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Sunday, November 3, 2013

**SUNDAY**

**USA TODAY** | OFFICIAL: POLICE SAVED 'UNTOLD LIVES' AT LAX | PAGE B1

## Prostitutes get worst from arrests

It takes two to tango, but women charged more often than men

By Ariel Cheung  
Post-Crescent Media

Ninety-nine percent of the men arrested in Grand Chute for patronizing a prostitute will never face criminal charges, but the reality is far different for the women they pay for sex.

Nearly 40 percent of them are charged with either felony or misdemeanor offenses, a Post-Crescent Media review found.

Since 2011, prostitution-related arrests have skyrocketed in Outagamie County. And while there has been a rise in related criminal charges, the prosecutions have largely fallen on the shoulders of women while male patrons have escaped largely unscathed.

That discrepancy is at the heart of a legal challenge in a pending Outagamie County case in which a woman is charged with a felony count of keeping a place of prostitution and a misdemeanor count of prostitution.

The attorney in that case, Edgar Lin, a former assistant public defender in Outagamie County who now works in Milwaukee, argues that since a john and a prostitute must agree to exchange money for sexual contact, both are equally responsible for breaking the law.

See **CHARGES**, Page A12

### COMING MONDAY

A look at law enforcement efforts over the past year to deter prostitution in the Fox Valley by offering education and therapy for prostitutes and johns, and cracking down on pimps and sex-traffickers.

### MORE FOX CITIES

» LOCAL AND STATE NEWS

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**BUDGET TALKS** | Appleton officials pick and poke at city spending plan / **A11**

**CHRISTMAS?** | Appleton's downtown holiday parade less than month away / **FOUR WEEKS OUT, A15**



**DO IT! STOCK THE SHELVES**  
CHALLENGE 2013

Campaign aiding food pantries hits one-third of \$270,000 goal with four weeks left / **A4**

## 'We want him to have hope'



Charlie Knuth plays a video game with his mom Trisha Knuth while waiting to see an occupational therapist Wednesday at the Children's Hospital of Wisconsin in Appleton. Charlie has the life-threatening disease epidermolysis bullosa, better known as EB, and has undergone two stem cell transplants.

WM. GLASHEEN/POST-CRESCENT MEDIA

Medically improved and back in school, Charlie Knuth, 7, is living it up

By Cheryl Anderson | Post-Crescent Media

October was a month of monumental achievements for Charlie Knuth. Fresh off trick-or-treating for the first time in more than five years, the 7-year-old Darby youth, whose immune system is almost fully recovered, returned to school a few days ago.

"The last time he was in school reg-

See **CHARLIE**, Page A6

### VIDEO

See Charlie Knuth work on occupational therapy at **postcrescent.com**.

### ON THE WEB

Follow Charlie and his family on Facebook at Prayers for Charlie.

### BREAKING NEWS

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# Charges

Continued from Page A1

“Patrons and prostitutes are in the same class, because they’re violating the same morality,” Lin said. “They’re treating the genders differently, and it’s not fair.”

From 2010 to 2012, prostitution-related arrests increased tenfold, from 12 to at least 124, according to the Office of Justice Assistance. All but a dozen of the 2012 arrests were in Grand Chute, where the majority of Outagamie County hotels are located.

Typically, after a person is arrested, the case is referred to the Outagamie County District Attorney’s office, where prosecutors decide whether criminal charges are appropriate. If charges are not filed, the only consequence of the arrest is — at most — a citation and a fine.

Prosecutors justify the discrepancy between men and women by saying patronizing a prostitute and providing the service are on different levels of criminality. But in recent months, the district attorney’s office has taken a more balanced approach in prosecuting prostitutes and johns, as part of a joint effort with police departments to deter sex-for-pay and human trafficking in the Fox Valley.

Overall, 48 of the 129 women arrested in Grand Chute for prostitution-related offenses since 2011 faced criminal charges, according to an analysis of Grand Chute Police Department records.

In contrast, criminal charges were filed against 7 percent of men who were arrested. Of the 158 men arrested in Grand Chute for such offenses, 11 have been criminally charged. However, all but one of them were charged as pimps, solicitors or male prostitutes — rather than customers.

## Taking action

In June, Lin filed a motion to dismiss a 2012 case against Alexis Smith, 20, who is charged with a felony count of keeping a place of prostitution and a misdemeanor count of prostitution.

Lin argued that Smith has been denied equal protection of the law due to the discrepancy in prosecuting both genders in prostitution-related cases. The attorney said the gender-based discrimination violates the U.S. Constitution’s 14th Amendment, which guarantees equal protection of the law for citizens.

To prove his client’s right to equal protection was violated, Lin must show the lack of prosecuting male patrons had a discriminatory effect and was motivated by a discriminatory purpose. If that is accomplished, prosecutors must prove there was a reasonable basis for the discretion.

In 1976, the Wisconsin Supreme Court heard a case involving two women charged with prostitution after a man paid each of them \$100 for performing sexual acts and then filed a complaint against them. The man was not charged.

While the court noted there can be valid reasons to not prosecute patrons, the justices ruled the female prostitutes were denied equal protection if they are consistently prosecuted and the male patrons are not. But it must be established that the failure to prosecute patrons was “selective, persistent, discriminatory and without justifiable prosecutorial discretion,” according to the 1976 ruling.

In a Sept. 9 response to Lin’s motion, Outagamie County Assistant District Attorney Andrew Maier opposed the claim that the office was discriminating against female prostitutes. He said prostitutes and patrons are not similarly situated.

Many of the women

who are criminally charged can face felony counts of keeping a place of prostitution, while patrons can only be charged with misdemeanors such as patronizing a prostitute, Maier said.

Maier likened the situation to a drug deal, where prosecutors typically go after the dealer or supplier of a product as opposed to a consumer.

“I don’t really look at it through the lens of male versus female,” Maier told Post-Crescent Media. “The way I look at it is if we prosecute a prostitute or a pimp, that’s cutting the supply off for the customer.”

In Smith’s case, the defendant told police she rented a hotel room for three days and had seen two clients previously. She did not have a pimp, Maier said.

“Really what that amounts to, it’s sort of like if she’d brought a quantity of drugs and advertised that she had drugs for sale and arranged to sell drugs from that hotel room,” he said. “We wouldn’t see her as being the same as people who buy drugs from her. She’s not the middle person; she came up here independently in order to make money.”

While the contrasting numbers between female and male prosecutions seem “problematic,” it isn’t difficult for prosecutors to legally justify the discrepancy, said Donald Downs, a University of Wisconsin-Madison professor of political science and law.

## PROSTITUTION BY THE NUMBERS

- » 129: Women arrested in Grand Chute for prostitution-related offenses.
- » 158: Men arrested in Grand Chute for prostitution-related offenses.
- » 37: Percent of women criminally charged following their arrest (48).
- » 24: Women arrested for felony offenses, usually keeping a place of prostitution.
- » 87: Percent of women arrested for felony offenses who were criminally charged (21).
- » 105: Women arrested solely for misdemeanor offenses, usually an escort license violation or prostitution.
- » 25: Percent of women arrested for misdemeanor offenses who were criminally charged (27).
- » 11: Men criminally charged following their arrest, or 7 percent.
- » 9: Men charged with soliciting, or causing someone else to practice prostitution, or pimping-related charges.
- » 1: Man charged with prostitution.
- » 141: Men arrested for patronizing a prostitute.
- » 1: Man charged with patronizing a prostitute.
- » 99: Percent of johns who were not criminally charged (140).
- » 81: Percent of prostitution-related court cases against women.
- » 54: Percent of women arrested in 2013 who were criminally charged (20 of 37).
- » 39: Percent of women arrested in 2012 who were criminally charged (26 of 66).
- » 8: Percent of women arrested in 2011 who were criminally charged (2 of 26).

Source: Grand Chute Police Department and Outagamie County Circuit Court January 2011 to July 2013 data

“If there’s a rational explanation, the state can show there’s no intent to discriminate,” he said. “What crimes are the women being arrested for? Is the evidence better in those cases? You can’t necessarily infer there’s discriminatory intent simply because there’s unequal outcomes. You have to compare apples with apples.”

When considering which cases to prosecute, Maier said the district attorney’s office considers a wide range of factors for each case, such as the severity of the crime and what action is needed to deter the individual from re-offending.

“In this office, we understand people make mistakes, but that doesn’t make them bad people

who are criminally oriented,” he said. “I think we do a pretty good job separating out those who don’t need criminal justice involvement to ensure they don’t commit new crimes.”

## A strategic shift

After local law enforcement agencies began pursuing more prostitution-related offenses in late 2010, Maier said he was surprised to see how many men were seeking prostitutes in the area.

“I thought 2½ years ago we had maybe 36 to 50 men in the Valley who would be customers of this sort,” he said. “But they come from all over the place, and now we know we need to devote more attention to that customer.”

As a result, the district attorney’s office has worked with local police agencies over the past year to shift the focus toward helping prostitutes get out of the business and start a new life, while simultaneously cracking down on pimps and johns.

Through the first seven months of 2013, men were charged more often than in the past — with 20 percent of the 25 who were arrested facing criminal charges. However, of those five cases, four were charged with pimping or trafficking-related felony charges, as opposed to merely patronizing prostitutes.

Maier said as local agencies continue to adjust strategies for deterring prostitution, he expects criminal charges to

be filed against a higher percentage of male patrons.

The Appleton Police Department, for example, now refers every prostitution and patron case to the district attorney’s office — with the hope that they will accept therapy or attend a job school in exchange for deferred prosecution.

“I think you’ll see if we’re still having this conversation in two years, the (numbers) will have almost equaled out, as many men arrested as women,” Maier said. “Because we’ve learned that the population of the demand is bigger than we thought.”

With limited resources available, it’s often more feasible to charge the women with possible felony offenses rather than the men who only face misdemeanors, he said.

In an ideal world, police would arrest a prostitute and use her phone contacts to find multiple johns and prosecute them — a tactic police considered during a 2009 investigation into local Asian massage parlors, Maier said.

“That is extremely draining on resources,” he added. “It would probably take several weeks of work to track down all those people and examine the cellphone, but I think it illustrates what I would like to be able to do.”

— Ariel Cheung: 920-993-1000, ext. 430, or acheung@postcrescent.com; on Twitter @arielfab

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