

CHANGING ACTIONS TO CHANGE HABITS

C.A.T.C.H.

21ST Century Challenges and Solutions to Human Trafficking/Prostitution

Honorable Paul M. Herbert
Franklin County Municipal Court
Columbus, Ohio

We know what prostitution is; It is defined in the Ohio Revised Code as:

2907.24 Soliciting

(A) No person shall solicit another **to engage...in sexual activity for hire.**

Prostitution has reportedly been in existence for as long as recorded history. Known as the world's oldest profession. Also, we as a society have firm stereotypes of what a prostitute is: victimless crime (two consenting adults); an entrepreneur; it's a choice as touted by Julia Roberts in *Pretty Woman*; a woman who is so drug addicted she has to resort to selling her body to maintain a drug addiction; they are horrible shameless women that commit a multitude of crimes; and on and on.

Instead of relying on media and stereotype, let's take a look at the truth behind prostitution. Let's take a look at the criminology of prostitution and see who and why an individual commits the crime of solicitation under Ohio law.

National statistics regarding prostitutes:

1/3 of all women entered prostitution before age 15.

62% of all women were in prostitution before their 18th birthday.

96% of prostitutes who entered prostitution as juveniles were runaways.

72% of all juvenile runaways are sexually and physically abused in the home.

These factors combine to form a disassociative personality disorder that makes an individual unable to understand normal intimacy boundaries.

Local CATCH data comparison:

Number of clients sexually abused prior to the age of 16:	87.5
Average age client was sexually abused:	8.5
Average age client started using drugs:	12.5
Percentage of clients humanly trafficking (Force, fraud, coercion): (N=20)	92%
Race:	87.5 White 12.5 African American
Average age:	36.3
Drug of abuse at time of arrest:	62% Crack 12.5% Heroin 18.7% Crack and Heroin 6.8% Alcohol

These statistics overwhelmingly fly in the face of America's cultural opinion of a prostitute.

We also have a cultural stereotype of what a human trafficking victim looks like. Usually, some form of foreign-born young girl, drugged, chained to a bed and sold for sex. According to the FBI, while true in some cases...it is not the norm. So let's put out a working definition of human trafficking, focusing mainly on the language of the statute that defines the victim:

2905.32 Trafficking in persons.

(A) No person shall knowingly recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, or knowingly attempt to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, another person knowing that the person will be subjected to involuntary servitude or be compelled **to engage in sexual activity for hire**, engage in a performance that is obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented.

(B) For a prosecution under this section, the element "compelled" does not require that the compulsion be openly displayed or physically exerted. The element "compelled" has been established if the state proves that the victim's will was overcome by force, fear, duress, or intimidation.

Effective 6-27-12

Do we see any similarities in the definition of a prostitute and a human trafficking victim according to the Ohio Revised Code? What significance is it that "to engage in sexual activity for hire" is both legally the same for a defendant in a criminal case charged with prostitution, and victim in a statute that defines the same behavior as being a victim?

The only logical conclusion you can reach faced with this scenario is that all human trafficking victims are prostitutes. Yes, the difference you beg in one versus the other is whether there is the element of "compulsion." You must still then wrestle with the dilemma...if all human trafficking victims are prostitutes...then how many (of the thousands upon thousands of women charged with this offense each year) of the prostitutes in America are human trafficking victims? We have the answer for you.

In answering that burning question you must find out whether the person was under compulsion to engage in sex for hire...and whether they were somehow lured, enticed, harbored etc...

-View multi-media-

How are they lured, recruited? Vulnerable to begin with, juvenile girls are recruited through, boyfriending, false advertisement for "modeling," acting, "dancing" opportunities... I see this through search warrants routinely conducted. Vulnerable girls looking for caring adults, violence and force, peer recruitment, internet enticement, family exploitation, promises of love and marriage, survival needs.

It is also noteworthy that in State v. Nelms, 2012 the grand jury found when the victim's will is overcome through manipulation by drugs, the compulsion element is met. Nelms was indicted on 16 counts of Human Trafficking for trafficking up to 12 women and girls. He sold women on the internet and then would drive them around Ohio to engage in sexual activity for hire.

To determine whether prostitution involves compulsion you need to look at the level of trauma involved with the lifestyle

82% are physically assaulted

83% have been threatened with a weapon

68% have been raped while working 27% by multiple assailants

35% sustain broken bones

47% sustain traumatic brain injuries

Women in prostitution are 18 times more likely to be murdered than women of similar age and race
Only 7% of prostitutes report their crimes to the police

Average life expectancy of a woman engaged in prostitution is age 34.

15% of all suicides are prostitutes, 75% of women engaged in this life style will attempt suicide

How are the women kept under control? Through the use of common wartime, terrorist and cultist tactics: sexual, physical, emotional abuse; economic and drug dependence; isolation from outside social influences, family, friends normal relationships. Names are changed and trauma bonding is so pervasive that women actually love their captors and want to make them happy.

We conduct a human trafficking assessment on all women accepted into the CATCH program (charged with prostitution) 92% of all women assessed fall within the legal definition of being a human trafficking victim. This conclusion should be staggering for all people who are concerned with human rights, gender inequality, and violence against women. Additionally, almost all human trafficking victims are also victims of domestic violence.

“YOU ARE THE PROSECUTOR” FACT SCENARIO: read fact pattern and engage audience participation.

So what does a human trafficking victim look like?

Most human trafficking victims experience a combination of the following known issues:

Post Traumatic Stress Disorder	Alcohol or Drug
Mental Health	Traumatic Brain Injury
Medical	Dental
Women’s Health	Housing
Job Skills	Self-esteem
Societal Acceptance	Shame/Guilt
Parenting	Legal Issues
Transportation	Tattoo “branding”

This is where CATCH court meets them, and created a restorative justice program to help women escape the lifestyle, but confront the greatest challenges for treatment.

What is CATCH court?

Mission Statement

The CATCH program will address the needs of defendants who have been charged in the Franklin County Municipal Court with prostitution, solicitation, loitering to solicit, or other offenses if the defendant has a history of being a victim of human trafficking. The mission of the CATCH program is to establish an integrated approach to meet the treatment, health, and behavioral medication needs of those defendants.

Target population

The target population for the CATCH program is defendants who have been charged with misdemeanor prostitution, soliciting, loitering to solicit, or other offenses where a history of human trafficking is present. The CATCH program defines human trafficking in the same manner as R.C. 2953.38(A)(4). The target population will be diagnosed with post-traumatic stress disorder, major depression, other mental illness, drug or alcohol dependency, and/or co-occurring disorders.

Participants are not required to reside in Franklin County, Ohio; however, the offense with which they are charged must have occurred within the Court's jurisdiction, which is the city of Columbus and Franklin County pursuant to R.C. 1901.01(A) and 1901.02(B).

The CATCH program does not discriminate based on race, color, religion, gender, sexual orientation, national origin, ancestry, age, citizenship, marital status, veteran's status, or any disability.

Legal eligibility criteria

The following are the legal eligibility criteria for acceptance into the CATCH program.

1. There are several ways a defendant may be referred to the CATCH program.
 - a. A referral on a new charge of misdemeanor prostitution, solicitation, or loitering to solicit. The offense must have occurred within the Court's territorial jurisdiction, which is defined in R.C. 1901.01(A) and 1901.02(B).
 - b. A referral following a probation revocation hearing when the reason for the revocation is a new charge for prostitution, solicitation, or loitering to solicit.
 - c. A referral from any other judge of the Franklin County Municipal Court based on the transfer of probation.
 - d. A referral on any other new, pending, misdemeanor charge when the defendant appears to have committed the offense as a victim of human trafficking.

2. All issues regarding competency to stand trial or insanity defenses must be resolved before acceptance into the CATCH program.
3. The defendant must complete all required paperwork and assessments for acceptance into the CATCH program.

Treatment Team Meetings and Status Review Hearings

The treatment team monitors each participant's performance and progress through treatment team meetings and status review hearings.

Treatment Team Meetings

Treatment team meetings are held each Thursday starting at 12:00 p.m. in the Franklin County Municipal Court. The CATCH judge, prosecutor, Specialized Dockets Coordinator, case manager, Community Support Coordinator, probation officer, representatives from treatment providers, and defense attorneys, if requested by the defendant, participate in the treatment team meetings. The Assistant Specialized Dockets Coordinator prepares the agenda to review new referrals and the progress of active participants.

Progress reports must be received by the Community Support Coordinator each Wednesday by 5:00 p.m. The Community Support Coordinator reviews each progress report and prepares notes for discussion at the treatment team meeting and for the judge's reference during the status review hearing. A sample progress report is attached at Appendix G.

Status Review Hearings

The specialized docket incorporates ongoing judicial interaction with each participant. Status review hearings are held each Thursday, starting at 1:30 p.m. in Courtroom 12C of the Franklin County Municipal Court. The purpose of the status review hearing is to promote accountability and increase the likelihood of successful completion through ongoing judicial interaction with each participant.

Attendance at status review hearings is dependent on the participant's phase in the program. Participants in Phases I and II are required to attend weekly status review hearings. Participants in Phase III must attend status review hearings once every two weeks. By attending status review hearings, participants have the opportunity for direct discussion with the judge. Frequent attendance also establishes and reinforces the CATCH program policies and provides an environment that fosters supportive relationships among all participants.

Summary of Treatment

"Treatment plan," as used herein, refers to plans to provide services and treatment plans under Standards 5 and 9 of Appendix I of the Rules of Superintendence.

The treatment plan for each participant is developed in conjunction with the treatment providers, CATCH staff, and CATCH probation officer to meet the individualized needs of each participant and incorporate evidence-based strategies. Each participant receives his or her treatment plan from the ODADAS/ODMH-funded agency that provides services. Treatment plans are gender and culturally appropriate, and effectively address co-occurring disorders. Each treatment plan is appropriate and clinically necessary to the degree that available resources allow.

CATCH participants shall have prompt access to a continuum of approved treatment and rehabilitation services within 72 hours of acceptance into the CATCH program. The CATCH treatment team maintains current treatment plans, which may be amended to meet each participant's individualized needs as treatment progresses.

All service providers for the CATCH program provide direct services to participants or can link the participant to other services to stabilize alcohol and other drug use and mental health issues. Services are provided based on the participant's need for medical, mental health, and dental services, housing, employment, education, and other essential ancillary services.

Phases

“Phases” are steps in treatment and are based on participants’ performance in the treatment plan and compliance with the requirements of each phase. Generally, the entire CATCH program will take two years to complete; however, participants may experience set-backs or require additional assistance that extends the time for completion. Other participants may excel in their treatment plan and complete all phases in slightly less time. Therefore, progress is not based on a pre-determined timeline.

Orientation: Defendants meet with the Assistant Specialized Dockets Coordinator, Community Support Coordinator, or probation officer to complete the waiver and consent form. They review the Participant Handbook, are introduced to the treatment team, and will become familiar with the locations of treatment and service providers. Transportation concerns may be addressed at this time.

Phase I: Stability and Compliance

Participants are required to attend all appointments, weekly status review hearings, and treatment appointments as defined in the treatment plan. If the participant is on medication, he or she must take all medication as prescribed by the treatment provider. Once all requirements are complete, the participant will transition to Phase II.

Phase II: Movement and Connection

The treatment provider(s) and CATCH treatment team will develop a plan and connect each participant to ancillary services such as social welfare, educational institutions, family services, and housing. Participants are

required to follow and complete any recommendations for services and treatment and to attend status review hearings on a weekly basis. Once the CATCH judge determines that a participant has maintained the healthy and responsible behaviors developed in Phase I and that the participant has made and sustained healthy connections to treatment and service providers and peers in the community, the participant may transition to Phase III.

Phase III: Sustain and Thrive

Participants will continue the treatment plan deemed appropriate by the CATCH treatment team. Participants will complete two (2) volunteer activities and lead four (4) sober support meetings. Participants attend status review hearings every other week and meet with the treatment team every other week. Completion of Phase III will result in graduation from the CATCH program.

Graduation: Graduation from the CATCH program occurs when participants successfully complete all three phases. Below is a list of the guidelines that will help identify successful completion of the CATCH program. The CATCH judge makes the final determination of successful completion.

- 1) Successful completion of mental health and substance abuse treatment
- 2) Verified period of abstinence from alcohol and drugs
- 3) Completion of community service hours as directed
- 4) Attend Alcoholics Anonymous support group meetings as directed
- 5) Identifies and maintains positive and supportive relationships
- 6) Demonstrates the ability to identify and eliminate criminal thinking patterns
- 7) Pays fines, court costs, restitution, and/or treatment costs
- 8) Completion of a physical examination
- 9) Completion of a writing assignment about a recovery-related topic
- 10) Completion of any required term of incarceration and/or home incarceration with electronic monitoring for the current offense

A chart of the Phases is attached at Appendix J.

Incentives

Incentives and rewards are an important part of making lasting lifestyle changes and improving behaviors. Positive changes and compliance with program guidelines shall be rewarded. However, incentives must be tailored to the individual. Therefore, no formalized list of behaviors and corresponding incentives has been developed. In

general, each incentive is tailored to the needs of the individual participant based on his/her needs and the behavior that prompted rewarding an incentive.

Positive actions and compliance that will be rewarded include, but are not limited to:

- 1) 90 and 180 days of sobriety
- 2) 3 consecutive negative drug screens
- 3) Paying fines and court costs
- 4) Obtaining employment
- 5) Obtaining a GED or completing other vocational or educational training
- 6) Phase advancement

The type of rewards received will be determined by the CATCH treatment team and the CATCH judge based on the participant's performance and compliance in the program. Some of the incentives utilized by the Court include, but are not limited to:

- 1) Encouragement and praise from the CATCH judge Reduction in probation appointments
- 2) Encouragement to work on positive activities the participant enjoys
- 3) The ability to participate in activities through Doma International
- 4) Small tokens, such as certificates, focus keys, watches, or scrap books

Doma International

Doma International is a non-governmental organization formed to bridge gaps between the court process and treatment providers. In addition to providing training and mentors to participants, Doma organizes monthly group activities outside of Court that foster self-esteem and camaraderie. Additionally, Doma has established and operates a catering company called Freedom alaCart as a work force development project that trains and employs participants to be successful in the current job market.

Sanctions

Immediate, graduated, and individualized sanctions govern the CATCH judge's response to participants' non-compliance with program rules or conditions of community control sanctions. Sanctions help to redirect participants so they can conform to the program requirements, and sanctions also deter inappropriate or illegal behaviors. As with incentives, sanctions are largely based on the individual needs of participants, and the CATCH judge has discretion in determining the appropriateness of sanctions. In general, the more egregious the non-compliance, the more severe the sanction will be.

Reasons why a participant might be sanctioned include, but are not limited to:

- 1) Failing to attend status review hearings, probation appointments, or treatment appointments

- 2) Failing to cooperate with the CATCH staff
- 3) Failing to comply with the treatment plan
- 4) Failing to provide required documentation, receipts, or paperwork
- 5) Possessing or using drugs or alcohol
- 6) Continued criminal activity or new charges

Sanctions include, but are not limited to:

- 1) A verbal reprimand in court
- 2) Additional writing assignments
- 3) Denial of additional or expanded privileges, or the revocation of privileges already granted
- 4) Additional community service hours
- 5) Extended time in the appropriate Phase of treatment or demotion to a prior phase
- 6) Electronic monitoring
- 7) Issuance of an arrest warrant
- 8) Incarceration
- 9) Termination from the CATCH program

The CATCH program is always voluntary. The participant's actions direct the response from the treatment team and the judge.

Chapter 6: Program Completion

Criteria for Successful Completion

Graduation from the CATCH program will occur after the participant has successfully completed all three phases of treatment. In addition, the participant must demonstrate the following:

- 11) Successful completion of mental health and substance abuse treatment
- 12) Verified period of abstinence from alcohol and drugs
- 13) Completion of community service hours as directed
- 14) Attend Alcoholics Anonymous support group meetings as directed
- 15) Identifies and maintains positive and supportive relationships
- 16) Demonstrates the ability to identify and eliminate criminal thinking patterns
- 17) Pays fines, court costs, restitution, and/or treatment costs
- 18) Completion of a physical examination
- 19) Completion of a writing assignment about a recovery-related topic
- 20) Completion of any required term of incarceration and/or home incarceration with electronic monitoring for the current offense

Once a participant feels they have completed all of the requirements, the participant will meet with the treatment team to discuss potential graduation. Participants understand that the CATCH judge will determine whether the program has been successfully completed.

Upon successful completion of the CATCH program, the judge may vacate the guilty plea and dismiss the complaint. Successful participants will be invited to a public graduation ceremony, which is normally attended by the CATCH judge and treatment team, other elected officials, Court employees, and family members. At the graduation ceremony, the participant will be awarded a certificate, a testimonial, and a scrapbook and will have the opportunity to make comments to the audience.

The treatment team may make recommendations regarding aftercare for participants who are terminated from the program, either successfully, unsuccessfully, or neutrally. However, the treatment provider(s) and the participant will determine treatment. Clinical decisions regarding levels of care and appropriateness of treatment must be made by licensed individuals who carry appropriate liability insurance from the State of Ohio.

The CATCH program has worked with Doma International to provide volunteer and mentor support to both participants and CATCH graduates. Opportunities for continued support may be extended to successful participants through Doma.

2953.38 Expungement of certain crimes for victims of human trafficking.

(A) As used in this section:

(1) "Expunge" means to destroy, delete, or erase a record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.

(2) "Prosecutor" has the same meaning as in section [2953.31](#) of the Revised Code.

(3) "Record of conviction" means the record related to a conviction of or plea of guilty to an offense.

(4) "Victim of human trafficking" means a person who is or was a victim of a violation of section [2905.32](#) of the Revised Code, regardless of whether anyone has been convicted of a violation of that section or of any other section for victimizing the person.

(B) Any person who is or was convicted of a violation of section [2907.24](#), [2907.241](#), or [2907.25](#) of the Revised Code may apply to the sentencing court for the expungement of the record of conviction if the person's participation in the offense was a result of the person having been a victim of human trafficking. The person may file the application at any time. The application shall do all of the following:

(1) Identify the applicant, the offense for which the expungement is sought, the date of the conviction of that offense, and the court in which the conviction occurred;

(2) Describe the evidence and provide copies of any documentation showing that the person is entitled to relief under this section;

(3) Include a request for expungement of the record of conviction of that offense under this section.

(C) The court may deny an application made under division (B) of this section if it finds that the application fails to assert grounds on which relief may be granted.

(D) If the court does not deny an application under division (C) of this section, it shall set a date for a hearing and shall notify the prosecutor for the case from which the record of conviction resulted of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court may direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant.

(E) At the hearing held under division (D) of this section, the court shall do both of the following:

(1) If the prosecutor has filed an objection, consider the reasons against granting the application specified by the prosecutor in the objection;

(2) Determine whether the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense was a result of having been a victim of human trafficking.

(F) If after a hearing the court finds that the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense that is the subject of the application was the result of the applicant having been a victim of human trafficking, the court shall grant the application and order that the record of conviction be expunged.

(G)

(1) The court shall send notice of the order of expungement to each public office or agency that the court has reason to believe may have an official record pertaining to the case if the court, after complying with division (E) of this section, determines both of the following:

(a) That the applicant has been convicted of a violation of section [2907.24](#), [2907.241](#), or [2907.25](#) of the Revised Code;

(b) That the interests of the applicant in having the records pertaining to the applicant's conviction expunged are not outweighed by any legitimate needs of the government to maintain those records.

(2) The proceedings in the case that is the subject of an order issued under division (F) of this section shall be considered not to have occurred and the conviction of the person who is the subject of the proceedings shall be expunged. The record of the conviction shall not be used for any purpose, including, but not limited to, a criminal records check under section [109.572](#) of the Revised Code. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.

(H) Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars. The court shall pay thirty dollars of the fee into the state treasury and shall pay twenty dollars of the fee into the county general revenue fund.

Added by 129th General Assembly File No.142, HB 262, §1, eff. 6/27/2012.