, March 27). LEAD Program Evaluation: Recidivism Report.

Clifasefi, S. L., Lonczak, H. S. & Collins, S. E. (2017). Seattle's Law Enforcement Assisted Diversion (LEAD) Program: Within-Subjects Changes on Housing, Employment ,and Income/ Benefits Outcomes and Associations With Recidivism. *Crime & Delinquency*, 63(4), 429-445.

Collins, S. E., Lonczak, H. S. & Clifasefi, S. L. (2017). Seattle's Law Enforcement Assisted Diversion (LEAD): Program Effects on Recidivism Outcomes. *Evaluation and Program Planning*, 64, 49-56.

Collins, S. E., Lonczak, H. S. & Clifasefi, S. L. (2019). Seattle's Law Enforcement Assisted Diversion (LEAD): Program Effects on Criminal Justice and Legal System Utilization and Costs. *Journal of Experimental Criminology*, 15, 201-211.

Ambiguous Cases

Study	Included?	Reasons
Amara Legal Center. (2018). Survey of United States Diversion Programs: Sex Work and Sex Trafficking.	No	Assessed a variety of programs (not necessarily PDPs) aimed at helping sex workers in all 50 states, but does not itself have a metric by which to evaluate them all.
Blakey, J. M., Mueller, D. J., & Richie, M. (2017). Strengths and challenges of a prostitution court model. <i>Justice System Journal</i> , 38(4), 364–379. https://doi.org/10.1080/0098261x.2017.1327335	No	There was no predetermined measure of success in this study. Rather, the study attempted to focus on what the participants and court officials themselves identified as the major strengths and weaknesses of the court. Provides helpful insights but this study does not present any outcome data related to the SEPP program participants.
Mueller, D. (2012). Treatment Courts and Court-Affiliated Diversion Projects for Prostitution in the United States.	Yes	The evaluations gave an overview of a multitude of PDPs—how, when, and why they began, what the court model looks like, eligibility of participants, program details, funding, outcomes/success of the program, and greatest challenges. Provided a robust set of data about several programs even if success was not measured on the researcher's own set of criteria
Roe-Sepowitz, D. E., Gallagher, J., Hickie, K. E., Pérez Loubert, M., & Tutelman, J. (2014). Project Rose: An arrest alternative for victims of sex trafficking and prostitution. <i>Journal of Offender Rehabilitation</i> , 53(1), 57–74.	Yes	This study did not include a rubric of criteria, but does specifically evaluate Project ROSE with respect to PDP completion and recidivism rates.
Shdaimah, C., & Bailey-Kloch, M. (2014). "Can you help with that instead of putting me in jail?": Participant insights on Baltimore City's specialized prostitution diversion program. <i>Justice System Journal</i> , 35(3), 287–300.	Yes	The PDP itself did not have formal written criteria for what constitutes successful completion, but the evaluators used program participants' and staff's understanding of the program's goals as metrics by which to measure success.
Tallon, J. A., Spadafore, J. C., & Labriola, M. (2016). Creating off-ramps: Lessons learned from police-led diversion programmes. <i>Policing</i> .	No	This study is more of a descriptive article than an impact evaluation and did not test whether specific types of programs or programs in particular sites reduced collateral consequences, reduced recidivism, or achieved other quantifiable outcomes.
Wahab, S., & Panichelli, M. (2013). Ethical and human rights issues in coercive interventions with sex workers. <i>Affilia</i> , 28(4), 344–349.	No	Critiques Project ROSE based on social work ethical standards and how this program violates standards of informed consent and right to full participation, but does not systematically evaluate it as a PDP besides its own metrics.

General Bibliography

These studies included useful background information, but were not included in our survey of evaluation metrics because they did not include defined metrics:

Schweig, S., Malangone, D., & Goodman, M. (2012). Prostitution Diversion Programs. *Center for Court Innovation*.
<https://www.courtinnovation.org/publications/prostitution-diversion-programs>

Dank, M., Yahner, J. & Yu, L. (2017). Consequences of Policing Prostitution: An Analysis of Individuals Arrested and Prosecuted for Commercial Sex in New York City.

Fehrenbacher, A. E., Park J. N., Footer K. H. A., Silberzahn, B. E., Allen, S. T., & Sherman, S. G. (2020). Exposure to Police and Client Violence Among Incarcerated Female Sex Workers in Baltimore City, Maryland. *American Journal of Public Health*, 110(S1), S152-S159. Doi:10.2105/AJPH.2019.305451

Gruber, A., Cohen, A. J. & Mogulescu, K. (2016). Penal Welfare and the New Human Trafficking Intervention Courts. *Florida Law Review*, 68, 1333-1402.

Hunter, S. B. & Scherling, A. (2019). Los Angeles County Office of Diversion and Reentry's Supportive Housing Program: A Study of Participants' Housing Stability and New Felony Convictions.

Kendis, B. (2019). Human Trafficking and Prostitution Courts: Problem Solving or Problematic. *Case Western Reserve Law Review*, 69(3), 805-841.

Kennedy M. A., Klein, C., Gorzalka, B. B. & Yuille, J. C. (2004). Attitude Change Following a Diversion Program for Men Who Solicit Sex. *Journal of Offender Rehabilitation*, 40(1/2), 41-60. Doi: 10.1300/J076v40n01_03

Kopak, A. M. & Frost, G. A. (2017). Correlates of Program Success and Recidivism among Participants in an Adult Pre-Arrest Diversion Program. *American Journal of Criminal Justice*, 42, 727-745. Doi:10.1007/s12103-017-9390-x

Preble, K. M., Praetorius, R. T. & Cimino, A. (2016). Supportive Exits: A Best Practices Report for a Sex Worker Intervention. *Journal of Human Behavior in the Social Environment*, 26(2), 162-178.
Doi:10.1080/10911359.2015.1082852

Shively, M., Jalbert S. K., Kling, R., Rhodes, W., Finn, P., Flygare, C. Tierney, L., Hunt, D., Squires, D., Dyou, C. & Wheeler, K. (2008). Final Report on the Evaluation of the First Offender Prostitution Program: Report Summary.
<https://nij.ojp.gov/library/publications/final-report-evaluation-first-offender-prostitution-program-report-summary>

Shively, M., Kliorys, K., Wheeler, K. & Hunt, D. (2012). A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts, Final Report. <https://nij.ojp.gov/library/publications/national-overview-prostitution-and-sex-trafficking-demand-reduction-efforts>

Valente, B.M. (2019). Treatment with a Side of Stigma: The Influence of Sex Work Stigma on the Chicago Prostitution and Trafficking Intervention Court. *DePaul Law Review*, 68(4), 777, 785-786. <https://via.library.depaul.edu/law-review/vol68/iss4/5/>

Appendix F:

Questions for Roundtable Discussion Participants

1. Are PDPs becoming more or less widespread, in your experience? Are they being sustained, newly established or closed? Are they changing shape, and what factors are informing those trends? Is a framework that references both past/ended and current programs useful?
2. Does the concept paper adequately describe and analyze key existing PDP evaluations and their metrics?
3. What other aspects of PDPs (e.g., funding, role of decision-makers, etc.) should be analyzed as part of this report?
4. Does the proposed evaluation rubric capture the right issues, and are there key concepts, values, issues, or considerations missing?
5. We set up this rubric to evaluate PDPs according to specific guiding principles: autonomy, accountability, personhood, structural competency, and equity.
Alternatively or additionally, one could explicitly evaluate specific political commitments, and structural outcomes, such as ending police surveillance, penal welfare and court control?
In your opinion, what are the strengths and weaknesses for either framing? Do you prefer one or the other?
6. Do you have a sense of who else is thinking about alternative forms of evaluation for PDPs, or other similar court diversion programs, and which other audiences or allies for this work should be included?
7. One goal of this project is to use this evaluation tool to build dialogue with stakeholder groups on whether and how they are using it (within and beyond the PDP context), and to engage them in feedback and revision processes (regarding both the rubric and their findings through its use)? Reactions or thoughts for how this could best be done would be appreciated.
 - a. What is/are the best form/s for this kind of proposed alternative evaluation? [short note/policy paper, academic paper, longer gray literature report etc?]
 - b. Who else might be interested in evaluation rubrics as a form of intervention into programming, in criminal legal settings, in health care or other service settings?
8. Does the concept paper adequately describe and analyze key existing PDP evaluations and their metrics?
9. What other aspects of PDPs (e.g., funding, role of decision-makers, etc.) should be analyzed as part of this report?
10. Are there any additional people we should be speaking to?
11. Are there any additional PDPs or evaluations we should be engaging with?