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Selling Sex in Honolulu: The Sentences

By Robert Brown | 11/24/2010

Editor's Note: This article is part of Civil Beat's ongoing coverage of prostitution and human trafficking in Honolulu. Read our related coverage:

- [Part 1: Police Focus Prostitution Arrests on Women, Not Men](#)
- [Part 2: Prostitution Busts for Men Turn Up Mostly Locals, Few Tourists](#)
- [Part 3: Unlicensed Massage Parlors Lack Enforcement Scrutiny](#)



Sara Lin/Civil Beat

When you try to track what happens to 49 people arrested on prostitution charges in three months, you discover a twist in our justice system.

As it turns out, the charges can simply disappear.

Prostitutes and the "johns" that pay them can tell an employer they've never been convicted of a crime — or even been arrested — thanks to something called a deferred acceptance of guilty plea. And first-time defendants almost always use it.

So long as defendants follow certain guidelines within a six-month period, such as remaining arrest-free and paying off fines and fees, it's as if they were never arrested in the first place.

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"There are two types of pleas," says Deputy Honolulu Prosecutor Scotty Hu. "Basically, there's a guilty plea and a no contest plea... With deferred acceptance of a no contest plea, that means that the court will defer the guilty plea for six months. Meaning the person can get their record wiped clean and they can move for an expungement later on as long as they comply with the terms and conditions specified by the court."

As part of our coverage of prostitution and [human trafficking in Hawaii](#), Civil Beat has gathered arrest information since early July on prostitution cases. A public log of all arrests made in the city is posted at the Honolulu Police Station.

After three months of collecting data, we paid for copies of the court records of eight suspected prostitutes and johns we found in the police blotter. Our review of the arrest records shows Honolulu Police [limit enforcement](#) to downtown and Waikiki. The investigation also revealed that when police arrested men for prostitution-related offenses, they appeared to be [targeting locals](#) instead of tourists.

Prostitution Cases Difficult to Track

But we also found that even when police make arrests, it's difficult to track what actually happens with a case.

Prostitution, both selling and soliciting, is a petty misdemeanor punishable by a mandatory \$500 fine and may also include jail time for up to 30 days.

Hu said that tourists often receive jail sentences because they are more likely to have flown to Hawaii specifically for prostitution and often use "adult rendezvous" listings from websites like [Craig's List](#).

But first time offenders can take what's known as a [Deferred Acceptance of Guilty Plea or Nolo Contendere Plea](#). This gives defendants a chance to get the prostitution charge removed from their record providing they follow certain guidelines over a six-month period.

According to Hu, it's a matter of giving defendants a second chance.

But the plea underscores how difficult it is to know what's really happening with prostitution and how the courts and police are dealing with the problem.

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Robert Brown
Reporter-Host



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Deferred Plea of No Contest Can Keep Slate Clean

The Honolulu Police Department doesn't share its data and has been resistant to a Civil Beat request to review all prostitution arrest reports for 2009.

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With a deferment, former prostitutes or johns can apply for a job and honestly say they've never been convicted of a crime.

In fact, they could even pass a federal government background test, or obtain a security clearance, according to Hu.

Technically, not all of the public record disappears. If armed with a court case number, the date of arrest and the first and last name of a defendant, a public court record can still be obtained in person at the courthouse. But all online records of the arrests and sentences are removed.

If prostitutes or johns stay out of trouble with the law for four years after the deferment period, they can file for what's known as 'expungement,' removing any chance of public access to the record. It becomes virtually impossible to track the case from start to finish.

But even if the public doesn't know, the court never forgets.

Hu said, "The difference in prostitution cases, and it's written directly in the statute, is that the deferral counts as a previous conviction. So the next offense could be a subsequent offense... prostitution is a little different than the regular statute."

In other words, while the crime never happened from a public records perspective, it remains in court filings and can be used by prosecutors to prove someone is a repeat offender.

For many crimes in [Hawaii](#), defendants can file for deferred acceptance more than once. For prostitutes and johns, however, it can only be used for a first offense.

Hu said while he has heard of cases when defendants don't use deferred acceptance for a first offense, it's extremely rare.

"I never understood this logic," Hu said. "The logic is that if you get into more serious crime, then you can't get a deferral. So it's almost like they're saying, 'Well, I want to save it.'"

Examples of How Court Handles Cases

From the eight cases Civil Beat reviewed, penalties for first-time offenders included being ordered to "contribute" \$500 to the state general fund and \$30 to the criminal injuries compensation fund.

Some defendants received also five days of jail time with credit for any days served while in custody.

An example of a case involving a prostitute is below:

On Oct. 18, Monday, at 9:00 p.m., Shantel Hostler, 21, was arrested at the [Ala Moana Hotel](#). The next morning, she entered a not guilty plea and was referred to a public defender, Melissa Lam, for an expedited trial.

On Oct. 26, Hostler waived her right to a trial and filed a no contest plea. Her motion was accepted by the court and she was placed on deferred acceptance for six months on the following conditions: She would remain arrest free; She would serve five days in jail (credit time-served); and she would pay a \$500 fine and a \$30 fee.

Here's an example of a case involving a john:

Harry Harris, 33, was arrested Thursday, Aug. 19, at 9:00 p.m. He was picked up at the corner of South Street and Pohukaina Street in Kakaako. Harris posted his own \$500 bail and did not show at his hearing Sept. 16.

Harris' trial was set for 30 days later on Oct. 19, where he was defended by private attorney, Gregory Jackson. He waived his right to a trial and pleaded no contest. He was placed on deferred acceptance for six months under the following conditions: He would remain arrest free; and he would contribute \$500 to the state general fund also pay a \$30 fine, both of which he paid.