

The Highest Paying Customers: America's Cities and the Costs of Prostitution Control

This study begins with some troubling statistics. Residents and visitors in the city of Dallas reported over 15,000 violent crimes in 1985,¹ only 2665 of which resulted in arrest.² That same year, Dallas police made 7280 prostitution arrests,³ which cost local taxpayers over \$10 million.⁴ More importantly, these prostitution arrests cost taxpayers over 300 hours daily, or 2170 hours weekly, of precious police manhours.⁵ Dallas residents pay a high price for police protection; indeed, theirs is the eighth largest city police budget in the nation.⁶ They might expect a higher arrest rate for violent crimes. However, arrests for prostitution, a misdemeanor, exact a disproportionately high toll on law enforcement resources.

The situation in Dallas is not unique. This study focuses on sixteen of the nation's largest cities, in which only 28% of reported violent crimes result in arrest.⁷ On average, police in these cities made as many arrests for prostitution as for all violent offenses. Last year, police in Boston, Cleveland, and Houston arrested twice as many people for prostitution as they did for all homicides, rapes, robberies, and assaults com-

1. FEDERAL BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, 1985 UNIFORM CRIME REPORTS 104 table 6 (1986) [hereinafter UNIFORM CRIME REPORTS]. Violent crimes include murder, voluntary manslaughter, forcible rape, robbery, and aggravated assault (attacks usually accompanied by the use of weapons or other means likely to produce death or severe bodily harm). *Id.* at 41 n.4. Arson is also included whenever possible, but official reports of this offense are incomplete. *Id.* n.3.

2. Telephone interview with Charlene Kane, Uniform Crime Reporting Div., Texas Dep't of Public Safety (Feb. 2, 1987); see *infra* table 2 col. c. The tables appended to this Note are based on telephone interviews with city vice officers, city police department records officials, state crime reporting authorities, and statistics from UNIFORM CRIME REPORTS, *supra* note 1, and BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 1985 (1986) [hereinafter SOURCEBOOK 1985]. Interviews were conducted in May 1985 and February 1987 with police officials in 20 of the 22 cities in the United States with populations greater than 500,000 (based on 1985 estimates). See Introduction to the Tables, *infra*. All quotations and police information referred to in this study, except as otherwise indicated, may be found in the transcripts of these interviews on file with *The Hastings-Law Journal*.

3. See *infra* table 2 col. e.

4. See *infra* table 4 col. d.

5. See *infra* table 1 col. d.

6. Jackson, *Police, Fire and Refuse Collection*, in THE MUNICIPAL YEARBOOK 1986, at 137 table 4/10 (1986).

7. See *infra* table 2 cols. a & c; see also UNIFORM CRIME REPORTS, *supra* note 1, at 156 table 20.

bined, while perpetrators evaded arrest for 90% of these violent crimes.⁸

Although there is no record of an increase in prostitution offenses anywhere in the nation, records do show a 32% growth in reported violent crime between 1976 and 1985.⁹ The police response to this problem is puzzling: arrests for violent crime rose only 3.7% in those ten years, compared with a 135% increase in prostitution arrests.¹⁰ Moreover, arrests for serious property crimes decreased 3% during this period,¹¹ and arrests for homicide and robbery dropped 15%.¹²

Police indicate that they are likely to continue to spend increasing amounts of time making prostitution arrests, even though their time thus spent seldom serves to deter other, more serious offenses. The volume of arrests, according to law enforcement officials interviewed throughout the country, stems largely from police recognition of prevailing judicial attitudes; usually an offender must be arrested several times before a jail sentence is imposed.¹³ Officials also explained that prostitution arrests are very time consuming. The vast majority of police manhours consumed in these arrests is spent indoors, where the public is afforded no additional protection.¹⁴

These apparently inescapable costs of enforcing prostitution laws are incurred in the face of increasing charges from various sectors of society that these laws fail to attain the benefits sought by prohibiting prostitution. As with all matters to which we commit ourselves both financially and philosophically, we should make an informed decision on the merits of prostitution laws.

Although policy decisions in this area would be greatly informed by a direct cost-benefit analysis, such a methodology has been almost relig-

8. See *infra* table 2 cols. c-f.

9. UNIFORM CRIME REPORTS, *supra* note 1, at 41 table 1.

10. SOURCEBOOK 1985, *supra* note 2, at 414 table 4.3.

11. *Id.* Property crime, as referred to herein, includes burglary, larceny-theft, and motor vehicle theft.

12. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, CRIME IN THE UNITED STATES 1984, at 166 (1985).

13. The explanation for the courts' reluctance to incarcerate prostitutes is twofold. One explanation derives from judges' "personal beliefs about the seriousness of the crime." Telephone Interview with Sergeant Daniel Lawless, Vice Crimes Section, New Orleans Police Dep't (May 28, 1985) [hereinafter New Orleans Interview]. A second explanation involves the severe overcrowding in women's jails. Seventy percent of those arrested are women, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 1984, at 489 table 4.9 (1985) [hereinafter SOURCEBOOK 1984], and women's jails are generally far more overcrowded than men's. Forty percent of all jails contracting with other jurisdictions to house prisoners in 1981-82 listed as their reason "inadequate housing for females." No jail listed inadequate housing for males as its reason for contracting. KERLE & FORD, THE STATE OF OUR NATION'S JAILS 177-79 (Nat'l Sheriffs' Ass'n ed. 1982).

14. Over 90% of police time relating to prostitution arrests is spent at the precinct station, in court, in hotel rooms, bars, or massage parlors. See *infra* text accompanying notes 77-81.

iously avoided. Commentators have long debated the more philosophical elements of our policy on prostitution. Civil libertarian literature, for example, abounds with arguments for "individual freedoms" and against the state's "legislation of morality."¹⁵ Other writers counter that citizens are bound together by their shared ethical standards, and that society would disintegrate without a legally enforced morality.¹⁶

Surely this important debate—this tension between notions of liberty and moral restraint—will never be resolved. At most, one may expect alternating periods of quiescence and activity by one camp or the other. More practical questions, however, relating to the material gains and losses of various legal stances toward prostitution, may be more rationally presented and answered. Indeed, such an approach acknowledges the inevitable: that the task of defining the state's role in moral matters is best left to philosophers and constitutionalists. The aim of this study is rather to provide a comprehensive analysis of the material factors involved in the enforcement of prostitution laws.

Only three studies, conducted between 1977 and 1980, have attempted to measure the costs of prostitution control efforts.¹⁷ Each of these studies, however, focuses on a single city and uses a methodology that yields incomplete cost estimates. Moreover, while dozens of other commentators have argued that enforcing prostitution laws takes too much police time away from the prevention of violent and property crime,¹⁸ no American study has ever measured the actual amount of time police spend arresting and prosecuting prostitutes. This study considers the public costs of the enforcement of prostitution laws.¹⁹ Its cost analysis includes estimates of the police manhours involved, derived from nearly one hundred hours of interviews with law enforcement officials and prostitutes' representatives throughout the nation. It discusses the costs of prostitution control in two respects: (1) expenditures of public

15. Rosenbleet & Pariente, *The Prostitution of the Criminal Law*, 11 AM. CRIM. L. REV. 373, 375-76 (1973). See generally H. PACKER, *THE LIMITS OF THE CRIMINAL SANCTION* (1968); G. Dworkin, *Fatalism*, in *MORALITY AND THE LAW* (R. Wasserstrom ed. 1971); M. Haft, *Legal Arguments: Prostitution Laws and the Constitution*, in *PERSPECTIVES ON PROSTITUTION* (J. James ed. 1980); Richards, *Commercial Sex and the Rights of the Person: A Moral Argument for the Decriminalization of Prostitution*, 127 U. PA. L. REV. 1195 (1979).

16. See, e.g., L. DEVLIN, *THE ENFORCEMENT OF MORALS* (1959); E.M. SCHUR & A. BEDAU, *VICTIMLESS CRIMES: TWO SIDES OF A CONTROVERSY* (1974); Cohen, *Moral Aspects of the Criminal Law*, 49 YALE L.J. 987 (1940).

17. See *infra* note 42 and accompanying text.

18. See, e.g., J. DECKER, *PROSTITUTION: REGULATION AND CONTROL* 353-54 (1979); Swigert, *Public Order Crime*, in 21 MAJOR FORMS OF CRIME: SAGE CRIMINAL JUSTICE SYSTEM ANNUALS 95 (R. Meier ed. 1984); Vorenberg & Vorenberg, *The Biggest Pimp of All: Prostitution and Some Facts of Life*, THE ATLANTIC MONTHLY, Jan. 1977, at 27; Note, *A Proposal for the Legalization of Prostitution in Connecticut*, 49 CONN. B.J. 162 (1975).

19. See *supra* note 2. This study, however, is neither exhaustive nor statistically exact. Limitations on its findings are discussed *infra* in the Introduction to the Tables.

funds, and (2) decreased protection from other crimes. Both discussions focus primarily on the amount of time police officers spend in the arrest and prosecution of prostitutes.

The first section of this Note measures the dollar cost of prostitution enforcement through analysis of police, judicial, and correction costs, and then measures and assesses the nonmonetary costs of prostitution enforcement. In the second section, these costs are balanced against the benefits sought by prohibiting prostitution and the perceived priorities of law enforcement efforts.

I. The Costs of Prostitution Control

The author of this Note completed detailed cost analyses for sixteen of the nation's largest cities, which are divided into two size groups: those with populations exceeding one million (the "Big Six"), and those with populations between 500,000 and one million (the "Second Cities").²⁰ Predictably, the prevalence of both prostitution and related law enforcement efforts correlates positively to the size of a city's population. Over 85% of all prostitution arrests in this country are made in fifty-five cities, and a large percentage of those arrests occurs in the twenty-three largest cities. Prostitution is apparently not a major concern to law enforcement officials in most smaller cities. Those with 25,000 to 50,000 inhabitants, for example, reported an average of only three prostitution arrests in 1983. The arrest rate per 100,000 residents in the nation's fifty-four largest cities was twenty-three times higher.²¹

A: Expenditures of Public Funds

In 1985, the cities in this study spent an average of approximately \$7.5 million enforcing prostitution laws. This sum is more than some cities, such as Los Angeles, Dallas, Phoenix, San Diego, and New Orleans, spent on all health services and hospitals in 1982. Half of the cities studied spent more on prostitution control than on either education or public welfare.²² The estimated expenditures on prostitution arrests of all sixteen cities combined were over \$120 million. Such expenditures

20. All six United States cities with populations over one million were included in this analysis. Although there are 17 "Second Cities" by population size, the data required for this analysis was available from police departments in only 10 of those cities. See Introduction to the Tables, *infra*, for further explanation and for geographical distribution data.

21. SOURCEBOOK 1984, *supra* note 13, at 456 table 4.2.

22. U.S. BUREAU OF THE CENSUS, CITY GOVERNMENT FINANCES IN 1981-82, Series GF82, No. 4, at 1-3 (1984) [hereinafter CITY GOVERNMENT FINANCES]. Los Angeles, for example, spent thirteen times as much money controlling prostitution in 1985 as it had spent in 1982 on all health care and hospitals. *Id.* at 101. Although most public education is funded by the states, cities decide whether and how much to supplement state funding of local education.

fall into three categories: (1) police costs, (2) judicial costs, and (3) corrections costs.

(1) *Police Costs*

Police costs account for over 40% of all public funds expended to enforce prostitution laws. This figure is not surprising given the amount of police time required for each arrest. Officers working in pairs spend an average of twenty-one hours per arrest, which includes the time required to: (1) obtain a solicitation from, and make an arrest of, a suspected prostitute or customer; (2) transport the arrestee to the police station or detention center; (3) complete fingerprinting and identification processes; (4) write and file a report; and (5) testify in court. This fifth duty absorbs the majority of each arresting officer's twenty-one hours.²³

All vice officers interviewed said that prostitution arrests are far more difficult to make than civilians realize. Most arrests are accomplished either by the "decoy" method, in which male undercover officers pose as customers or, much less frequently, by having female officers pose as prostitutes.²⁴ The officer may legally make the arrest only after the suspect has explicitly solicited the officer for the purpose of engaging in prostitution. The problem, according to the police, is that officers have previously arrested many prostitutes in a given area of the city; most of these prostitutes are now back on the same streets or in the same hotels, and they are all too familiar with the officers' faces and cars. San Francisco police, frustrated with these obstacles to arrest, recently gave one prostitute fifty-four citations over a three month period for "obstructing the sidewalk," resulting finally in a sixty-day jail sentence.²⁵

Moreover, when the former arrestees spot these officers, they warn nearby, unknowing prostitutes not to solicit. Vice squad police report that they are thus compelled to find new "subterfuges"²⁶ and "sneaky" techniques.²⁷ In Los Angeles, for example, vice officers commonly recruit police patrolmen to work undercover and hopefully unrecognized.

23. See *infra* table 1 col. 6 for individual city estimates; see also BOSTON UNIV. LAW SCHOOL CENTER FOR CRIM. JUSTICE, IMPLICATIONS FOR THE CRIMINAL LAW AND ITS ENFORCEMENT 1, 6 (1976) [hereinafter CCI STUDY].

24. Several of the vice divisions contacted reportedly have no full-time policewomen on staff. Female decoys, even when regularly employed, account for 5% to 10% of vice squads' prostitution task forces. Telephone interview with Detective Custer, Vice Div., Phoenix Police Dep't (May 24, 1985) [hereinafter Phoenix Interview]; telephone interview with Lieutenant Ken East, Vice Div., Memphis Police Dep't (May 28, 1985) [hereinafter Memphis Interview].

25. Telephone interview with Sergeant Judith Quirolo, County Jail No. 3, Sheriff's Dep't, City and County of San Francisco (Feb. 23, 1987).

26. Telephone interview with Sergeant Tremor, Public Morals Div., New York City Police Dep't (May 22, 1985) [hereinafter New York Interview].

27. Telephone interview with Detective Dan Fontanetta, Vice Control Unit, Chicago Police Dep't (May 22, 1985) [hereinafter Chicago Interview].

Vice officers then "essentially have to walk through the arrests" with their colleagues, instructing them in the procedures for obtaining and filing arrests.²⁸ Of course, this form of arrest requires extra police manhours.

Officers report that one of the most time-consuming and complicated aspects of arresting prostitutes is compliance with prohibitions on entrapment.²⁹ Standards governing prostitution arrests require the officer to engage in a sufficiently detailed conversation with the suspect to receive explicit offers of a numerical fee, a particular service, and in some cities, a convenient location for the transaction.³⁰ These same standards, however, restrict the officer in both the content and extent of his speech. As a Memphis vice sergeant laments, prostitutes "are getting very cautious. They know we have to be able to prove . . . that she seriously offered explicit services, at a set price, to be performed at a stated place. She'll always make sure that she doesn't give us all three."³¹ Potential arrestees and vice officers thus engage in elaborate ruses, each trying to lure the other across the tenuous line into prohibited behavior.³²

Beyond the obvious costs associated with police employment are less apparent ancillary costs. Many of the vice squads contacted maintain expense accounts for the cash layouts required in prostitution arrests. For example, most vice decoys seek solicitations from within leased or rented automobiles, which must be changed every three to six months at premium leasing prices.³³ Frequent changes in personal appearance are also necessary, and some dedicated decoys reportedly spend much time and money on wardrobes, hairstyles, and other means of disguise.³⁴

Even greater stealth and financial resources are required to arrest the "big fish"—those conspiring in the operation of escort services and other indoor prostitution rings. These businesses are usually too discreet to solicit over the telephone. Indeed, they will immediately ask for

28. Telephone interview with Detective Mike Felix, Administrative Vice Div., Los Angeles Police Dep't (May 23, 1985) [hereinafter Los Angeles Interview]; see also Phoenix Interview, *supra* note 24.

29. For detailed discussions of the role of entrapment law in prostitution arrests, see F. ADLER, *SISTERS IN CRIME* 224 (1975); M. Haft, *supra* note 15, at 174-79.

30. Memphis Interview, *supra* note 24.

31. *Id.*

32. The Memphis vice lieutenant's description of a common occurrence in topless clubs illustrates this scenario: "She'll say, something like, 'You go into that room in the back, pull your britches down, start masturbating, and then we'll talk prices.'" *Id.*

33. Telephone interview with Officer O'Brien, Vice Section, Detroit Police Dep't (May 24, 1985) [hereinafter Detroit Interview].

34. Los Angeles Interview, *supra* note 28; telephone interview with Sergeant Tillery, Vice Div., Dallas Police Dep't (May 27, 1985) [hereinafter Dallas Interview]. Other officers have donned casts and facial cosmetics. New Orleans Interview, *supra* note 13. Two vice decoys even rented wheelchairs to make their arrests. Telephone interview with Sergeant Tony Canneville, Criminal Investigation Unit, Baltimore Police Dep't (May 28, 1985) [hereinafter Baltimore Interview].

names and credit references, and they will call registries in other cities or take whatever action is necessary to ascertain a prospective customer's identity. An officer must therefore procure false identification and credit cards, then rent a hotel room and wait for the outcall prostitute to arrive.³⁵ To convince the prostitute that he is an ordinary out-of-town customer, the officer will commonly obtain items to be strewn about the room, such as suitcases, airplane and luggage tickets, and toiletries.

Officers in Manhattan, however, report that businesses that have been established for at least a year will ask for a reference whenever a prospective customer calls. If a familiar name is not given, no escorts will be sent.³⁶ In such circumstances, vice squads must resort to wire-tapping and other expensive methods of arrest.³⁷ In San Francisco and New Orleans, for example, some hotels allow vice patrolmen to plant videotaping equipment in rooms assigned to suspected outcall prostitutes and their customers.³⁸

Arrests of other indoor prostitutes are also time-consuming and potentially costly. For example, officers typically spend thirty to forty minutes in massage parlors before making an arrest. They must first undress, shower, receive a portion of the purchased massage, and then, "at some point . . . she [the masseuse] will offer sexual services."³⁹ In one instance, vice patrolmen in Houston, suspecting "modeling studios" of prostitution, ran a studio of their own. Although substantial police dollars were invested in the sting operation, it was aborted when a local judge ruled that the operation constituted entrapment. The Houston vice officers then began entering existing modeling studios as customers, "ten officers at a time, at \$60 each, with no guarantee that we'd get solicited. In the-

35. Chicago Interview, *supra* note 27; Detroit Interview, *supra* note 33; Dallas Interview, *supra* note 34; Baltimore Interview, *supra* note 34; New Orleans Interview, *supra* note 13; telephone interview with Detective Wally Papaj, Prostitution Enforcement Unit, Morals Div., Washington, D.C. Police Dep't (May 22, 1985); telephone interview with Sergeant Denorow, Strike Force, Bureau of Special Operations, Cleveland Police Dep't (May 30, 1985) [hereinafter Cleveland Interview].

36. New York Interview, *supra* note 26.

37. Detroit Interview, *supra* note 33; telephone interview with Corporal Cubbin, Vice Control Unit, Philadelphia Police Dep't (May 23, 1985) [hereinafter Philadelphia Interview]. The average cost of authorized operations to intercept wire and oral communication was \$33,985 in 1983. SOURCEBOOK 1984, *supra* note 13, at 554 table 5.6.

38. Telephone interview with Inspector Wells, Vice Control, San Francisco Police Dep't (May 22, 1985) [hereinafter San Francisco Interview] ("The girl will get undressed right there in front of [the camera] . . . [W]e get the whole thing on tape."); see also New Orleans Interview, *supra* note 13 (describing vice officers' installation of video equipment in several hotels in the French Quarter).

39. San Francisco Interview, *supra* note 38; cf. Cleveland Interview, *supra* note 35 (police spend up to one hour in the massage parlor per arrest); New Orleans Interview, *supra* note 13 (officers get undressed and are rubbed with baby oil, then wait for the "masseuse" to either "take off her clothes" or offer services by asking the officer, "Do you have any special areas you want me to rub?").

ory, we could spend \$3000 or \$4000 and not make a case."⁴⁰

In spite of the difficulties encountered in obtaining arrests, vice officers estimate that they spend most of their time in the postarrest process, rather than in the arrest itself. Once an arrest has been made, each officer spends an average of over sixteen hours fulfilling the remainder of his duties. These duties fall into two categories: (1) transporting arrestees to detention, fingerprinting, and filing reports; and (2) testifying in court. When officers indicated that they were either required to work in pairs or to provide corroborating testimony in court, the hours-per-arrest figures were doubled accordingly. Most arresting officers work night shifts and thus receive overtime pay for their daytime court appearances.⁴¹ Overtime pay therefore was included in the cost estimates, but not in the police manhour figures.

Once the total number of paid police hours spent per arrest was determined, it was necessary to multiply this figure by some indicia of financial costs to obtain a reasonable estimate of the actual expenditures on prostitution arrests. Wage rates alone would not accurately indicate total police costs, because they fail to include such extraneous expenses as automobile leasing, wire-tapping, and video and audio recording equipment. Therefore, the city's "hourly personnel value per police officer" was used. This figure is the product of a five-step calculation, beginning with total police expenditures in each city in 1985.⁴²

40. Telephone interview with Officer Foulis, Vice Div., Houston Police Dep't (May 23, 1985) [hereinafter Houston Interview].

41. National sources report that three-fourths of court appearances for all crimes involve police overtime. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, REPORT TO THE NATION ON CRIME AND JUSTICE 94 (1983). Police officials estimate that 80% of prostitution arrests are made at night. Baltimore Interview, *supra* note 34. Certain officials interviewed implied that officers on nighttime prostitution duty sometimes testify unnecessarily to make money:

All officers present at the arrest have . . . the choice [to testify] once they put their names on the misdemeanor citation, on detail. If seven officers sign on, and if they need money, all seven can go. They get paid overtime—six hours' credit on four hours' sitting in court. It's worth it.

Memphis Interview, *supra* note 24; cf. Phoenix Interview, *supra* note 24 ("Both the [arresting] detective and the wagon officers get subpoenas." In addition to court time, officers customarily participate in the interviews with defense attorneys that are "good for overtime.").

42. Previous police expenditures on prostitution arrests have been calculated through a cost-per-arrest method, factoring the number of arrests for all crimes into the total police overhead per year. See G. MEGINO, PROSTITUTION AND CALIFORNIA LAW: AN INTERIM STUDY 4-6 (Cal. Senate Comm. on the Judiciary Monograph, Feb. 1977); Lynch & Neckes, *The Cost-Effectiveness of Enforcing Prostitution Laws* (1978) (on file at *The Santa Clara Law Review*); see also Milman, *New Rules for the Oldest Profession: Should We Change our Prostitution Laws?*, 3 HARV. WOMEN'S L.J. 1, 82 (1980).

This approach, however, fails to account for the number of vice and moral squad activities that consume resources but are not directed at arrest, such as forcing prostitutes to relocate to temporarily minimize their visibility. CCJ STUDY, *supra* note 23, at 631 (citing Mark Furstenburg, Boston Police Dep't Planning and Research Div., who insisted a decade ago that

The analysis used here admittedly neglects other police costs. First, the cost of clerical assistance to arresting officers was not included in the calculation, because the number of administrative hours spent in each police department was indeterminable.⁴³ Second, each city's total expenditures for 1985 prostitution control should reflect its number of related arrests, which were probably under-reported by vice officials in certain cities. Several department spokesmen suggested that a fair but indeterminable percentage of arrestees appearing in police statistics under headings of loitering, vagrancy, or "all other arrests" were actually "picked up for being prostitutes."⁴⁴ The following estimates were based on the arrest figures reported or estimated by all officials interviewed.⁴⁵

Total police expenditures for the enforcement of prostitution laws in all 16 cities in 1985:	\$53,155,688
Mean (per city) annual expenditures:	\$ 3,322,230
—Big Six Cities:	\$ 4,856,361
—Second Cities:	\$ 2,401,752

(2) Judicial Costs

The costs of prosecuting persons arrested for prostitution reflect the fact that most cases involve more than one court appearance. Many arrestees reportedly fail to procure legal counsel in time for their first court appearance, arraignment, which must then be rescheduled.⁴⁶ The second court appearance, the initial trial date, is often continued for a variety of reasons. In Philadelphia, for example, many arrestees reportedly "shop around for a judge" at this point.⁴⁷ The final appearance, at which sentencing is imposed, is likely to be the third time a given case has gone to

costs be calculated by the admittedly cumbersome process of tracking police manhours, as was done in this Note's analysis).

43. Only one police official interviewed estimated the amount of clerical assistance involved in particular phases of the arrest process (identification and transportation to detention). Telephone interview with Detective Valimare Williams, General Investigation Unit, Boston Police Dep't (May 2, 1985 and May 28, 1985) [hereinafter Boston Interview].

44. Telephone interview with Officer McCauley, Criminal Statistics Dep't, Philadelphia Police Dep't (May 2, 1985 and May 28, 1985). This is apparently the case in Chicago, Chicago Interview, *supra* note 27, Cleveland, Cleveland Interview, *supra* note 35, Detroit, Detroit Interview, *supra* note 33, Houston, Houston Interview, *supra* note 40, Milwaukee, telephone interview with Sergeant Kleppin, Vice Div., Milwaukee Police Dep't (May 29, 1985), New Orleans, New Orleans Interview, *supra* note 13, New York, New York Interview, *supra* note 26, and Phoenix, Phoenix Interview, *supra* note 24.

45. All interviewees were asked for estimates, if official figures were unavailable, of the number of prostitution suspects arrested for loitering, vagrancy, and "all other arrests," as well as for prostitution. After arriving at the police cost-per-arrest figures for each of the 19 cities studied, the weekly and annual police expenditures were calculated by multiplying these figures by each city's number of prostitution arrests (weekly/annually) in a twelve-month period of 1984-85. For individual city cost breakdowns, see *infra* table 5 col. e.

46. CCJ STUDY, *supra* note 23, at 629.

47. Philadelphia Interview, *supra* note 37.

court.⁴⁸ The prosecution of an average prostitute thus requires nearly four hours of a court's full attention over a period of weeks or months.⁴⁹ Moreover, since maintaining a house of prostitution is classified as a felony, prosecution of the "big fish" naturally consumes an even greater amount of judicial resources.⁵⁰

The most detailed study to date of judicial costs involved in prosecuting prostitution arrestees was conducted by the Boston University Law School Center for Criminal Justice.⁵¹ The study concentrated on the handling of prostitution cases by the Boston Municipal Court (BMC), which was found to typify that of nine cities visited by Center researchers. One-fourth of all criminal complaints heard by the BMC in 1972-73, exclusive of moving traffic violations, were prostitution charges.⁵² The Center report concluded: "Many of the court officers, administrators, and judges interviewed by our staff expressed the belief that if not for prostitution cases, the Second Session of the BMC, as it currently functions, would not be necessary."⁵³

The estimates of 1985 judicial costs of prostitution control presented here are based solely on personnel costs, because reliable data was not available for other judicial expenditures, such as overhead, courtroom supplies, and construction.⁵⁴ An average "hourly personnel value per courtroom" in 1985 was calculated for the state in which each of the sixteen cities is situated.⁵⁵ This figure was multiplied by an estimated average number of courtroom hours spent per prostitution arrestee in

48. In the Center for Criminal Justice Study, "only 12% of all prostitution cases were disposed of at first appearance. Forty-one percent of the sample cases were continued at least once; 10% of the cases were continued on at least four separate occasions over a period of months." CCJ STUDY, *supra* note 23, at 628.

49. See *infra* table 7 col. 6 for individual city estimates.

50. In Philadelphia, where the Vice Control Unit's emphasis is on escort agencies, the investigation and prosecution of the most current case pending as of the date of the interview had lasted seven months and was still in court. Vice officers had made five arrests in this case, and they expected to obtain one conviction. Philadelphia Interview, *supra* note 37. A Detroit policeman explained that those arrested for pandering or conspiracy to violate prostitution statutes are entitled to arraignment and three pretrial conferences. Detroit Interview, *supra* note 33.

51. CCJ STUDY, *supra* note 23, at 626.

52. *Id.* at 628.

53. *Id.* at 626.

54. See *infra* notes to table 7 for further explanation.

55. The most recent nationally published employment data is listed for fiscal year 1983 in BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 1983, at 38-45, table 1.11 (1984). These figures were adjusted to reflect 1985 costs by using Justice Department reports on the average annual increases in local legal and judicial expenditures between 1979 and 1983. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, JUSTICE EXPENDITURE AND EMPLOYMENT EXTRACTS: 1979 AND 1980 (1984); 1980 AND 1981 (1985); 1981 AND 1982 (1985); 1982 AND 1983 (1986), table 1 in all volumes.

The updated monthly judicial payroll figures were used to derive an estimated "monthly personnel value per courtroom." See *infra* notes to table 7 for methodology. The monthly

ing the estimated number of days prostitutes spent in jail for each city in 1985 by the estimated daily jail expenditures per inmate in each city.⁶³

Estimated total corrections expenditures for prostitution convicts in all 16 cities in 1985:	\$31,770,211
Mean (per city) annual expenditures:	\$ 1,985,638
—Big Six Cities:	\$ 3,526,826
—Second Cities:	\$ 1,060,326

In sum, sixteen of our cities alone spent over \$120 million in 1985 in their fight against contractual sex. To be sure, these expenditures annoy certain taxpayers; a strong majority of those polled in Boston, for example, would prefer alternatives to criminalized prostitution.⁶⁴ Those in San Francisco—according to a police inspector there—are so opposed to the arrest of prostitutes that their district attorney declines to file cases on many arrestees for fear of losing too many court battles.⁶⁵ Perhaps taxpayers would rather see their law enforcement dollars spent entirely on the deterrence of violent or property crime. With the \$2.3 million New York City alone spent in 1985 controlling prostitution, the city could have purchased the entire 1982 police departments of Toledo, Tampa, Rochester, or St. Paul, or the fire departments of Atlanta, Honolulu, Indianapolis, Miami, or St. Louis.⁶⁶

The financial expenditures estimated above are transferable. The figures indicate in concrete terms a choice regarding tax dollars that could have been applied to a variety of alternatives. The decision as to whether other kinds of protection or services should be purchased at the price of prostitution control ultimately rests with citizens and legislators. It would be unwise to leave this decision to law enforcement agencies. Those charged with upholding prostitution laws, one vice supervisor re-

63. A nationwide average of 11% of those arrested go to jail for pretrial detention or in fulfillment of a court-imposed sentence. G. MEGINO, *supra* note 42, at 5. In addition, prostitutes' representatives estimate that arrestees commonly spend at least one night in jail awaiting bail. Interview with Chris Womandez, Director of the Prostitutes' Union of Massachusetts in Jamaica Plain, Ma. (May 3, 1985); telephone interview with Margo St. James, Director of COYOTE (Call Off Your Old Tired Ethics) National Prostitutes' Union (Apr. 24, 1985). Thus, the number of reported prostitution arrests for each of the 16 cities was multiplied by .11 (11%) to obtain the number of arrestees spending more than one night in jail. This number was then multiplied by the average length of stay, 54 days, *id.*, although the prostitutes' representatives interviewed estimated the average length of stay to be 90 days. This sum was then added to the reported number of arrestees per city—reflecting an average one night's stay awaiting bail—to obtain an estimate of the total number of days prostitutes spent in jail in each city.

Daily jail expenditures per inmate were estimated for each city using data provided by the U.S. Dep't of Justice, Bureau of Justice Statistics. See notes to table 6 for further detail.

64. Milman, *supra* note 42, at 68-70.

65. San Francisco Interview, *supra* note 38.

66. CITY GOVERNMENT FINANCES, *supra* note 22.

marks, are not as concerned with the manpower and financial costs involved: "The girls are back on the street before we are. We get paid by the hour, so we don't mind much, but if this were a business, we'd be bankrupt."⁶⁷

B. Decreased Protection from Other Crimes

As with all limited resources allocated to one cause in lieu of another, police, court, and correctional manhours spent enforcing prostitution laws may be subject to an opportunity-cost evaluation. Dozens of commentators in recent years have criticized prostitution laws on the ground that they divert law enforcement attention away from more "serious" crime.⁶⁸ The devotion of criminal justice resources to prostitution cases may thus be measured in terms of lost opportunity costs if it can be established that: (1) an unacceptable amount of "serious" crime goes undeterred or unpunished; and (2) the resources currently absorbed by prostitution arrests could be channeled toward, and have some impact on, such crime.

Well over two million violent and property crimes were reported in 1985 to the police departments of the cities in this study.⁶⁹ Eighty-three percent, or 1.9 million, of these reported offenses failed to result in arrest.⁷⁰ For each of these nonarrest cases, police in these same cities last year spent nearly one hour enforcing prostitution laws.⁷¹ Law enforcement officers in San Francisco, for example, devoted ten hours to the arrest, transport, and prosecution of prostitution suspects for every local violent offense in which the perpetrator(s) evaded police apprehension. Cleveland officers spent eighteen hours—the equivalent of two workdays—on prostitution duty for every violent offense failing to yield an arrest.⁷² These manhours are thus expended at a time when 94% of respondents to a national poll insist that the police did not respond

67. Memphis Interview, *supra* note 24. Of course, much criminal law enforcement is costly and would technically qualify for bankruptcy. There is, however, a widespread belief that prostitution convictions generate public revenue through heavy fines. Most fines are under \$100, Lynch & Neckes, *supra* note 42, at 5, and only a small fraction of them are paid. CCJ STUDY, *supra* note 23, at 12.

68. See, e.g., Vorenberg & Vorenberg, *supra* note 18, at 32; Note, *supra* note 18, at 178.

69. UNIFORM CRIME REPORTS, *supra* note 1, at 63-110 table 6.

70. *Id.* at 156 table 20.

71. For all references to the amount of time police spend toward this end, see *infra* table 1 cols. c & d. The juxtaposition of these figures does not, of course, prove that increasing the manhours devoted to more serious crimes would necessarily yield an increase in arrests for such offenses, since the effect of such a change cannot be measured in advance. However, in addition to the intuitive response that additional resources would improve results, it seems likely that some increase in crime deterrence and public confidence in law enforcement would occur.

72. Data intercalated from figures in the tables appended to this Note. See *infra* table 1 col. d, and table 2 cols. a & c.

quickly enough to their calls for help.⁷³

There is no assurance that while police are arresting streetwalkers, they will also be patrolling for other crimes likely to occur in the area. First, police spokesmen report that prostitution arrests are generally the responsibility of vice officers, whose work is confined to activities falling under the vice crimes heading—typically including prostitution, drug, and gambling offenses.⁷⁴ These officers have neither the time nor the responsibility to search for and arrest perpetrators of violent and property crimes.

Second, since almost all streetwalkers concentrate within one or two "red light" districts in each city, related police activity is limited to those few streets or clusters of city blocks.⁷⁵ Although other crimes, such as assault, robbery, and pickpocketing, often occur in those same areas, every city studied has three or four nonprostitution areas in which the rates for these and other offenses is as high or higher.⁷⁶ Officers on prostitution duty are thus not present in the vicinities where most of a city's crimes occur.

Third, police officers on prostitution duty generally do not work in public areas, where they might observe or deter other crimes. Police officials interviewed in the various cities agreed that over 90% of the officers' arrest-time is spent transporting prostitutes to detention and filling out the paperwork at the precinct. For every ten minutes a patrolman is on the street making an arrest, he spends fifteen to twenty minutes in transit and over two hours back at the police station. If an officer gathers together three or four streetwalkers within his first hour of duty, it is thus

73. SOURCEBOOK 1984, *supra* note 13, at 214 table 2.51 (data provided by ABC News Poll, Criminal Justice Archive and Information Network, Inter-University Consortium for Political and Social Research showing that 100% of students, senior citizens, black and Hispanic respondents believed police should have arrived more quickly than they did).

74. Interviews with police officials in all cities but New York, where precinct patrolmen are estimated to perform more than half of all prostitution arrests.

75. The San Francisco Vice Control Unit commits 80% of its prostitution resources to one area (Hayes Valley). San Francisco Interview, *supra* note 38. Philadelphia and Los Angeles vice officers report that almost all prostitution arrests are made in one area in each of their cities (Downtown Philadelphia and Hollywood, respectively). Philadelphia Interview, *supra* note 37; Los Angeles Interview, *supra* note 28. Detroit vice efforts are directed at the one area with a "volume problem" (Cass Corridor). Detroit Interview, *supra* note 33. Boston Police Department statistics show that 97% of all prostitution arrests in 1977 occurred in two out of 15 districts. Milman, *supra* note 42, at 78.

76. The Milman study demonstrated that the two highest crime areas in Boston (Downtown and Back Bay) do not have the greatest volume of prostitutes. Two areas with about as much other crime as the red light district (the "Combat Zone") averaged five reported incidence of prostitution to 2780 other complaints (North End and Kenmore Square). Milman, *supra* note 42, at 74. "Other crime" referred to in that study is generally comprised of street and taxi robberies, assault and battery, aggravated assault, breaking and entering, purse snatching, and pickpocket and larceny offenses. Police officials interviewed stated that their cities have four to six areas in which these crimes are highly prevalent.

conceivable that he will spend the remainder of his shift at the station.⁷⁷

At least a third of the time spent making prostitution arrests—those of the “big fish”—is spent entirely off the streets; if they are not at the precinct station, officers are likely to be waiting in hotels,⁷⁸ massage parlors,⁷⁹ bars,⁸⁰ or modeling studios.⁸¹ Add to this time spent indoors an average of twenty hours in court per arrest, then double the total figure—since officers generally work and testify in pairs—and it becomes evident that police on prostitution duty provide little—if any—protection against other street crime.

Vice officers are generally well-trained police employees whose skills would enable them to detect and curtail serious criminal activity. Some police officials interviewed stated that, on average, only 20% of their cities' entire police workforce is devoted to direct criminal law enforcement. Approximately 24% of all employees in municipal police departments are assigned to administrative positions or traffic control,⁸² and much of the general patrolmen's time is reportedly spent “providing services to people who are lost, locked out of their homes, or have stray cats.”⁸³ Of all police in the “operational” units, detectives and vice officers are generally the best trained in crime detection; the majority of traffic and general patrolmen are not apprenticed in undercover or surveillance work.⁸⁴ Vice officers thus rank foremost among police employees who are not presently concerned with—but who would be very capable of—detering violent and property crime, if their attention were directed toward it.

All of these factors increase the cost in terms of lost opportunity of enforcing prostitution laws. Such arrests consume an average of 1500 highly skilled police manhours weekly in each of the cities studied; the tiny fraction of these hours actually spent on the street is restricted to specific—and not necessarily the highest—crime areas. Meanwhile, eighty-three out of every one-hundred reported violent and property offenses never yield an arrest.

For some cities, such as Houston and New York, these numbers

77. New York Civil Liberties Union attorney Richard Emery insists that his city's Public Morals Division officers work their shifts in precisely that manner, and that “the result is less police protection against assaultive crimes out on the street.” Griffin, *Wives, Hookers and the Law: The Case for Decriminalizing Prostitution*, 10 *STUDENT LAW* 18, 39 (Jan. 1982). One vice sergeant said of arrests for indoor prostitution: “It's a one-night thing—two hours prep time and six hours booking.” Baltimore Interview, *supra* note 34.

78. See *supra* notes 35-38 and accompanying text.

79. See *supra* note 39 and accompanying text.

80. Baltimore Interview, *supra* note 34; Memphis Interview, *supra* note 24; Phoenix Interview, *supra* note 24.

81. Houston Interview, *supra* note 40.

82. UNIFORM CRIME REPORTS, *supra* note 1, at 248 table 75.

83. E.g., Boston Interview, *supra* note 43.

84. POLICE EXECUTIVE RESEARCH FORUM AND POLICE FOUNDATION, SURVEY OF POLICE OPERATIONAL AND ADMINISTRATIVE PRACTICES—1981, at 581-87 (1982).

have assumed more than mere theoretical significance. Concerted efforts at prostitution control have been accompanied by an increase in assaultive crimes or a decrease in their clearance-by-arrest rate, or both. In 1975, Houston employed approximately two uniformed police officers⁸⁵ and experienced seventy reported violent and property crimes for every one thousand citizens.⁸⁶ While 11% of the police department's criminal investigative force handled prostitution cases exclusively,⁸⁷ reported felonies increased and their rate of arrest decreased.⁸⁸

In Manhattan in 1978-79, the "Times Square Action Plan"⁸⁹ succeeded in nearly doubling the prostitution arrest rate of the previous year.⁹⁰ During that same period, and within the same midtown area, complaints of rape, robbery, burglary, and felonious assault rose by as much as 40%.⁹¹ A 30% increase in rape complaints was not accompanied by any increase in arrests; reported incidents of burglary rose by 22%, while the arrest rate plummeted 40%. For these results, the New York City Police Department deployed almost twice the number of patrol units used in Times Square a year earlier.⁹²

Faced with far more threatening crime, and the statistic that 90% of arrested prostitutes escape judicial sanction,⁹³ one wonders why police departments devote so much of their resources to enforcing prostitution laws. A possible explanation is that prostitution cases raise the "closed by arrest rate" for total crime indices. Prostitution is one of the only offenses for which nearly 100% of "reported incidences" result in arrest.⁹⁴ To the extent that total arrest rate indices are elevated by the inclusion of this high percentage for prostitution, they engender a false

85. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE SOCIAL INDICATORS III, at 214 (1983); NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE, U.S. DEP'T OF JUSTICE, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 1977, at 106 table 1.31 (1978) [hereinafter SOURCEBOOK 1977].

86. SOURCEBOOK 1977, *supra* note 85, at 399 table 3.97 (reporting Houston's violent and property crimes in 1975); MUNICIPAL YEARBOOK 1977, at 38 table 1/1 (reporting a 1973 population of 1,320,000 in Houston).

87. CCJ STUDY, *supra* note 23, at 626.

88. SOURCEBOOK 1977, *supra* note 85, at 399 table 3.97.

89. On September 3, 1978, Mayor Koch released an 18 month plan "designed to address the blighted conditions . . . in the West Midtown area." The majority of the plan's 35 "tasks" related to the suppression of prostitution. TIMES SQUARE ACTION PLAN: INTERIM SIX MONTH REPORT 27 (1979) [hereinafter INTERIM SIX MONTH REPORT].

90. *Id.* at 41. A year earlier, 14% of "all Police Department arrests (including felonies, misdemeanors, and violations) . . . were direct and loitering prostitution arrests." *Id.* at 40.

91. CITY OF NEW YORK, TIMES SQUARE ACTION PLAN: FIRST YEAR OF OPERATION REPORT, OPERATION CROSSROADS, CRIME COMPLAINTS AND ARRESTS 1-3 (1979).

92. INTERIM SIX MONTH REPORT, *supra* note 89, at 28-29.

93. Only 21.1% of prostitutes arrested nationally in 1973 were held for prosecution, and only half of those were found guilty as charged. CCJ STUDY, *supra* note 23, at 625.

94. See, e.g., Milman, *supra* note 42, at 10. Prostitution is of course far less likely to be reported than direct-victim offenses. See Swigert, *supra* note 18, at 97.

account of overall police protection. Few New York residents would be comforted by their state's 1981 breakdown: while twenty-four out of twenty-six reported prostitution cases were closed by arrest,⁹⁵ only 5% of the claims for reported violent crimes yielded an arrest.⁹⁶

Another explanation commonly advanced for the amount of time dedicated to prostitution offenses is simply that police like the work. Prostitutes generally pose less danger to officers than persons arrested for other nighttime offenses or for assaultive crimes. Further, although the "decoy" method has been widely criticized and held by some courts to constitute entrapment, vice officers around the country prefer this approach; they speak at length of the newly leased cars, the clothes ("We've got to look like guys with money to burn"),⁹⁷ and other aspects of their work. Although several officers interviewed volunteered statements concerning the homeliness of their cities' prostitutes, it is possible that many vice officers enjoy the time spent around women in massage parlors, modeling studios, and the like.⁹⁸ There are undoubtedly far less pleasant ways for a law enforcement officer to spend his shift. Again, this explanation, if accurate, is unlikely to comfort the 94% of citizens surveyed nationwide who agreed that the police assistance they called for was not available soon enough.

Along with the opportunity costs of the present system in terms of police manhours, a complete analysis must account for the amount of judicial and correctional resources consumed in the enforcement of prostitution laws. These resources, too, are finite. It thus follows that prosecutorial services and jail space allocated to prostitution cases consume criminal justice resources that could be channeled toward other offenses. A year-long study in San Francisco in 1977, for example, concluded that 10% to 20% of the public defender's caseload and 10% of the district attorney's misdemeanor cases involved prostitution offenses.⁹⁹

All factors considered, prostitution laws clearly represent lost opportunities for the protection of society against other crimes. An unacceptably large amount of assaultive crime goes undeterred and unpunished, and the criminal justice resources currently devoted to prostitution control are sufficiently significant to have an impact on law enforcement efforts against those other crimes.

95. NEW YORK STATE STATISTICAL YEARBOOK 1983-84, at 375 (10th ed. 1985).

96. *Id.* at 369 table K-10.

97. New Orleans Interview, *supra* note 13.

98. When asked whether he worked as a decoy, a vice division supervisor responded, "My wife won't let me go undercover. She doesn't trust me. There are some good-looking women out there and a lot of fast talking and a lot of temptation." Memphis Interview, *supra* note 24.

99. Lynch & Neckes, *supra* note 42, at 6.

II. Weighing the Costs of Enforcing Prostitution Laws: Benefits Sought and Law Enforcement Priorities

Responsible policy decisions on prostitution laws can only be reached by balancing the law enforcement costs against related considerations: the benefits the law seeks to attain by prohibiting prostitution, and the perceived priorities of all law enforcement efforts. Thus, the costs discussed above would most suitably—if not briefly—be considered in the context of the benefits they are intended to purchase and their relevance to the larger scheme of criminal justice objectives.

A. Benefits Sought

In keeping with the general purpose of the criminal law, the stated purpose of prostitution laws is to benefit society, or to protect it from the harms associated with prostitution. Material harms have historically played a larger role than perceived moral harms in policy formation regarding prostitution.¹⁰⁰ The Church in medieval Europe, for example, ceased its acceptance and regulation of prostitution when a syphilis epidemic took hundreds of lives.¹⁰¹ To this day, the spread of venereal disease remains a primary justification for our prostitution laws. Other material harms commonly linked to prostitution include organized crime and ancillary crime, such as narcotics use and robbery.

Church groups,¹⁰² feminists,¹⁰³ lawyers,¹⁰⁴ and neighborhood organizations¹⁰⁵ alike have argued that laws against prostitution fail to allevi-

100. This emphasis on material harm is not to demean the significance of perceived moral harms, nor of the benefits sought in this regard. Presumably rooted in the ethos of many Americans is the conviction that it is wrong to engage in sex for a fee. Those opposed to the activity would thus obtain a primary benefit through the prohibition of prostitution, which codifies their moral convictions. Such considerations, again, are outside the scope of this study.

101. F. ADLER, *supra* note 29, at 56; E.M. LEMERT, *SOCIAL PATHOLOGY* 257-58 (1951).

102. For example, at the Judson Memorial Church on Washington Square Park South in Manhattan, Reverend Howard Moody has preached extensively on the reasons for decriminalizing prostitution, and church worker Arlene Carmen has devoted 15 years to Judson Memorial's "Prostitution Project." Similarly, the Armenian Church on East 35th Street in New York has sponsored panel discussions on alternatives to criminalized prostitution.

103. The National Organization for Women, Women in Criminal Justice, New York Women's Bar Association, Wages for Housework, and other women's rights groups have sponsored symposia and published materials calling for decriminalization. See Alexander, *On Prostitution*, National Task Force on Prostitution (Feb. 1987) (copy on file with *The Hastings Law Journal*).

104. Several lawyers' coalitions and law reform organizations have actively sponsored efforts at decriminalizing prostitution, including the American Civil Liberties Union, the National Lawyer's Guild, and numerous state bar associations. See, e.g., ACLU Nat'l Policy No. 210: Prostitution (1977) (telephone interview with Margaret Crosby, ACLU N. Cal. (March 3, 1987)).

105. The Murray Hill Committee of Manhattan's prestigious Gramercy Park area has written, and urged its state legislature to support, a new law decriminalizing prostitution. East

ate the harms associated with the activity. These groups point first to the problem of venereal disease in this country, only 3% to 5% of which has been attributed to prostitutes by national health officials.¹⁰⁶ Conceding that even a 5% figure threatens the public welfare, the proponents of decriminalization insist that criminalizing prostitution aggravates the problem because it inhibits some prostitutes from seeking frequent medical attention.

On similar grounds, those opposing prostitution laws have argued that the current legal approach does little to counter the problem of ancillary crime. The contention is generally that "if prostitution were not a crime, then those who consort with prostitutes and then become the victims of robberies and assaults might be more likely to report these crimes."¹⁰⁷ To the extent that narcotics users, panderers, and other undesirables are associated with prostitution, the argument goes, they would be more effectively policed by a system of legalized prostitution, as illustrated by the Nevada and Western European experiences.¹⁰⁸

Whatever the strength of these and the competing arguments, the proffered benefits of prostitution laws must be examined in light of the tremendous burdens these laws impose on criminal justice resources. If it is true that criminalization fails adequately to address those harms associated with prostitution, then the minimal benefits obtained by the prohibition would indeed calibrate the costs discussed above as highly excessive. Although no study has pointed to a positive correlation between law enforcement efforts against prostitution and the reduction of related material harms, conclusive evidence of such results would serve to at least partially justify the costs.

B. Law Enforcement Priorities

Instinctively and logistically, we examine both the benefits and costs of all legal tenets with regard to our law enforcement priorities. Finite resources, particularly those allocated to the prevention of harm, often compel us to make "tragic choices."¹⁰⁹ With limited manpower, police

Side Express, Sept. 19, 1979, at 14. Residents of Boston's Chinatown, which borders on the city's busiest prostitution district, also supported Massachusetts Representative Barney Frank's bill to zone legalized prostitution. The Boston Phoenix, Dec. 16, 1975, at 6, 32.

106. J.S. MILLARD, BASIC STATISTICS ON VENEREAL DISEASE PROBLEMS IN THE UNITED STATES, DEP'T OF H.E.W., CENTERS FOR DISEASE CONTROL (1971); Griffin, *supra* note 77, at 38.

107. Haft, *supra* note 60, at 18.

108. See generally Boles & Tatro, *Legal and Extra-Legal Methods of Controlling Prostitution: A Cross-Cultural Comparison*, 2 INT'L J. COMP. & APPLIED CRIM. JUST. 71 (1978); Yondorf, *Prostitution as a Legal Activity: The West German Experience*, 5 POL'Y ANALYSIS 417 (1979).

109. Cf. G. CALABRESI & P. BOBBITT, TRAGIC CHOICES 18 (1978) (discussing the allocation of scarce medical resources in life-sustaining situations).

departments must attend to all of their communities' law enforcement needs.

The United States Justice Department recently commissioned researchers to conduct a voluminous nationwide survey on public perceptions of the severity of various crimes.¹¹⁰ Respondents were asked to rank 204 offenses, ranging from "a person plants a bomb in a public building" to "a person under sixteen years old plays hooky from school." Prostitution ranked number 174, immediately followed in perceived severity by "a store owner knowingly puts 'large' eggs into containers marked 'extra large'" and "a person makes an obscene phone call." Patronizing a prostitute ranked even lower, and both selling and buying sex were perceived as far less serious than a person cheating on his federal income tax return or calling in a false fire alarm.¹¹¹

Similarly, fewer than half of the adults polled in another national survey agreed with the statement: "Prostitutes do more harm than good."¹¹² Although these polls are not conclusive of American attitudes toward prostitution, they strongly indicate that the activity is not seen as a major threat to society's physical welfare.¹¹³

Of course, to say that a crime is lower in priority is not to say that laws prohibiting it are wholly without value. No legislature would repeal prohibitions of automobile theft simply because it is a less serious offense than homicide. The difference lies here: few will assert, as many do of prostitution,¹¹⁴ that an automobile theft causes no harm. The ambivalence toward whether the activity is harmful at all is the threshold that separates an activity such as prostitution from direct-victim crimes. This

110. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, *THE NATIONAL SURVEY OF CRIME SEVERITY*, NCI-96017 (1985). The Department states its purpose in bold print on the book's cover: "An accurate measure of the seriousness with which society views a broad range of criminal events would be helpful to lawmakers and policymakers . . . [I]t could assist in the allocation of scarce justice resources."

111. *Id.* at vi-x, Executive Summary; see also Rossi, Wite, Bose & Berk, *The Seriousness of Crimes: Normative Structure and Individual Differences*, 39 AM. SOC. REV. 224, 229 (1974) (a "seriousness of crimes" survey in which Baltimore citizens ranked prostitution 108 out of 140 offenses).

112. Comment, *The Victim as Criminal: A Consideration of California's Prostitution Law*, 64 CALIF. L. REV. 1235, 1250 (1976) (citing 1973 Harris Poll).

113. Criminal justice personnel relay how these priorities carry over into the courtroom: "Most judges do not feel [the prostitute's] crime merits jail—not when they are constantly faced with far more serious crimes like robbery and murder." 1 PHYSICIAN'S WORLD 64 (Dec. 1973) (quoting Judge Budd Goodman of New York); "The courts' handling of prostitutes reflects society's indifference to prostitution." CCJ STUDY, *supra* note 23, at 625 (quoting F. Zolbe, FBI Crime Reporting Unit Feb. 3, 1975).

114. S. JANUS, *A SEXUAL PROFILE OF MEN IN POWER* 79-86 (1978); Houck, *Why Married Men Will Still Pay for Sex*, 101 LADIES' HOME J., Mar. 1984, at 60; Quisenberry, *Eight Years After the Houses Close*, 39 J. SOC. HYGIENE 312, 313-14 (1953); Wetzseon, *Why Nice Guys Buy Sex*, 90 MADEMOISELLE, Nov. 1984, at 196-97; Winick, *Clients' Perceptions of Prostitutes and of Themselves*, 8 INT'L J. SOC. PSYCHIATRY 56 (1961-62).

threshold test gains significance in the face of scarce police resources which a majority of Americans are unwilling to expand through additional taxes.¹¹⁵

When citizens go under-protected from activity that threatens their lives or property, the choices made in the past must be reconsidered. Perhaps other laws, such as curfew or jaywalking restrictions, would be more acceptably repealed than prostitution laws. Few laws, however, are likely to have even a fraction of the impact that prostitution laws have on law enforcement resources.¹¹⁶ Even at present, when prostitution laws are so widely believed to exemplify a category of "under-enforced" legal provisions,¹¹⁷ the time criminal justice agents spend in their enforcement is demonstrably significant. These circumstances suggest that our decision to combat prostitution, which has required a substantial investment of scarce resources while ranking low among the public's priorities, should be reexamined if our law enforcement system is to serve its principal objectives.

Conclusion

Many Americans may never wish to condone prostitution, but the time has come to ask whether we can afford to keep it illegal. In the face of rising complaints of violent crime in virtually all major cities, the thousands of highly skilled vice officer manhours devoted weekly to prostitution represent tremendous opportunity costs. Such costs are evidenced by the experiences of New York City in 1979 and Houston in 1975: even the most vigorous police battles against prostitution yield Pyrrhic victories at best.¹¹⁸

It is clear that many of the costs incurred in the enforcement of prostitution laws are inescapable. Measures designed to minimize the police hours involved could presumably reduce certain costs. Boston police, for example, streamline their prostitution arrest forms, and Los Angeles vice detectives now economize their court time by appearing on an on-call basis. Such revisions, however, would require strong administrative cooperation and widespread implementation to have any significant impact on the overall disinvestment of criminal justice resources.

Moreover, even when time-saving procedures have been instituted,

115. Cf. THE GALLUP REPORT, Report No. 200, at 4-5 (May 1982) (a nationwide poll in which 57% of respondents agreed that more prisons were needed in their states, but under half were willing to pay increased taxes for prison construction).

116. See SOURCEBOOK 1984, *supra* note 13, at 465 table 4.4 (statistics on the infrequency of arrests for these other misdemeanors).

117. See, e.g., F. ADLER, *supra* note 29, at 224 (insisting that "the practice of official tolerance [is] operative in many places"); Boles & Tatro, *supra* note 108, at 83-84.

118. Indeed victory, at any cost, is unlikely. Police interviewed doubted that even a tripling of current law enforcement efforts could "make a dent" in the prostitution problems of their respective cities.

the nature and sheer number of prostitution arrests continue to elevate enforcement costs. Given the prevailing judicial leniency toward prostitutes, police officers—who naturally seek the conviction and sentencing of arrestees—are compelled to arrest prostitutes repeatedly. Further, given the undercover preparation and subterfuge needed to make an arrest, the process of policing prostitution is inherently lengthy, particularly when compared to most other misdemeanors.

Most unfortunately, police on prostitution duty are seldom disposed to deter more assaultive crimes. Vice officers' efforts are restricted to specific offenses and city blocks, and over 90% of their time-per-arrest is spent indoors. Police indicate that the time they spend in hotel rooms and illicit houses awaiting solicitations is unavoidable; the laws charge police with apprehending prostitutes, and much prostitution in America is moving indoors.

The composite elements of prostitution control, in terms of both public fiscal expenditures and decreased protection from other crimes, appear highly disproportionate in light of the stated priorities of citizens and judges alike, and the apparently minimal benefits attained. With scarce police, judicial, and correctional services, Americans may soon have to choose between retaining prostitution laws and attending to more pressing law enforcement needs. A decision to reallocate our resources need not be a declaration of the acceptability of prostitution. Rather, it would be a well-founded statement concerning the proper use of criminal justice resources.

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Tables

- Table 1: Average Police Manhours Spent Enforcing Prostitution Laws; FY 1985
- Table 2: Comparison of Arrest Rates for Violent Crime and Prostitution; FY 1985
- Table 3: Average Daily Arrest Rates Per City; 1985
- Table 4: Estimated Total Law Enforcement Costs for Prostitution Control; 1985
- Table 5: Estimated Total Police Costs for Prostitution Control; 1985
- Table 6: Estimated Total Incarceration Costs for Prostitution Sentences; 1985
- Table 7: Estimated Judicial Personnel Costs for Prostitution Cases; 1985

Introduction to the Tables

The following tables provide a broad overview of the financial and personnel costs of prostitution control. A general understanding of these costs will allow for more informed policy decisions in the allocation of criminal justice resources. While this study offers the most comprehensive analysis to date of the costs of enforcing prostitution laws in America, the reader should be aware of certain limitations in these findings.

First, this study was accomplished with modest financial resources. Much of the information provided is based on interviews, totalling nearly one hundred hours and conducted mostly by telephone, with city police officials, prostitutes' representatives, and other knowledgeable sources. However, since on-site investigation of police department practices was not possible, the information given by interviewees has not been substantiated. Similarly, verification of statements made in other interviews and during visits to prostitutes' shelters in three cities (Boston, New York, and San Francisco) was infeasible.

Second, much of the data relevant to the costs of enforcing prostitution and other criminal laws is not available from any source. For example, many local police departments do not keep accurate records of their own prostitution arrests, and thus police officials interviewed could offer only rough estimates of the volume of prostitution-related enforcement in their cities. Although the reporting systems for other crimes are usually more complete, there are long-standing impediments to the accurate measurement of offenses, arrests, and criminal justice system disposition

of cases. *See generally* 2 BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, THE NATIONAL CRIME SURVEY: METHODOLOGICAL STUDIES (1984); BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, ISSUES IN THE MEASUREMENT OF CRIME (1981).

The costs of criminal justice system activities are even more difficult to measure. Publication of payroll and expenditure reports for the various branches of this system is customarily delayed for three to five years. Thus, for some of the financial cost estimates in this study, it was necessary to find reasonable methods for updating the figures to 1985 dollars. *See notes to individual tables.*

Apart from this backlog of financial data, the consumption of criminal justice system resources often escapes definitive measure. The interview transcripts demonstrate that problematic questions must be answered for such measurements: How many police manhours are expended in each arrest, transport, report, and prosecution? How many prostitution arrestees plead guilty to the charges? How many police officers, government attorneys, corrections officers, and other public employees are drawn into the process, and for how many hours each? What percentage of arrestees are sentenced, and what is their average length of stay in jail? How often do prostitution control efforts lead to progress in other areas of crime deterrence? How often do they deter?

Deriving reasonably accurate answers to these questions for the purposes of these tables often necessitated extrapolation and intercalation of data from various sources. In an effort to use data from the most reliable sources, the calculations began whenever possible with figures provided by the United States Department of Justice Bureau of Justice Statistics. For matters not addressed by federally compiled data, statistics were obtained through regional, state, and municipal documents. When the requisite data was undocumented, the tables used information provided in the interviews. The reader should bear in mind that the resulting estimates are likely to roughly reflect actual conditions, but they are by no means empirically complete.

Finally, while this study aims to portray prostitution law enforcement in national scope, limited research resources precluded a comprehensive review of the law enforcement practices in all American cities. As stated earlier, the vast majority (up to three-fourths) of all prostitution arrests and control efforts in the United States occur in the nation's twenty-three largest cities. The requisite data for this study was available from sixteen of these cities, which vary in size, national region, and other demographic characteristics. Thus, although this study does not encompass data from all United States cities, it should fairly represent most American prostitution control efforts in both statistical significance and geographic distribution patterns.

Demographical Notes

There are seventeen cities in the "Second City" size group (populations from 500,000 to 1,000,000, based on 1980 census). These may be further categorized by population size:

<u>Population Greater Than:</u>	<u>Cities, in Order of Size</u>
900,000	Dallas, San Diego
800,000	Honolulu, Phoenix, San Antonio
700,000	Baltimore, Indianapolis, San Francisco, San Jose
600,000	Washington, Jacksonville, Milwaukee, Memphis
500,000	Columbus, Cleveland, Boston, New Orleans

Police departments in all cities were contacted; officials in four cities were unable to furnish all data needed for the costs analysis, and officials in three other cities declined to be interviewed on the subject. Thus, only ten cities are included in the completed costs analysis; the three largest, the three smallest, and cities from each of the two mid-range population groups.

In tables using mean figures for items such as police expenditures, reported offenses, and arrest rates, averages were calculated using statistics from as many cities as possible. Up to fifteen cities are represented in certain preparatory tables. It is thus hoped that the estimated costs for the ten sample cities will reasonably reflect those for most cities in the Second City size group.

The cities appearing in this analysis should be representative not only of the Second City population range, but also of the geographical distribution patterns.

TABLE 1: AVERAGE POLICE HOURS SPENT ENFORCING PROSTITUTION LAWS; FY 1985

CITIES (by pop. size)	a. Hours Per Arrest	b. Hours in Court Per Arrest	c. Total Avg. Hours Per Arrest	d. Police Hours Spent Enforcing Prostitution Laws	
				Daily	Weekly
Cities (6) over 1,000,000					
New York	5.4	13.0	18.4	591	4,137
Los Angeles	4.0	5.5	9.5	391	2,737
Chicago	3.9	6.5	10.4	187	1,309
Houston	7.0	16.5	23.5	282	1,974
Philadelphia	12.0	56.0	68.0	194	1,358
Detroit	8.6	8.0	16.6	301	2,107
TOTAL				1,946	13,622
MEAN	6.8	17.6	24.4	324	2,270
Cities (10) 500,000-1,000,000					
Dallas	4.6	10.9	15.5	310	2,170
San Diego	6.6	13.0	19.6	87	609
Phoenix	5.4	16.8	22.2	108	756
Baltimore	10.5	13.0	23.5	114	798
San Francisco	6.2	10.7	16.9	167	1,169
Memphis	6.8	14.0	20.8	56	392
Wash., D.C.	5.8	14.8	20.6	79	553
Cleveland	9.4	15.4	24.8	291	2,037
Boston	4.2	8.0	12.2	173	1,211
New Orleans	4.8	13.0	17.8	71	497
TOTAL				1,456	10,192
MEAN	6.4	13.0	19.4	146	1,019
All Cities (16)					
TOTAL				3,402	23,814
MEAN	6.6	14.7	21.3	213	1,488

All figures in this table are based on information received in interviews with police officials from each city. The average hours were calculated using raw data that officials provided regarding their departments' procedures in each phase of the apprehension and prosecution of each type of prostitution offender (streetwalker, massage parlor worker, "model," "dancer," "escort," and panderer).

Most of the figures listed in this table represent the combined hours spent by two arresting officers; figures were doubled whenever police officials stated that they perform a particular task (e.g., arresting, testifying) in pairs. See transcripts of interviews for raw data concerning other variables in the consumption of police manhours. Methodology for deriving the final figures and corresponding tables are on file with *The Hastings Law Journal*.

a. "Hours per Arrest" refers to the time spent by police officers before, during, and immediately following an arrest. These hours include the officers' time in preparing for and making the arrest, transporting the arrested to the appropriate authorities, and writing a report of the arrest.

b. "Hours in Court per Arrest" refers to the time spent by each arresting officer during each court appearance related to the prostitution arrest. In eleven cities, both arresting officers reportedly testify in court. Officers make an average of two to three court appearances per arrest, and typically only one of these appearances lasts longer than two hours. The figures in this column do not account for officers' overtime pay, although national sources report that three-fourths of court appearances for all crimes involve police overtime. Bureau of Justice Statistics, U.S. Dep't of Justice, Report to the Nation on Crime and Justice 94 (1983).

c. "Total Average Hours per Arrest" is the sum of columns (a) and (b).

d. "Police Hours Spent Enforcing Prostitution Laws" are the figures in column (c) multiplied by the average number of prostitution arrests made daily and weekly in each city, using arrest statistics from Table 2, column (e).

TABLE 2: COMPARISON OF ARREST RATES FOR VIOLENT CRIME AND PROSTITUTION; FY 1985

CITIES: (by pop. size)	a. No. of Reported Offenses	b. Est. No. of Total Offenses	c. Reported No. of Arrests	d. % Crimes Cleared by Arrest	e. Reported No. of Arrests	f. % of Violent Crime Arrests
Cities (6) over 1,000,000						
New York	143,152	260,276	42,914	16.5	11,700	27.3
Los Angeles	58,170	105,764	16,677	15.8	15,000	89.9
Chicago	60,472	109,949	7,062	6.4	6,560	92.9
Houston	18,440	33,527	2,711	8.1	4,385	161.7
Philadelphia	16,209	29,471	10,176	34.5	1,036	10.2
Detroit	27,157	49,376	8,886	18.0	6,600	74.3
TOTAL	323,600	588,364	88,426		45,281	
MEAN	53,933	98,061	14,738	15.0	7,547	76.1
Cities (10) 500,000-1,000,000						
Dallas	15,124	27,498	2,665	9.7	7,280	273.2
San Diego	6,630	12,055	2,080	17.3	1,600	76.9
Phoenix	8,118	14,760	2,542	17.2	1,770	69.6
Baltimore	16,158	29,378	4,992	17.0	1,783	35.7
San Francisco	9,895	17,991	3,608	20.1	3,584	99.3
Memphis	10,446	18,993	1,186	6.2	967	81.5
Wash., D.C.	10,465	19,027	3,615	19.0	1,412	39.1
Cleveland	7,585	13,791	1,810	13.1	4,251	234.9
Boston	12,045	21,900	3,355	15.3	5,148	153.4
New Orleans	8,496	15,447	2,926	18.9	1,474	50.4
TOTAL	104,962	190,840	28,779		29,269	
MEAN	10,496	19,084	2,878	15.1	2,927	111.4
All Cities (16)						
TOTAL	428,562	779,204	117,205		74,550	
MEAN	26,785	48,700	7,325	15.0	4,659	98.1

a. UNIFORM CRIME REPORTS, *supra* note 1, at 63-110 table 6. The FBI Reports index crime in the two general categories of violent and property offenses. Violent crime includes murder and non-negligent manslaughter, forcible rape, aggravated assault, and robbery. Property crime includes burglary, larceny, motor vehicle theft, and arson, although arson reports are incomplete. *Id.* at 43 n.3. All other offenses, including prostitution, are not indexed by city in the FBI reports.

b. Figures in column (a) divided by .55. This calculation was made to roughly reflect the actual volume of violent offenses in each city. Violent crimes reported to the police in cities with populations greater than 500,000 represent only an estimated 55% of all violent offenses in these cities. SOURCEBOOK 1985, *supra* note 2, at 231 table 3.2 (estimates based on victimization survey results and other data provided by the Dep't of Justice, Bureau of Justice Statistics).

c. The term "cleared by arrest" indicates that at least one person has been arrested, charged, and turned over to court for prosecution. A crime is also considered cleared by arrest if one of ten "exceptional conditions" has been met, including: prosecution of the offender on a less serious charge than that for which he or she was arrested; prosecution of the offender without release in another jurisdiction for a different offense; denial of the offender's extradition; refusal of the victim to cooperate in the prosecution; and suicide of the offender. *Id.* at 436 table 4.17 (Note).

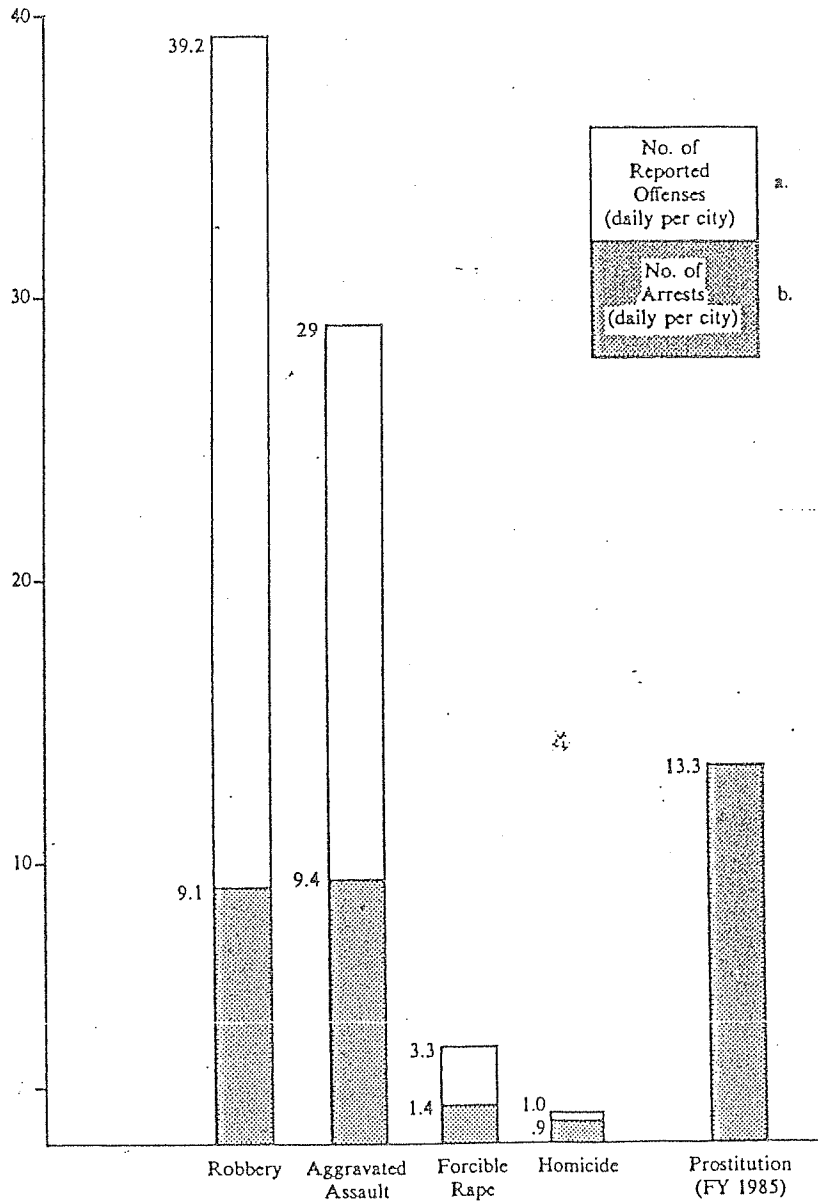
Arrest figures for each city were obtained by telephone from the appropriate state or city authorities. (Feb. 2-4, 1987). The figures for ten cities are from their states' departments of public safety, Uniform Crime Reporting divisions; for six states having no such divisions, the figures are from the cities' police departments, research and development divisions. New Orleans arrest figures were available only for the first ten months of 1985, and thus were prorated to reflect estimated arrests for the full year. Chicago arrest figures for "rape" include arrests for sexual molestation of minors and all other categories of "criminal sexual assault" offenses. Records of authorities contacted for each city and state are on file with *The Hastings Law Journal*.

d. Figures in column (c) divided by those in column (b), multiplied by 100 to obtain percentage points.

e. Figures based on information provided by police officials interviewed in each city. Whenever officials gave requisite data or estimates, these numbers include arrests made of suspected prostitutes on charges other than prostitution, such as loitering and indecent exposure.

f. Figures in column (e) divided by those in column (c), multiplied by 100 to obtain percentage points.

TABLE 3: AVERAGE DAILY ARREST RATES PER CITY: 1985



Figures are for the sixteen cities in this study.

a. UNIFORM CRIME REPORTS, *supra* note 1, at 63-110 table 6. Annual total number of reported offenses for all cities was divided by sixteen to derive a mean annual number of reported offenses per city. This mean was then divided by 365 to derive average daily numbers per city.

b. Table 2 col. (c) (arrests for homicide, forcible rape, robbery, and aggravated assault); table 2 col. (e) (prostitution arrests). Again, the annual total number for all cities was divided by sixteen to derive a mean, which was divided by 365 to derive the average daily number of arrests per city for each offense.

TABLE 4: ESTIMATED TOTAL LAW ENFORCEMENT COSTS FOR PROSTITUTION CONTROL, 1985

CITIES: (by pop. size)	a. Police Costs	b. Corrections Costs	c. Court Costs	d. Total Costs	e. Total Cost Per Arrest
Cities (6) over 1,000,000					
New York	\$6,706,206	\$9,437,838	\$6,795,360	\$22,939,404	\$1,961
Los Angeles	\$7,335,704	\$4,200,649	\$5,229,000	\$16,765,353	\$1,118
Chicago	\$2,886,985	\$1,394,092	\$1,899,776	\$6,180,853	\$942
Houston	\$3,788,104	\$1,263,694	\$2,696,775	\$7,748,573	\$1,767
Philadelphia	\$2,876,616	\$2,181,305	\$2,233,616	\$7,291,537	\$7,038
Detroit	\$5,542,552	\$2,683,378	\$2,164,800	\$10,390,730	\$1,574
TOTAL	\$29,138,168	\$21,160,955	\$21,019,327	\$71,318,450	
MEAN	\$4,856,361	\$3,526,826	\$3,503,221	\$11,886,408	\$2,400
Cities (10) 500,000-1,000,000					
Dallas	\$5,406,448	\$2,096,598	\$2,948,400	\$10,451,446	\$1,436
San Diego	\$1,422,574	\$448,069	\$1,314,720	\$3,185,363	\$1,991
Phoenix	\$1,626,525	\$879,920	\$1,278,648	\$3,785,093	\$2,138
Baltimore	\$1,512,361	\$1,456,343	\$917,888	\$3,886,592	\$2,180
San Francisco	\$2,980,709	\$1,001,566	\$2,409,523	\$6,391,798	\$1,783
Memphis	\$557,472	\$191,435	\$423,063	\$1,171,970	\$1,212
Wash., D.C.	\$918,232	\$515,605	\$1,170,266	\$2,604,103	\$1,844
Cleveland	\$5,554,465	\$1,595,786	\$2,370,783	\$9,521,034	\$2,240
Boston	\$2,813,856	\$2,117,053	\$1,225,224	\$6,156,133	\$1,196
New Orleans	\$1,224,877	\$306,882	\$549,655	\$2,081,414	\$1,412
TOTAL	\$24,017,520	\$10,609,256	\$14,608,169	\$49,234,945	
MEAN	\$2,401,752	\$1,060,926	\$1,460,817	\$4,923,495	\$1,743
All Cities (16)					
TOTAL	\$53,155,688	\$31,770,211	\$35,627,496	\$120,553,395	
MEAN	\$3,322,230	\$1,985,638	\$2,226,719	\$7,534,587	\$1,989

a. See table 5 for explanation of estimates.

b. See table 6 for explanation of estimates.

c. See table 7 for explanation of estimates.

d. Sums of columns a, b, and c for each city.

e. Figures in column (d) divided by the number of prostitution arrests in FY 1985 reported for each city (see table 2, column (e)).

TABLE 5: ESTIMATED TOTAL POLICE COSTS FOR PROSTITUTION CONTROL, 1985

CITIES: (by pop. size)	a. Total Avg. Hrs. Per Arrest	b. Est. No. Overtime Hrs. in Court	c. Hourly Personnel Value Per Officer	d. Police Cost Per Arrest	e. Police Dollars Spent Enforcing Prostitution Laws	
					Weekly	Annually
Cities (6) over 1,000,000						
New York	18.4	9.8	\$24.60	\$573	\$128,966	\$6,706,206
Los Angeles	9.5	4.1	\$53.57	\$619	\$141,071	\$7,335,704
Chicago	10.4	4.9	\$34.29	\$441	\$55,519	\$2,886,985
Houston	23.5	12.4	\$29.20	\$867	\$72,848	\$3,788,104
Philadelphia	68.0	42	\$31.10	\$2,768	\$55,358	\$2,878,616
Detroit	16.6	6	\$42.82	\$839	\$106,588	\$5,542,552
TOTAL	146.4		\$215.58	\$6,107	\$560,349	\$29,138,168
MEAN	24.4	13.2	\$35.93	\$1,018	\$93,392	\$4,856,361
Cities (10) 500,000-1,000,000						
Dallas	15.5	8.2	\$37.89	\$743	\$103,970	\$5,406,448
San Diego	19.6	9.8	\$36.02	\$882	\$27,357	\$1,422,374
Phoenix	22.2	12.6	\$32.28	\$920	\$31,279	\$1,626,525
Baltimore	23.5	9.8	\$30.12	\$855	\$29,084	\$1,512,361
San Francisco	16.9	8.03	\$39.72	\$831	\$57,321	\$2,980,709
Memphis	20.8	10.5	\$21.66	\$564	\$10,721	\$557,472
Wash., D.C.	20.6	11.1	\$25.01	\$654	\$17,658	\$918,232
Cleveland	24.8	11.6	\$42.57	\$1,303	\$106,817	\$5,554,465
Boston	12.2	.6	\$35.96	\$547	\$54,113	\$2,813,856
New Orleans	17.8	9.8	\$37.06	\$841	\$23,555	\$1,224,877
TOTAL	193.9		\$338.29	\$8,140	\$461,875	\$24,017,520
MEAN	19.4	9.7	\$33.83	\$814	\$46,188	\$2,401,752
All Cities (16)						
TOTAL	340.3		\$553.87	\$14,247	\$1,022,225	\$53,155,688
MEAN	21.3	11.04	\$34.62	\$890	\$63,889	\$3,322,230

a. Figures from table 1, column (c).

b. Estimates in column (b), derived through a six-step calculation for each city, are intended to reflect the total labor and capital costs of police manhours. The "Hourly Personnel Value Per Officer" begins with total police expenditures (including salary, capital, and other recorded expenditures) in each city in 1985. Jackson, *supra* note 6, at 137, table 4/10; BUREAU OF THE CENSUS, U.S. DEPT. OF JUSTICE, STATISTICAL ABSTRACT OF THE UNITED STATES, NO. 477, at 291 (106th ed. 1986). Figures for New York, Philadelphia, San Francisco, and Boston for fiscal year 1983 were updated to 1985 spending levels by using the average annual increase in local police expenditures reported in BUREAU OF JUSTICE STATISTICS, U.S. DEPT. OF JUSTICE, JUSTICE EXPENDITURE AND EMPLOYMENT EXTRACTS: 1982 AND 1983, DATA FROM THE ANNUAL GENERAL FINANCE AND EMPLOYMENT SURVEYS table 1 (1986).

Total 1985 police expenditures were then divided by the total number of police personnel (administrative and operational) in each city in 1985 UNIFORM CRIME REPORTS table 77 to derive the annual per person value of personnel for each city. The resulting figure was then multiplied by a "salary differential" to obtain the adjusted annual per person value of personnel. This differential is necessary to account for the higher average salaries of sworn law enforcement officers (uniformed or undercover), upon whose manhours this study focuses. Differentials for each city were derived by calculating the difference between average 1985 salaries for non-sworn (administrative) and sworn (operational) police personnel. Salary figures for each municipality are listed in SOURCEBOOK 1985, *supra* note 2, at 49-53 table 1.12.

The adjusted annual per person value of personnel was then divided by 1,715 (thirty-five working hours per week, excluding lunch hours, multiplied by forty-nine weeks per year). Average hours and weeks worked are listed as identical for all cities in THE MUNICIPAL YEARBOOK 1986, at 150-51 (1986).

c. Figures in column (b) multiplied by those in column (a).

d. Based on figures in table 2, column (c).

e. Figures in column (c) multiplied by those in column (d), then multiplied by fifty-two weeks to obtain annual cost estimates.

TABLE 6: ESTIMATED TOTAL INCARCERATION COSTS FOR PROSTITUTION SENTENCES; 1985

CITIES: (by pop. size)	a. Annual Total Expenditures Per Jail Inmate 1985 (est.)	b. Daily Cost Per Inmate: 1985 (est.)	c. Total Days Prostitution Arrestees Spent in Jail: 1985	d. Annual Jailing Costs for Prostitution: 1985	e. Average Jailing Costs Per Arrestee: 1985
Cities (6) over 1,000,000					
New York	\$42,425	\$116	81,198	\$9,437,838	\$807
Los Angeles	\$14,728	\$40	104,100	\$4,200,649	\$280
Chicago	\$11,177	\$31	45,526	\$1,394,092	\$214
Houston	\$15,147	\$41	30,452	\$1,263,694	\$288
Philadelphia	\$19,141	\$52	41,595	\$2,181,305	\$2,106
Detroit	\$21,383	\$59	45,804	\$2,683,378	\$407
TOTAL			348,675	\$21,160,955	
MEAN	\$20,667	\$57	58,113	\$3,526,826	\$684
Cities (10) 500,000-1,000,000					
Dallas	\$15,147	\$41	50,523	\$2,096,598	\$288
San Diego	\$14,728	\$40	11,104	\$448,069	\$280
Phoenix	\$26,145	\$72	12,284	\$879,920	\$497
Baltimore	\$42,958	\$118	12,374	\$1,456,343	\$817
San Francisco	\$14,727	\$40	24,823	\$1,001,566	\$279
Memphis	\$10,412	\$29	6,711	\$191,435	\$198
Wash., D.C.	\$19,206	\$53	9,799	\$515,605	\$365
Cleveland	\$19,743	\$54	29,502	\$1,595,786	\$375
Boston	\$21,629	\$59	35,727	\$2,117,053	\$411
New Orleans	\$10,949	\$30	10,230	\$306,882	\$208
TOTAL			203,077	\$10,609,256	
MEAN	\$19,564	\$54	20,308	\$1,060,926	\$372
All Cities (16)					
TOTAL			551,752	\$31,770,211	
MEAN	\$19,978	\$55	34,485	\$1,985,638	\$489

a. The most recent data available for deriving costs per inmate is listed by state for fiscal year 1983 in U.S. DEPT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, THE 1983 JAIL CENSUS 10 (1984). Data provided in this source concerning the total and per inmate operating expenditures, and total (including capital) expenditures for each state was intercalated to derive the 1983 total expenditures per jail inmate in each state. These figures were then updated to 1985 estimated spending levels by using the average annual increase in local corrections expenditures between 1980 and 1983. JUSTICE EXPENDITURE AND EMPLOYMENT EXTRACTS: 1982 AND 1983, table 1 (1986); U.S. DEPT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, JUSTICE EXPENDITURE AND EMPLOYMENT EXTRACTS: 1980 AND 1981, table I (1984).

b. Final figures in column a divided by 365 days per year.

c. Based on an average one night in jail awaiting bail per arrestee, plus an eleven percent of arrestees convicted and serving an average jail sentence of fifty-four days. G. MEGINO, *supra* note 42, at 5. Thus, where n = the number of arrestees in each city, the calculation is as follows: $n + [.11(n) \times 54]$. Prostitutes' representatives interviewed agreed with the findings of the California Senate Committee that approximately 11% of arrestees serve sentences, but they unofficially estimated the average length of stay in jail at ninety days. The average number of days for Philadelphia arrestees, most of whom are reportedly indicted on felony charges, is estimated at 365.

d. Figures in column (b) multiplied by those in column (c).

e. Figures in column (d) divided by those in table 2, column (c).

TABLE 7: ESTIMATED JUDICIAL PERSONNEL COSTS
FOR PROSTITUTION CASES; 1985

CITIES: (by pop. size)	a. Est. Hourly Personnel Value Per Courtroom	b. Est. Hrs. of Court Time Per Arrest	c. Court Costs Per Arrestee	d. Reported No. of Annual Arrests	e. Est. Annual Court Costs for Prosti- tution Cases
Cities (6) over 1,000,000					
New York	\$176	3.3	\$581	11,700	\$6,795,360
Los Angeles	\$249	1.4	\$349	15,000	\$5,229,000
Chicago	\$181	1.6	\$290	6,560	\$1,899,776
Houston	\$150	4.1	\$615	4,385	\$2,696,775
Philadelphia	\$154	14.0	\$2,156	1,036	\$2,233,616
Detroit	\$164	2.0	\$328	6,600	\$2,164,800
TOTAL					\$21,019,237
MEAN	\$179	4.4	\$720	7,547	\$3,503,221
Cities (10) 500,000-1,000,000					
Dallas	\$150	2.7	\$405	7,280	\$2,948,400
San Diego	\$249	3.3	\$822	1,600	\$1,314,720
Phoenix	\$172	4.2	\$722	1,770	\$1,278,648
Baltimore	\$156	3.3	\$515	1,783	\$917,888
San Francisco	\$249	2.7	\$672	3,584	\$2,409,523
Memphis	\$125	3.5	\$438	967	\$423,063
Wash., D.C.	\$224	3.7	\$829	1,412	\$1,170,266
Cleveland	\$143	3.9	\$558	4,251	\$2,370,783
Boston	\$119	2.0	\$238	5,148	\$1,225,224
New Orleans	\$113	3.3	\$373	1,474	\$549,655
TOTAL					\$14,608,169
MEAN	\$170	3.3	\$557	2,927	\$1,460,817
All Cities (16)					
TOTAL					\$35,627,496
MEAN	\$174	3.7	\$618	4,659	\$2,226,719

Given the sparse data on local judicial expenditures, calculation of total court costs in prostitution cases would entail extrapolations too convoluted to produce statistically significant estimates. The figures in this table thus represent only the judicial personnel costs, for which reliable data have been published. Since these figures do not encompass expenditures on courtroom supplies, construction, overhead, and other capital outlays, the final estimates are likely to be highly conservative.

a. The "Estimated Hourly Personnel Value Per Courtroom" is based on the number of municipal fulltime-equivalent employees and their monthly payroll for the state in which each city lies. The most recently published employment data is listed for fiscal year 1983 in SOURCEBOOK 1985, *supra* note 2, at 39-42 table 1.11. The number of fulltime-equivalent employees was used to estimate the number of municipal courtrooms in each state, figuring an average of fifteen employees per courtroom. CCJ STUDY, *supra* note 23, at 626.

Total monthly municipal payroll expenditures for each state were then divided by the estimated number of courtrooms to derive a monthly personnel value per courtroom. This figure was then divided by 198 hours per month (nine hours per day \times twenty-two days per month) to calculate the 1983 hourly value per courtroom. This figure was then updated to 1985 spending levels by using the mean percentage increase in local judicial and legal services expenditures between 1979 and 1983. JUSTICE EXPENDITURE AND EMPLOYMENT EXTRACTS: 1979 and 1980 (1983); 1980 and 1981 (1984); 1981 and 1982 (1985); 1982 and 1983 (1986), table 1 in all four volumes.

b. Figures in table 1, column b concerning police manhours in court multiplied by .25 (estimating that the court delays with the prostitution arrestee's case for approximately one-fourth of the total time officers spend in court).

c. Figures in column a multiplied by those in column b.

d. From table 2, column c.

e. Figures in column c multiplied by those in column d.