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CHARLES WIDGER SCHOOL OF LAW

THE INSTITUTE TO ADDRESS
COMMERCIAL SEXUAL EXPLOITATION

REPORT ON COMMERCIAL SEXUAL
EXPLOITATION IN PENNSYLVANIA
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Table of Contents

1. Introduction and Overview	1
2. Our Board of Advisors	4
3. Law and Policy	
3.1 Current Law	5
3.2 Legislative Changes	8
3.3 Legislative Recommendations	10
3.4 Policy Breakdown: Equality Model In Premise, In Practice	12
3.5 Federal Focus: EARN It Act	15
4. Law in Action	
4.1 Criminal Law Overview and Statistics	16
4.2 Precise Charging Matters	19
4.3 Police Sexual Misconduct	19
4.4 Who Needs to be Arrested to Build a Sex Trafficking Case	22
4.5 Attorney Collaboration: Creating a Web of Support for Survivors of Sex Trafficking	23
4.6 Federal Focus: AUSA Sean Camoni	24
4.7 Civil Impact Litigation	25
5. Law and Social Change	
5.1 Jennifer Glatthorn. Woman. Mother. Daughter. Survivor: Finding Beauty After Trauma	27
5.2 Criminal Record Clearing Options.....	29
5.3 Vacatur: Successes and Set-backs.....	31
5.4 Forty Years is Enough: Cyd Berger’s Petition for Commutation.....	32
5.5 Commercial Sexual Exploitation: At the Intersection of Racism, Mysogyny, and Poverty	33
6. Misinformation and Misunderstanding in the Movement	
6.1 #TraffickingTruths: Combatting QAnon and Human Trafficking Conspiracy Theories	36
6.2 A Christian Response	38
6.3 The Dangers of “Sex Work” as Language and Policy	41
7. Organizations & Groups Working Against Commercial Sexual Exploitation in Pennsylvania	43
8. References	46
9. About the CSE Institute	55

1. Introduction and Overview

This year, the focus of our annual Report is Truth and Justice. Fourteen months ago, the realization was just setting in that the global pandemic was drastically changing our day to day lives. We accurately predicted that commercial sexual exploitation (CSE) would not decrease and, in fact, remains ever present. In providing this Report to our stakeholders, we reaffirm our commitment to being the best resource in Pennsylvania on issues related to human trafficking and commercial sexual exploitation. We have confronted many new challenges in our work and are fighting harder than ever before.

The national anti-exploitation community united during quarantine and spent an extraordinary amount of time seeing and defeating division on two fronts. First, QAnon used the pandemic to fuel social media campaigns that spread myths and misinformation about sex trafficking and exploitation. Second, many organizations continue to work to decriminalize the full sex trade, without consideration for the inherent harms to those in prostitution. At the CSE Institute we know all too well that word choice and rhetoric are critical to advocating legal and policy positions. We have faced false narratives head on and continue to challenge any notion that sex is work and that victims and survivors should be rescued by those with a savior complex. Truth matters.

This year saw unprecedented efforts to achieve racial justice, as protestors, lawmakers and advocates took to the streets following George Floyd's death. Commercial sexual exploitation is fueled by systemic

racism and racial inequality; we know that women and girls of color are disproportionately represented amongst victims and survivors of sex trafficking. Anti-exploitation advocates must center racial justice in their efforts to combat trafficking. Justice matters.

In this year's Report we also cover the current Pennsylvania laws, policies and prosecution practices related to sex trafficking and CSE. We have made several recommendations for legislative reforms centered around adopting the Equality Model and enacting trauma-informed practices. We also note continued problematic charging practices. Persons in prostitution continue to be criminalized, meanwhile, those who purchase sex, the force driving the market, continue to be rehabilitated. Persons who buy and sell children for sex are still not charged with Trafficking in Minors, instead they plea to minor changes, minimizing the harm suffered by their victims. Again: Justice matters.

The most important piece of the CSE Institute's mission is to center the lived experiences of survivors in developing policies and best practices. I am excited for you to learn from the triumph of Jennifer Glatthorn in Finding Beauty After Trauma. Above all else, the movement to end sex trafficking and sexual exploitation must demand survivors' voices are at the forefront of every effort to end the sex trade. Since our inception we have consistently engaged the survivor community, their guidance shapes everything that we do and we will continue to partner with agencies and organizations that share our vision and values



Shea M. Rhodes, Esq.
Director & Co-Founder

On behalf of the CSE Institute, I want to thank all of our stakeholders who have worked tirelessly on the front lines during COVID-19 to ensure the safety and health of those impacted by commercial sexual exploitation. The vulnerabilities that lead to falling prey to CSE have only been exacerbated during the pandemic and we must remain vigilant in this fight to end all forms of exploitation. I invite you to reach out and engage with our work, and I express my appreciation to you for reading our Report, and for giving your time and attention to combatting sexual exploitation here in Pennsylvania and beyond.

Truth and justice matter - we still have so much work to do.

Sincerely,

Shea

Justice for Victims Clinical Fellowship



Alexia Tomlinson, Esq.
Dickinson School of Law, Class of 2018
Justice for Victims Fellow

Providing trauma-informed, holistic legal services to survivors of commercial sexual exploitation and sex trafficking is an integral piece of the CSE Institute's work. Our Justice for Victims Fellows work to assist members of this population with their diverse legal needs. This year, we bid farewell to Jamie Pizzi, as her fellowship came to a close, and she moved forward with her legal career. Our now Senior Fellow, Alexia Tomlinson, Esq., served as the only legal Fellow for several months. Much of the Fellows' work had to be adjusted due to the COVID-19 pandemic. National lockdowns impaired some of our work as court was held less often, and the Drop-In Center closed. But, the increased use of virtual options expanded our ability to connect with potential clients and conduct trainings throughout Pennsylvania and nationally.

The focus of the Fellowship program is to directly engage with victims and survivors by providing legal representation in the form of post-conviction relief, including vacatur and expungement. Alexia has continued to work with the Defender Association of Philadelphia, providing technical assistance to the Project Dawn Court (PDC) staff attorney and pursuing post-conviction relief advocacy for all eligible Defender Association clients. As a result of the Fellows' collective efforts, 16 survivors have had convictions vacated, amounting to over 85 cases and over 140 charges being erased from their criminal records. These survivors had anywhere from 1 to almost 40 vacatur-eligible charges removed from their criminal histories. Additionally, for the first time the CSE Institute successfully petitioned for vacatur outside of Philadelphia. The support of the Chester County District Attorney's Office, led to 5 vacated convictions for one client in March 2021.

Alexia holds weekly office hours at the Salvation Army's New Day Drop-In Center for women in Kensington, where she provides critical Know Your Rights information, conducts legal triage, and gathers data about the legal needs and challenges faced by victims of commercial sexual exploitation. She also coordinates trauma-informed pro bono representation for victims in civil matters and provide support in navigating the various legal systems. Unfortunately, this work was put on pause due to mandated COVID-19 lockdown.

Recently, Alexia has coordinated virtual office hours to continue to provide these services. In the past year, the Fellowship program has served over 20 clients during their time at the Drop-In Center.

As in past years, the Fellows continue to create and provide training sessions to attorneys, members of law enforcement, and other stakeholders in the Commonwealth and across the country. This year, the CSE Institute successfully transitioned to training virtually. We partnered with several organizations including HP Enterprises, the Bucks County Bar Association, and Blair County to conduct virtual trainings. Additionally, we hosted a three-part CLE series on Sex Trafficking, Trauma Informed Lawyering, and vacatur. This event served as a fundraiser and an amazing opportunity to connect with the legal community in Pennsylvania. We hope our efforts with criminal justice stakeholders will lead to justice for survivors of commercial sexual exploitation and improved understanding about human trafficking, overall.

The Justice for Victims Fellowship has already made incredible strides. Most importantly, they have assisted survivors to reclaim their lives through the restorative power of post-conviction relief. Their work is a central component to the CSE Institute's mission to put the needs of survivors first in the battle to end commercial sexual exploitation in the Commonwealth.

Faculty Advisor

Michelle Madden Dempsey, Harold Reuschlein Scholar Chair and Professor of Law, is the CSE Institute co-founder and faculty advisor. She teaches in the areas of Criminal Law, Evidence, and Sexuality and the Law. During the 2020-2021 academic year, Professor Dempsey was elected by as “Faculty Member of the Year” by the Villanova Law Student Bar Association.

Dempsey’s scholarship draws on legal and philosophical methods to explore the criminal law’s response to gender-related violence, including domestic violence, sexual assault, and commercial sexual exploitation. She has published on these topics in *American Criminal Law Review*, *Journal of Human Trafficking*, *Criminal Law Review (UK)*, *Modern Law Review (UK)*, *Criminal Law & Philosophy*, *Ethics*, and other peer-reviewed journals and books. Her academic work on commercial sexual exploitation has been republished in collected volumes on feminist jurisprudence (“Sex Trafficking and Criminalization: In Defense of Feminist Abolitionism,” reprinted (as edited) in Cynthia Bowman, et al. (eds.) *FEMINIST JURISPRUDENCE: CASES AND MATERIALS* (West 2018)) and moral philosophy (“How to Argue About Prostitution,” reprinted (as edited) in Shari Collins, et al. (eds.) *BEING ETHICAL: CLASSIC AND NEW VOICES ON CONTEMPORARY ISSUES* (Broadview Press 2016)).

During the 2020-2021 academic year, Professor Dempsey published a chapter, “Sex, Work, and Criminalization,” in edited collection, *CRIME AT WORK* (Oxford University Press, 2020), The chapter traces the development of

legal, philosophical, and policy arguments regarding so-called “sex work,” and grounds arguments for rejecting this view. Dempsey’s argument foregrounds issues of structural inequality, adaptive preferences, and theories of criminalization in robust defense of the “Nordic model” (“Equality model”).

In January 2021, Dempsey published the article, “Coercion, Consent, and Time” in one of the leading journals of moral, political, and legal philosophy, *Ethics* (University of Chicago Press). The article develops an original framework for making sense of three distinct responses commonly offered by those accused of past sexual misconduct: “But that used to be okay!” “But everybody used to think that was okay!” and “But that was so long ago!” Dempsey’s article was selected for an online symposium discussion by PEASoup (Philosophy, Academia, and Ethics) website, where one academic commentator remarked, “[this] is a superb piece of moral philosophizing, containing an elegant conceptual framework that significantly advances our understanding of a real-world problem of true urgency. It’s the kind of piece that, once you’ve read it, will inform how you think about that problem forever after.”

Professor Dempsey continues to pursue scholarly projects regarding commercial sexual exploitation, sexual abuse, sexual consent, and related topics. In October 2021, she is scheduled to travel to a conference sponsored by the Max Planck Institute for Foreign and International Law in Berlin, to present a paper regarding consent in the context of comparative international sexual offense law reform. In December 2021,



Michelle M. Dempsey, JD, LLM, DPhil
Faculty Advisor & Co-Founder

she is scheduled to travel to Hebrew University in Jerusalem to present a paper regarding Stuart Green’s book, *CRIMINALIZING SEX* (Oxford University Press 2020). Her co-authored book, *SEX, WRONGS, AND CRIMINALIZATION* is scheduled for submission to Oxford University Press in Spring 2022. Recently, she accepted an offer to write a manuscript for the University of Cambridge *ELEMENTS* Legal Philosophy series, concerning the topic of gender-based violence.

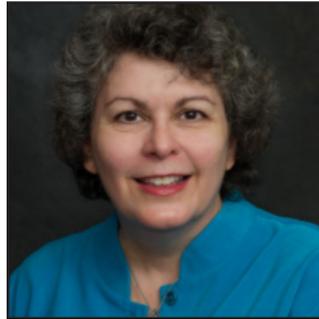
In addition to her teaching and scholarly activities, Professor Dempsey is an elected member of the American Law Institute (ALI), where she works to promote fair and effective law reform. She is an elected fellow of the American Bar Association, and an associated research scholar at the University of Pennsylvania Ortner Center on Violence and Abuse. Dempsey continues to serve as the Co-Editor-in-Chief of the premiere international, interdisciplinary journal, *Criminal Law & Philosophy*.

2. Our Board of Advisors

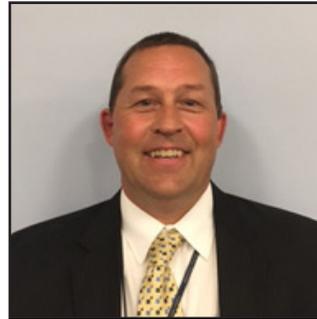
Our Board of Advisors represents a diverse set of backgrounds and work in various legal and non-legal capacities throughout the Commonwealth of Pennsylvania. Their on-the-ground and multi-disciplinary expertise has been instrumental in the success of the CSE Institute. With their guidance, we have been able to promote policies and develop best practices for eradicating commercial sexual exploitation in the Commonwealth.



Nadeem Bezar, Esq.
Partner, Kline & Specter



Mary DeFusco, Esq.
Director of Training, Defender Association of Philadelphia



Les Glauner
Detective, Upper Merion Township Police Department



Honorable Viktoria Kristiansson
Judge, First Judicial District of Pennsylvania



Ashley Lynam, Esq.
Partner, Montgomery McCracken Walker & Rhoades, LLP



Priya E. Mammen, MD, MPH
Emergency Physician, Public Health Specialist



Jamie Manirakiza, MSW, LSW
Executive Director, Partnership to End Human Trafficking



Rep. Joanna E. McClinton, Esq.
House Democratic Leader, 191st Legislative District



Tammy McDonnell
Survivor Advocate & Youth Advisor, Covenant House Pennsylvania



Michelle Morgan, Esq.
Deputy Criminal Chief, Assistant United States Attorney, Eastern District of Pennsylvania



John Rafferty, Esq.
Associate, Gawthrop Greenwood, PC

3. Law on the Books: Implementation of Laws to Address Commercial Sexual Exploitation

3.1 Current Law

In September 2014, Pennsylvania enacted a comprehensive anti-trafficking statute codified primarily in Chapter 30 of the Commonwealth's Crimes Code. The law focuses on three key components: prosecution of perpetrators, prevention of the crime altogether, and protection for victims and survivors.

Prosecuting Human Trafficking

To prosecute the crime of Trafficking in Individuals, title 18, section 3011 of the Pennsylvania Criminal Code, a prosecutor for the Commonwealth must establish that a defendant committed an act, accomplished by a means, for the purpose of subjecting a victim to involuntary servitude – either labor or sexual servitude. If the victim is a minor, however, prosecutors do not need to prove any means defined in section 3012(b).

Section 3011(a) criminalizes trafficking in individuals and enumerates the acts which violate this statute. The acts are recruiting, enticing, advertising, soliciting, harboring, transporting, providing, obtaining, maintaining an individual if the person knows or recklessly disregards that the individual will be subjected to involuntary servitude, or knowingly benefiting financially or receives anything of value for any act described in the statute [1]. The act of “advertising” was added into the law on April 6, 2020, as part of Act 1(2020) – also known as Pennsylvania’s Buyer Beware Act [2].

Meanwhile, section 3012(b) sets forth the means by which a trafficker may

subject an individual to involuntary servitude. The extensive list of means includes: causing or threatening to cause serious harm to any individual, physically restraining or threatening to physically restrain another individual, kidnapping or attempting to kidnap any individual, abusing or threatening to abuse the legal process, taking or retaining the individual’s personal property or real property as a means of coercion, engaging in unlawful conduct with respect to documents, extortion, fraud, criminal coercion, duress, debt coercion, facilitating or controlling the individual’s access to a controlled substance or, using any scheme or plan intended to cause the individual to believe that, if the individual does not perform the labor, services, acts or performances, that individual or another individual will suffer serious harm or physical restraint [3]. Prosecutors charging traffickers can and should use both sections 3011 and 3012 to solidify the extent of the crime and ensure traffickers face the necessary charges. Both sections of the statute work together as legislative tools to empower prosecutors to hold traffickers and sex buyers accountable – one defines the acts and the other defines the means, but a prosecutor needs to establish both to obtain a conviction, unless the victim is a child, and the means are not an element of the crime.

It is not enough to prove an act by a means; to be the crime of trafficking in individuals, this conduct must have been done for the purpose of invol-

Last year, the act of “Advertising” was added to Pennsylvania’s Human Trafficking law. However, until “Patronizing” is also included, our law will remain behind its Federal counterpart.

untary servitude. Therefore, section 3012(a) defines involuntary servitude. According to section 3012(a), this purpose is fulfilled where a “person knowingly, through any of the means described in subsection (b), subjects an individual to labor servitude or sexual servitude [4].” Sexual servitude is defined as: “Any sex act or performance involving a sex act for which anything of value is directly or indirectly given, promised to or received by any individual or which is performed or provided by any individual, and is induced or obtained from: (1) A minor. (2) Any other individual by any of the means set forth in § 3012(b) (relating to involuntary servitude)” [5].

Under Pennsylvania law, when a victim is a minor, the means set forth in section 3012(b) are not an element of the crime. Rather, when a victim is a minor section 3011(b) is used to charge traffickers. In relevant part, section 3011(b) provides that a person commits the crime of trafficking in minors if the person “entices, solicits, . . . [or] obtains . . . an individual” resulting in “any sex act . . . for which anything of value is directly or indirectly given, promised to or received by any individual . . . and is



Shea Rhodes (CSE Institute Director), Alexis Krieger (FBI Victim Specialist), Sue Jones (Project Manager at The Salvation Army of Greater Philadelphia), and Lindsay Mosser (Anti-Human Trafficking Staff Attorney at The Nationalities Service Center) presenting on a Human Trafficking panel on January 17, 2020 at Lansdale Hospital.

induced or obtained from . . . [a] minor [6].”

Even though a prosecutor no longer must prove the means set forth in section 3012(b) when the victim is a minor, a prosecutor still must prove that the defendant engaged in at least one of the acts defined in section 3011(a) for the purpose of a commercial sex act. Although the means set forth in section 3012(b) are not a required part of a criminal case, minor victims still experience various scenarios outlined in section 3012(b) that are analogous to the federal criminal elements of force, fraud, and coercion. Section 3011(a) ensures that minor victims can obtain justice and prosecutors can more readily seek convictions against individuals who sexually exploit children.

As of right now section 3011, Trafficking in Individuals, and section 3012, Involuntary Servitude, are commonly used by prosecutors when charging individuals. However, section 3013, Patroniz-

ing A Victim of Sexual Servitude, is not utilized as commonly by prosecutors because section 3013 is a redundant portion of Chapter 30. Prior to the implementation of the Buyer Beware Act in April 2020, the mens rea knowledge requirement made it difficult for prosecutors to convict offenders of this crime because it required an awareness that the individual was a sex trafficking victim [7]. Additionally nearly identical criminal conduct outlined in section 3013 is already addressed in sections 3011 and 3012. As a result, few cases have been prosecuted under section 3013 since its enactment in 2014. In fact, prosecutors for the Commonwealth only convicted 3 people of Patronizing a Victim of Sexual Servitude under section 3013, only once was it the lead charge. There are currently 3 cases ongoing. (See 4.1 for Criminal Law Statistics).

Chapter 30 is intended to target those who traffic persons, third-party facilitators who profit from trafficking, and,

in certain circumstances, people who purchase sex, the very demand that drives the multi-billion-dollar market for human trafficking [8]. Since the law was enacted in 2014, prosecutors for the Commonwealth have successfully prosecuted offenses under section 3011 and section 3012 resulting in 60 convictions. (See 4.1 for Criminal Law Statistics).

Prevention of Human Trafficking Through Public Awareness

The second goal of Chapter 30 is prevention through raising public awareness about human trafficking and the efforts being made to combat it in Pennsylvania [9]. Although the Commonwealth has yet to commit substantial funding to a statewide public awareness campaign, the Pennsylvania Alliance Against Trafficking in Humans (PAATH), which represents over twenty anti-trafficking governmental and non-governmental organizations, has taken on this initiative. Schools, universities, places of worship, social services, and law enforcement agencies.

This year, the CSE Institute engaged in educational workshops and several lecture series to help educate and combat recent dangerous narratives surrounding the decriminalization of “sex work” in the Commonwealth of Pennsylvania. (See 6.3 for further discussion of the “sex work” narrative). Across the country, there is a growing push to decriminalize the entire sex trade—including sex buyers and those that profit from the exploitation of others [10]. This led to a collaboration with Lauren Hersh, National Director of World Without Ex-

ploitation, during WorldWE's monthly Speaker Series.

In addition to educating about the dangers of a total decriminalization approach to the sex trade, the CSE Institute detailed the efforts and struggles anti-trafficking organizations are facing with the onslaught of misinformation that arises from conspiracy theories. Unfortunately, the ease at which misinformation is shared on social media platforms has created a domino-effect of far-fetched sex trafficking conspiracy theories, which appear legitimate to those unfamiliar with nuances of this crime. For example, recently QAnon generated a large conspiracy theory regarding an online shopping platform Wayfair – claiming that the company was trafficking children under the guise of overpriced furniture [11]. In light of conspiracies like this, the CSE Institute is one of the many anti-human trafficking organizations conducting research, educating and training individuals and groups, and advocating for survivors to dispel misinformation. (See 6.1 for further discussion). In fact, the CSE Institute had the privilege of engaging in a social media campaign with Rebecca Bender to spread information regarding commercial sexual exploitation and combat QAnon theories.

Working alongside survivors and other anti-trafficking organizations to combat human trafficking is an important part of the CSE Institute's work in Pennsylvania and beyond, and we look forward to collaborating in the future to strengthen this interdisciplinary approach. If you

would like to have the CSE Institute train your community, please contact us.

Protecting Victims and Empowering Survivors

Finally, Chapter 30 also provides victims and survivors of human trafficking with protections within the context of the criminal justice system. For example, the "rape shield" provision set forth in section 3018 prohibits evidence of specific instances of a victim's past sexual conduct – as well as evidence on opinions or reputations from the victim's past sexual conduct – from entering into evidence at trial [12].

Exploiting an individual for a commercial sex act, regardless of the individual's sexual history, is a crime. However, there are instances where this kind of evidence may help to prove the required "purpose" element to prosecute human trafficking. Therefore, law enforcement and prosecutors have an obligation to communicate honestly with victims about what may occur throughout the trial, as there remains the potential for the victim's past sexual conduct to still be referenced for this narrow purpose.

Chapter 30 currently recognizes that, in many cases, individuals arrested and convicted of prostitution are not committing a crime – but rather, a crime is being committed against them. Prostituted persons are victims of commercial sexual exploitation. Under Pennsylvania law, any individual charged with prostitution may assert an affirmative defense at trial claiming that they engaged in prostitution under duress,

compulsion or coercion [13]. The availability of this affirmative defense is in response to the understanding that victims of commercial sexual exploitation are vulnerable to unjust criminalization. Chapter 30 also empowers trafficking survivors by creating a civil cause of action. Section 3051 provides survivors with a mechanism to sue individuals who participated, facilitated, or otherwise knowingly benefited financially from their own victimization through trafficking [14].

Finally, trafficking survivors who have been criminalized for conduct related to their sex trafficking victimization can also file a petition for vacatur to remove parts of their criminal record [15]. This remedy is an important provision of Pennsylvania's anti-trafficking statute because it acknowledges the stigma associated with criminal histories and empowers survivors to move forward with their lives beyond their victimization.

3.2 Legislative Changes

The unexpected arrival of the COVID-19 pandemic significantly altered our normal way of life in 2020. In many ways, the pandemic has challenged our approach to our work at the CSE Institute, and has allowed us to adopt new, meaningful ways to provide technical assistance and education on sex trafficking, as well as legal representation to our clients. While our commitment to combatting gender-based violence and sexual exploitation has remained active throughout the pandemic, the reality is that legislative progress in response to human trafficking has slowed not only throughout the Commonwealth but nationally. The state and national legislatures have necessarily focused on healthcare, vaccine distribution, and economic relief, leaving little room for trafficking reforms. This is not to say that trafficking has not been happening. Rather, commercial sexual exploitation continues to persist throughout our state and beyond.

Violence against women has remained ever present and is further exacerbated by these unusual and trying conditions [1]. Not only have quarantine restrictions worsened individuals' financial well-being and employment opportuni-

The new legislative cycle has seen a re-commitment to addressing human trafficking across the nation.

ties, especially for women, but the pandemic has also forced many aspects of daily life to happen through online platforms [2]. Individuals have less financial stability and are spending more and more time online [3]. Thus, making it even easier for traffickers, and sex buyers, to contact and coerce victims into prostitution [4].

Fortunately, as states have learned how to respond to and manage the COVID-19 pandemic, the new legislative cycle has seen a re-commitment to addressing human trafficking across the nation. The most significant legislative changes thus far can be grouped into the following categories: (1) Adoption of the Equality Model; (2) Increased Criminal Penalties for Exploiters; (3) Expansion of the Definition of Trafficking; and (4) Protection of Victims.

Adoption of the Equality Model

Consistent with the policy position of the CSE Institute, states are moving to adopt the Equality Model either in part or entirely. The Equality Model is premised on re-structuring the criminal justice system to focus on the criminalization of sex buyers, sex traffickers, and any third-party affiliates that dangerously promote and uphold the sex trade, calling for the decriminalization of prostituted persons [5]. Furthermore, the Equality Model promotes widespread education on human trafficking and harms inherent in prostitution to better inform the public on the oppressive sex trade [6]. Iowa, H.F. 224 [7], and Massachusetts, H.D. 3437 [8], both currently have full equality model legislation pending in their state legislatures, and New York, S6040 [9], has introduced an anti-demand bill that was inspired by the Equality Model. New York's bill seeks to focus criminalization

efforts on the demand for commercial sex rather than the prostituted people [10].

Increased Criminal and Civil Penalties

Similar to the Equality Model, many states have pending legislation that call for increased criminal and/or civil penalties for those that buy or facilitate the purchase of sex. Although these changes do not advocate for everything covered by the Equality Model, they make significant strides towards penalizing the demand. Illinois, H.B. 3360 [11], Minnesota, HF 613 [12], Texas, H.B. 1775 [13], and Wyoming, S.F. 140 [14], are seeking to increase the criminal penalties on traffickers while California is attempting to make third party facilitators of trafficking civilly liable for sharing and distributing sexually explicit content without consent.

Expansion of the Definition of Human Trafficking

Trafficking comes in many different forms and it is important that the definition of trafficking include all of the possible ways an individual could be victimized. That is why states are actively seeking to expand and clarify their definition of human trafficking to make it more inclusive for the realities faced by trafficking victims. Kansas, S.B. 59 [15], and Michigan, H.B. 4112 [16], both seek to modify the penal code to include a more accurate definition of what constitutes commercial sexual exploitation. Effective May 2020, Utah expanded its definition of child labor trafficking to include any labor induced by force, fraud, or coercion [17] and Nevada, A.B. 182, seeks to make landlords criminally liable for allowing prostitution in buildings they own, lease, or rent [18]. These changes will assist in identifying and

supporting survivors no matter the form of their victimization.

Protection of Victims

Additionally, states are introducing new protections for victims in the sex trade either through increased resources, affirmative defenses, or additional recognition of victimization in commercial sexual exploitation. New Mexico, H.B.

161, is attempting to create an affirmative defense to prostitution charges for victims of human trafficking [19]. Wyoming, H.B. 210, is seeking to add a safe harbor law for minors so that victims will not be found guilty of crimes relating to their victimization, such as prostitution [20].

While the CSE Institute strongly advo-

cates for the adoption of the Equality Model across the United States, the introduction of these bills throughout various parts of the country highlights a strong commitment towards protecting women and girls from commercial sexual exploitation and punishing the sex buyers and traffickers that have upheld this oppressive system.

State	Bill Number	Policy Goal
Iowa	H.F. 224	Adoption of the Equality Model
Massachusetts	H.D. 3437	Adoption of the Equality Model
New York	S6040	Address the demand of commercial sex (inspired by the Equality Model)
Illinois	H.B. 3360 S.B. 2220	Increases protections for juvenile trafficking victims
Minnesota	HF 613	Increases penalties for traffickers
Texas	H.B. 1775	Increases penalties for traffickers who victimize children or whose trafficking causes the death of a victim
Wyoming	S.F. 140	Increases criminal penalties for trafficking
Kansas	S.B. 59	Makes the definition of trafficking more expansive
Michigan	H.B. 4112	Clarifies definitions of child trafficking and commercial sexual activity
Nevada	A.B. 182	Makes landlords criminally liable for allowing prostitution in their buildings
New Mexico	H.B. 161	Creates an affirmative defense to prostitution charges for trafficking victims
Wyoming	H.B. 210	Adds a Safe Harbor provision for minors

3.3 Legislative Recommendations

Recommendation #1: Adopt the Equality Model

The Equality Model, or the Nordic Model, calls for the decriminalization of prostituted persons and classifies the facilitation of prostitution and the purchase of sex as criminal offenses [1]. Under this regime, the Equality Model importantly shifts the criminal focus away from the victims that have been forced into commercial sexual exploitation, and instead looks to criminally punish the traffickers, sex buyers, and other third-party facilitators, such

as brothels and online advertisers, who perpetuate and profit from this harmful system [2]. The Equality Model rests on four key tenets: (1) decriminalization of the prostituted person, (2) criminalization of sex buyers, traffickers, and third-party facilitators with a commitment to treating buying sex as a serious crime rooted in gender based violence, (3) educating the public about the inherent harms of prostitution, and (4) the development of

funded exit services for victims of commercial sexual exploitation [3]. (See 3.4 Equality Model: In Premise, In Practice).

Recommendation #2: Restructure the Prostitution and Trafficking Statutes

Under Pennsylvania law, the crime of prostitution still carries recidivist provisions that increase punishment with each new conviction, meaning that the more an individual is convicted of the crime of prostitution, the higher the penalty [4]. A recent circulation memorandum provided by Representative Joanna McCClinton calls for the elimination of recidivist penalties associated with prostitution [5]. Although still considered a criminal offense, this new legislation plans to ensure that individuals will only

be charged with a misdemeanor of the third degree, regardless of any prior prostitution convictions [6]. In addition, this new legislation strengthens language already in state law to target those individuals that promote prostitution and purchase sex, as they drive the demand for commercial sexual exploitation [7].

Additionally, Pennsylvania's trafficking law, while comprehensive, does not cover all of the acts enumerated in the federal trafficking law [8]. Federal law

includes "patronizing" as an act that constitutes trafficking [9]. To close the gap between Pennsylvania and federal law, Pennsylvania should add "patronizing" to the list of prohibited acts under the criminal law [10]. This change would ensure sex buyers are able to be prosecuted as traffickers and align Pennsylvania law with the federal law.

Recommendation #3: Train Law Enforcement to be Trauma-Informed and Victim-Centered

Law enforcement officers are usually among the first people to interact with victims of commercial sexual exploitation [11]. For this reason, it is imperative that law enforcement officers, as well as social workers, lawyers, counselors, and any other professional that works closely with survivors are trained to handle cases of sexual exploitation so they can provide victim-centered and trauma-informed care. To ensure that all professionals, especially law enforcement, can provide this type of victim-centered service, the CSE Institute publishes helpful guidance on sex trafficking and hosts a number of interactive workshops that are designed to help law enforcement officers identify and support trafficking victims. This

past year, the CSE Institute hosted and participated in a number of educational events including: (1) Facilitating a series of trainings and focus groups for SEPTA police on trauma and how to incorporate trauma informed techniques into their daily work; (2) Speaking on the podcast “Light After Trauma” on an episode titled “Defunding the Police vs. Backing the Blue: A Trauma Focused Alternative”; (3) Hosting the Blair County Enhanced Collaborative Training – a 4-part series that brought together professionals from various fields to talk about how to respond to human trafficking; (4) Presenting at the Delaware State HTICC (Human Trafficking Interagency Coordinating Council) full council quarterly meeting on the

Equality Model and anti-demand law enforcement tactics.

While these efforts serve as helpful introductions on how to better address and support victims of commercial sexual exploitation, law enforcement must continue to educate themselves on best practices for working with survivors. It is not enough to attend outside workshops; instead, law enforcement agents must implement change. Departments must take what they learn during victim-services trainings and then develop plan to implement change in their specific community in order to protect victims of sex trafficking. (See 4.3 Police Sexual Misconduct).

Recommendation #4: Improve Vacatur Remedies

Vacatur is a form of post-conviction relief that essentially erases certain criminal convictions from a survivor’s criminal history [12]. (See 5.3 Vacatur: Successes and Setbacks). More specifically, an *Order to Vacate* legally recognizes that a formerly convicted survivor should not have been criminalized for conduct directly related to their sex trafficking victimization [13]. Because criminal convictions can serve as significant barriers to suitable housing, employment opportunities, immigration processes, education,

and loans, this remedy is critical in helping survivors exit the sex trade and lead more independent lives [14]. Despite many successful vacatur cases, the vacatur remedy and must be improved in three fundamental ways:

1. The Commonwealth of Pennsylvania must expand its current list of crimes eligible for vacatur.
2. The Commonwealth of Pennsylvania must remove the “prosecutorial consent” requirement to file a vacatur petition.

3. The Commonwealth of Pennsylvania must eliminate the requirement that supporting evidence must be described with particularity.

3.4 Policy Breakdown

EQUALITY MODEL:

The CSE Institute advocates for the universal implementation of the Equality Model. First implemented in Sweden in 1999, the Equality Model has since been fully or partially implemented in multiple countries and has been proposed in several U.S. jurisdictions [1]. The model is built on four central

tenets which, enacted together, fully combat sex trafficking and commercial sexual exploitation: (1) decriminalize persons in prostitution, (2) target the demand driving the market, (3) engage in a public awareness campaign regarding the harms of prostitution, and (4) provide fully funded robust exit

services for those seeking to exit the life [2]. We have begun to see partial implementation of certain aspects of the Equality Model. But—partial enactment is not enough. The tenets are interconnected, so to be successful, they must be enacted together and in full [3].

1. Decriminalize Persons in Prostitution

In premise, the Equality Model decriminalizes persons in prostitution [4]. This Model reflects the belief that victims should never be criminalized for acts performed as a direct result of their victimization [5]. The Model begins with the premise that prostitution is gender-based violence, and the exploitation of those in prostitution begins with systemic inequalities. Critics of this Model contend that persons in prostitution voluntarily “choose” to sell sex, and thus it should be seen as “work [6].” In reality, poverty, homelessness, drug addiction, and/or abuse, force persons in prostitution into that “choice [7].” (See 6.3 for further discussion of the harmful narrative of “sex work”). Ultimately, the Equality Model strives to combat an uneven distribution of power between women, especially women of color, and men in positions of privilege by targeting the commercialization of the female body and gender-based violence [8].

In practice, where the Equality Model has only been partially implemented, it does not achieve its designed effect. For example, Philadelphia has numerous policies in place that appear to support the premise that persons in prostitution should not be criminalized. Such policies include the Philadelphia’s District Attorney’s Office (“DAO”) support of vacatur, a post-conviction relief that removes certain convictions from the criminal history of a sex trafficking survivor. (See 5.3 for further discussion of vacatur). Under this policy, the DAO consents to the submittal of vacatur petitions and has waived survivor appearances, which have the potential to re-traumatize sex trafficking victims [9]. Other Philadelphia programs, such as Project Dawn’s Court (PDC), a problem-solving court for women with multiple prostitution convictions [10], and the Police Assisted Diversion Program (PAD), a program offering diversionary services for low-level crimes [11], evince a trauma-informed approach to interacting with and assisting persons in prostitution.

However, even though Philadelphia has adopted these approaches, arrests for selling sex still occur even amidst a slight decrease in charges [12]. In 2018, the DAO charged selling sex 260 times out of the 612 arrests [13]. In 2019, the number dropped, with the DAO initiating only 149 charges for selling sex out of the 518 arrests [14]. In 2020, the DAO charged selling sex only 23 times out of the 99 arrests made; however, the DAO reports that the COVID-19 Pandemic impacted a decrease in rates of arrests and charges in 2020, and these numbers should be interpreted with caution [15].

Despite the decrease in charges, any arrests of persons selling sex has a drastic impact upon the livelihood of persons in prostitution. Arrest records affect a person’s access to social services that can help a person in prostitution gain stability [16]. Although Philadelphia promotes trauma-informed approaches in helping persons in prostitution through its policies and programs, the numbers show that police still arrest persons in prostitution for selling sex. This phenomenon may actually keep these individuals in prostitution by forcing them back into the sex trade when they are left with no other option.

IN PREMISE, IN PRACTICE

2. Treat Buying Sex as a Serious Crime

In premise, the Equality Model advocates for the criminalization of sex buyers and traffickers by demanding that law enforcement criminalize the acts of buying and facilitating sex [17]. Sex trafficking would not occur without willing buyers - this is the demand that drives the market for commercial sex [18]. Thus, the Equality Model acknowledges how demand for sex furthers the exploitation of vulnerable people by those who possess both choice and power. Therefore, the Model shifts the focus of prostitution from “supply” to “demand [19].”

A majority of high frequency sex buyers hold positions of privilege and power – they are white, employed, middle-aged men with a disposable income [20]. Only about twenty percent (20%) of men purchase sex throughout their lifetime, but those who buy sex regularly, either weekly or monthly, account for nearly seventy-five percent (75%) of commercial sex transactions [21]. It is men in positions of power whose demand drives the market for commercial sexual exploitation [22].

These sex buyers directly cause harm to persons in prostitution. Compared to men who do not purchase sex, sex buyers are more likely to engage in sexual aggression, sexual coercion, and commit rape [23]. Within their own communities, on online forums, and review websites, sex buyers actively normalize sexual violence, violence against women, and unsafe sexual practices [24]. Thus, the implementation of the Equality Model would decrease the harms committed against persons in prostitution by specifically targeting these men who drive the market and criminalizing their actions.

In practice, the Commonwealth of Pennsylvania actively minimizes the crime of buying sex. Buying sex is criminalized in Pennsylvania’s Criminal Code in § 5902 “Prostitution and Related Offenses [25].” Legally, the grading for buying sex, as well as the rate of recidivism, is the same as that of selling sex [26]. The first and second convictions for buying sex are graded as a third-degree misdemeanor, with subsequent convictions increasing the severity of the degree.

Over the past several years, we have generally seen a decrease in the prosecution of crimes under § 5902 [27]. Policy change regarding prosecutions in Philadelphia account for a significant portion of this decrease [28]. But, the reality is, those who purchase sex are not held accountable nearly as often as those who sell sex. This year, charges for buying sex make up only 32% of the charges under § 5902. (See 4.1 for an in-depth breakdown of these statistics). Even when individuals are charged with purchasing sex, they are rarely, if ever prosecuted to the fullest extent of the law. Of the 88 individuals charged with buying sex this year, approximately half the cases have been closed at the time of writing. Of those, nearly half, or 22% of the original 88 had the charge dismissed, withdrawn, or changed typically to a summary Disorderly Conduct [29]. An individual convicted of disorderly conduct need only pay a fine and has the opportunity to have the conviction expunged eventually. Nine of the individuals charged with § 5902(e) were charged with other serious sexual offenses including Rape [30], Unlawful Contact with a Minor [31], and Statutory Sexual Assault [32]. Only one of these individuals was also charged with conduct under the trafficking statute [33]. This is a pattern of minimizing the conduct of sex buyers that we have been tracking over the past several years.

Failing to charge and prosecute individuals for purchasing sex, the conduct that drives the market for commercial sex, actively minimizes the harm caused by sex buyers. The Commonwealth must enforce the crime of buying sex in order to fully combat sex trafficking in Pennsylvania.

3. Public Awareness Campaign and the Dangers of Prostitution

In premise, the Equality Model incorporates a community awareness campaign that educates the public about the inherent harms of prostitution [34]. The effectiveness of the Model depends on educating others about the dangers of commercial sex and the unequal power dynamics that it perpetuates [35]. Moreover, the CSE Institute has seen how our educational workshops help those in the medical field and law enforcement understand trauma-informed care and recognize signs of trauma or commercial sexual exploitation. For public perception to shift, the public information campaign must seek to alter societal values, to uplift women, to support the vulnerable, and to place culpability in the hands of those with choice and power.

In practice, the opposite occurs through the perpetuation of the fallacy that the sex trade is not inherently violent. These efforts ignore the reality that the sex trade is built on inequality and gender-based violence [36]. The normalization of the sex trade, sought by proponents of the legalization and full decriminalization, does not serve persons in prostitution and perpetuates the idea that women are a commodity for sale [37]. (See 6.3 for the harmful implications of the “sex work” narrative).

For example, the negative consequences of legalizing the sex trade are readily apparent in the state of Nevada. Since 1971, the sale and purchase of sex in licensed houses of prostitution has been legal in ten Nevada counties with populations of less than 700,000 [38]; within those counties there are twenty (20) operational brothels [39]. Despite the legality of prostitution in those areas, at least 5,016 individuals are sold in Nevada in an average month, and Nevada’s numbers of persons in prostitution is sixty-three percent (63%) higher than the next largest state [40].

Studies have further shown how legalized prostitution in Nevada has done nothing to stem victimization within the sex trade, persons in prostitution in legal and illegal areas are at a similar risk of having been trafficked [41]. Moreover, the circumstances of the women who enter the sex trade in Nevada are no different from those who enter it in the rest of the country [42]. Nonetheless, many in Nevada still lobby for continued and increased legalization, promoting a narrative that legalization is safer than the alternative and that it brings jobs [43]. However, this narrative willfully ignores the exploitation of women in this trade. These women still experience the violence, sexual assault, and trauma inherent to prostitution [44]. Therefore, although Nevada perpetuates the myth of a safe sex trade [45], legalization only promotes high rates of victimization and fails to address the coercive circumstances that force women into the sex trade and prevent them from leaving.

4. Robustly Funded Exit Services

In premise, the Equality Model implements funded, robust, holistic exit services for victims of commercial sexual exploitation [46]. Such social services and other resources assist persons in prostitution with leaving the sex trade, dealing with the trauma that comes with years of exploitation, and leading a productive life [47]; it includes assistance in obtaining adequate shelter, nutrition, healthcare, drug rehabilitation, education, childcare support, and employment opportunities [48]. These services ensure that no individual is forced to make the “choice” to enter or remain in prostitution based solely on lack of viable choices.

When the Equality Model was introduced in Sweden in 1999, it was part of a larger goal to address gender inequality in Swedish society [49]. To specifically address gender-based violence as presented in commercial sexual exploitation, the Swedish government provided resources to ensure individuals could exit the life, including direct reimbursements to municipalities offering persons in prostitution counseling and access to health care [50]. Ultimately, these services are essential; failing to provide victims and survivors of sex trafficking with necessary resources only leaves them vulnerable to continued exploitation.

In practice, the Equality Model movement in the United States relies almost exclusively on non-profit organizations to provide resources to sex trafficking victims and survivors [51]. These organizations are often survivor-led and perform important, necessary, work. However, these private organizations have limited funds and cannot provide the comprehensive resources that the government could provide.

In the United States, although funding varies drastically from state to state, twenty-two states have some type of fund that pays in part for services to survivors [52]. For example, California and Louisiana create funds by fining sex buyers as part of their prosecution [53]. However, due to the nature of these funds, ascertaining the amount collected and distributed is often difficult [54]. Some states, including Georgia, Louisiana, and Oregon, restrict funds to child survivors of sex trafficking [55]. Other states, like North Dakota and Virginia, provide for services in a line item of budget bills [56]. On the federal level, the Victims of Crime Act dispenses grants to organizations providing services to crime victims [57]. During the Trump administration, the government awarded grants in excess of \$135 million to private organizations that specifically provide services that combat trafficking [58].

Although these efforts have a positive impact on the lives of sex trafficking survivors, they remain insufficient in consideration of the numerous vulnerabilities facing individuals leaving the sex trade. Expecting private services alone to serve a population that faces a gamut of issues – poverty, homelessness, addiction, trauma, and barriers to education and employment – is untenable and fails to fully support victims of exploitation. Ultimately, it should be the government’s responsibility to fully fund and implement robust, holistic services to prevent sex trafficking survivors from reentering the life.

3.5 Federal Focus: EARN It Act

Sexual exploitation on the internet is a pervasive issue. In 1998, there were over 3,000 reports of child sex abuse material (CSAM) on the internet [1]. Twenty years later, that number has reached a staggering 18.4 million reports of CSAM to the National Center for Missing and Exploited Children (NCMEC) [2]. Of the reports made in 2018, 16.8 million reports came directly from Facebook, a platform that actively screens for illicit content [3]. How many images of child sexual exploitation go unreported because certain platforms do not screen for this content?

On March 5, 2020, Judiciary Committee Chairman Senator Lindsey Graham (R-SC) and Senator Richard Blumenthal (D-CT) introduced the “Eliminating Abusive and Rampant Neglect of Interactive Technologies Act” (“EARN IT Act”) [4]. The bill is a bipartisan effort to curb online child sex trafficking and hold technology companies liable for facilitating sexual exploitation on the Internet [5]. The bill proposes two important steps: it removes the blanket immunity from civil and criminal penalties currently held by interactive computer services (ICS) and establishes a commission

to create best practices for technology companies.

Currently, ICSs maintain blanket immunity from civil and criminal penalties for content hosted on their sites under Section 230 of the Communications Decency Act (CDA), passed in 1996 [6]. The EARN IT Act eliminates this immunity with regard to CSAM, a crucial step to ending online exploitation [7]. The EARN IT Act would also establish a National Commission on Online Child Sexual Exploitation Commission [8]. This Commission will aid ICSs – including Facebook, Instagram, and Twitter – in developing best practices to prevent grooming, sex trafficking, and CSAM on their websites [9]. The Senate Judiciary Committee unanimously referred the bill to the Senate for full consideration on July 2, 2020 [10].

Federal action is necessary to curb CSAM on the internet. Given the influx of reports, the Federal Bureau of Investigation only prioritizes the exploitation of infant and toddlers [11]. Law enforcement should never have to make this choice. Currently, if an exploited child notifies a technology company that their platform is host-

ing exploitative images of him or her, the company can ignore that notice without penalty [12]. As such, Big Tech has no incentive to monitor exploitative content [13].

The onus of combatting online child sexual exploitation should not solely be on law enforcement agencies. Technology companies are well equipped to address and eliminate CSAM hosted on their platforms in a way that law enforcement cannot. Big Tech has maintained that it can protect privacy and children at the same time, the EARN IT Act holds them accountable for this claim.

While there are privacy concerns, holding companies liable for recklessly facilitating the spread of CSAM should take priority. The unfettered growth of CSAM on the Internet has made illegal and exploitative content readily available to millions of users. Allowing users to post criminal content without any consequences on corporate management sends a message that exploitation is inevitable. The EARN IT Act is necessary to address CSAM on the Internet and assure victims that their experiences deserve legal protection.

In Memoriam: Lisa Montgomery, the Only Woman on Federal Death Row, and Survivor of Human Trafficking, Executed by Trump Administration

Lisa Montgomery was executed by lethal injection on January 13, 2021 [1]. In 2004, Ms. Montgomery was convicted of murder and sentenced to death. During a state of psychosis, she killed a pregnant woman and removed the unborn child from her mother’s womb [2]. Although this crime can only be described as horrific, Ms. Montgomery was herself a survivor of familial child sex trafficking. Forced by her mother to “earn her keep,” from a very young age, Ms. Montgomery was severely abused, subject to gang rape, incest, child abuse, and sex trafficking [3]. Years of torture compromised her neurological functioning and development, and she often dissociated

to protect herself [4]. Her gruesome crime reflects the complex trauma of her years of abuse and the system’s failure to protect exploited youth [5].

While incarcerated, Ms. Montgomery received the medication she needed. She was able to reconnect with her family and faith [6]. The walls of Ms. Montgomery’s death row cell were plastered with images of her family [7]. Incarceration offered her more protections than she had been afforded outside prison [8].

Legal advocates spent years seeking to commute Ms. Montgomery’s sentence. They argued that while her actions were inexcusable, her history

provides context and demonstrates why the execution of the mentally ill is banned worldwide [9]. Their efforts were fruitless. Her death did not fulfill traditional justifications for capital punishment, such as retribution or deterrence [10]. Lisa was charged and convicted in a time when we didn’t know as much about complex trauma or trafficking. Now, we are committed to working to educate those in the criminal justice system about complex trauma and post-traumatic stress in trafficking survivors, encouraging early intervention. Cases like Lisa’s demonstrates that our work is still necessary to raise awareness and ensure justice for victims and survivors of sex trafficking.

4. Law in Action: On the Ground Efforts & Continued Stigmatization

4.1 Criminal Law Overview and Statistics

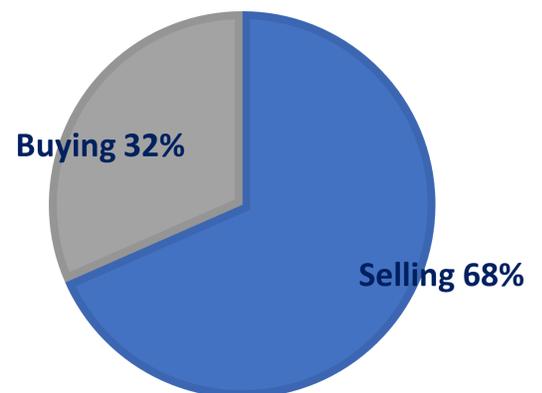
Since our formal launch in 2015, the CSE Institute has tracked criminal charges across the Commonwealth for crimes involving sex trafficking and prostitution. These charges fall under two statutory umbrellas: sex trafficking charges under Chapter 30 [1] and Prostitution and Related Offenses under title 18, section 5902 of the Pennsylvania Consolidated Statutes [2]. Since Act 105 was enacted in 2014, 30 counties in Pennsylvania have charged at least one person with either Trafficking in Individuals [3] or Involuntary Servitude [4] or both. These charges have resulted in 179 cases across the Commonwealth. However, this year, all reported arrests and charges must be contextualized by the COVID-19 pandemic [5]. Arrests and prosecutions were down throughout the Commonwealth and the nation, as jurisdictions faced lockdowns and, in some cases, law enforcement enacted policies not to arrest for certain crimes [6].

Over the past six years, we have seen a marked decrease in charges for selling sex [7]: in 2019 there were 401 cases under section 5902(a) as opposed to the 678 we tracked in 2018 [8]. In 2020 there were only 195 arrests for selling sex, but this does not reflect a change in philosophy because of the COVID-19 pandemic [9]. Despite efforts to educate law enforcement, they have not focused on targeting the demand that drives the illegal sex trade as there has also been a decrease in charges for buying sex [10]. Law enforcement must change their approach by targeting the demand that drives the market for sex trafficking, providing resources and exit options for victims, and refusing to further exploit people in prostitution. There must be an end to the criminalized stigmatization of people in prostitution.

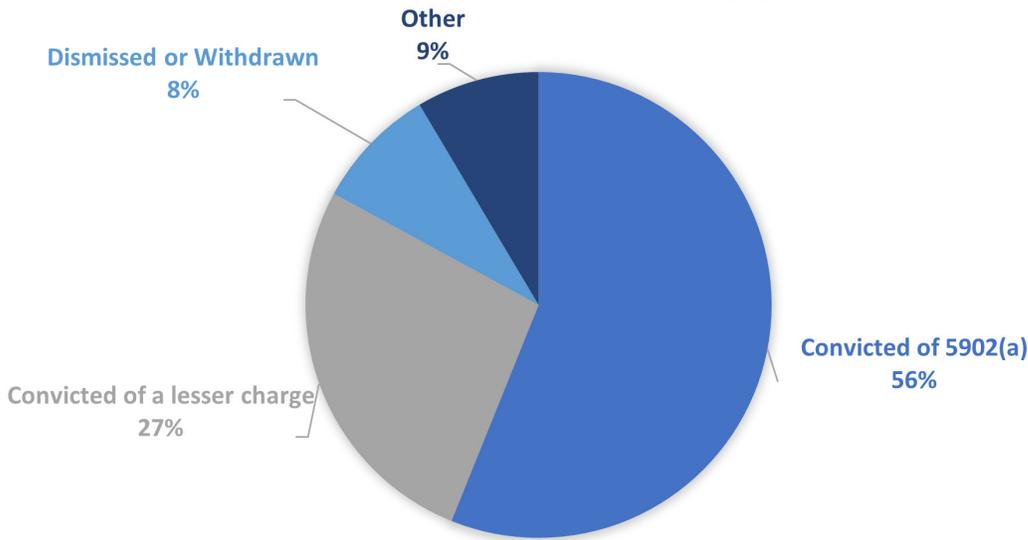


Data from the Administrative Office of Pennsylvania Courts

Only 5 of the 31 counties that reported arrests targeted the demand for commercial sexual exploitation, by arresting buyers more frequently than sellers.



CASE OUTCOMES - 5902(A)



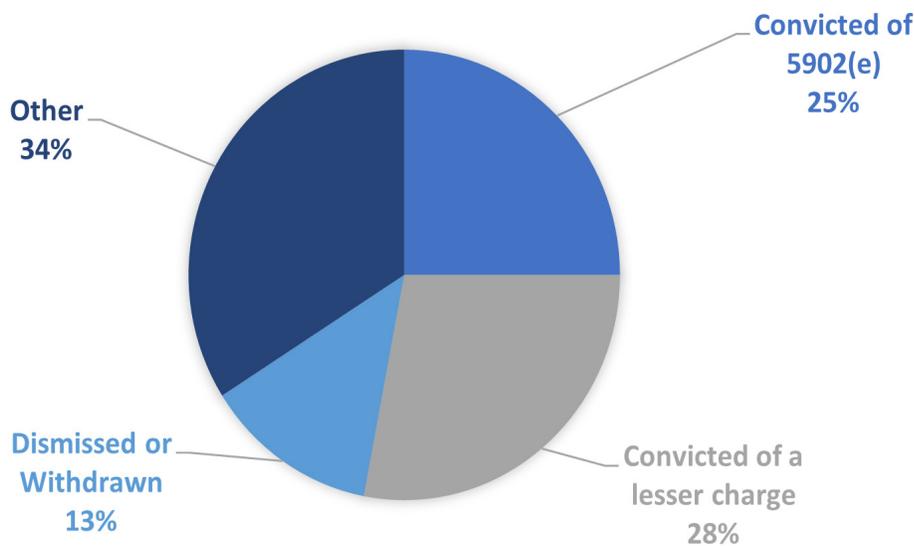
Ongoing cases omitted.

Charges for § 5902 (a) selling sex vs. § 5902 (e) buying sex

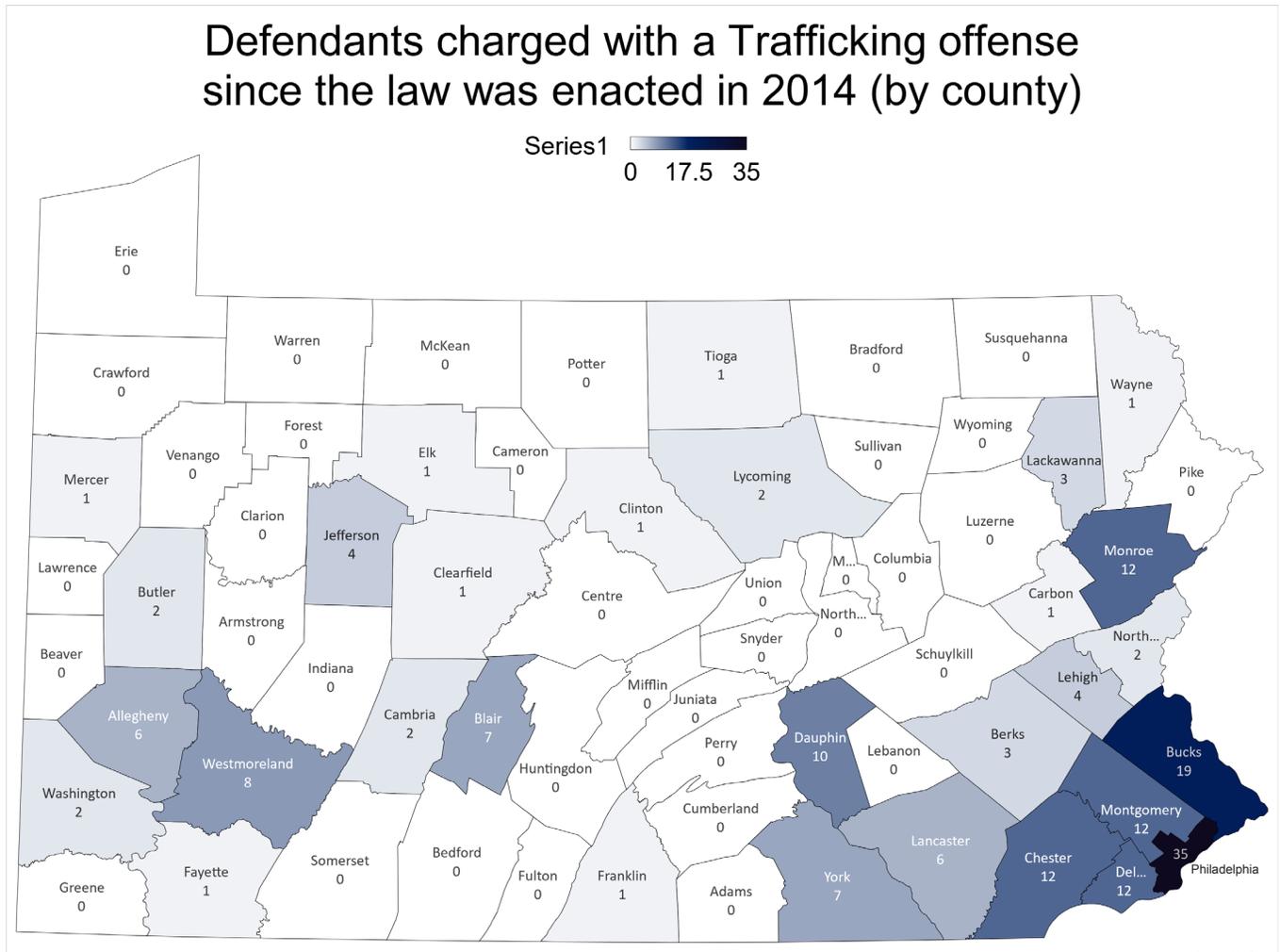
County	Selling	Buying
Allegheny	59	19
Armstrong	1	0
Beaver	10	6
Bedford	1	0
Berks	5	5
Bucks	17	0
Cambria	0	2
Chester	3	0
Columbia	1	0
Crawford	0	1
Cumberland	2	0
Dauphin	36	15
Delaware	7	1
Erie	2	0
Fayette	2	0
Lackawanna	10	4
Lancaster	7	1
Lawrence	1	0
Lehigh	5	1
Luzerne	1	1
Lycoming	3	0
Mercer	1	0
Monroe	2	1
Montgomery	1	2
Montour	1	0
Northampton	1	4
Philadelphia	3	23
Washington	1	0
Washington	1	0
Westmoreland	5	0
York	13	5
Total	195	90

75% of those charged with buying sex faced lesser penalties than the original charge compared with only 44% of those charged with selling sex.

CASE OUTCOMES - 5902(E)



Ongoing cases omitted.



Fines

Under Pennsylvania law, any person convicted of an offense under Chapter 30 section 3011 (relating to trafficking in individuals), 3012 (relating to involuntary servitude), 3013 (relating to patronizing a victim of sexual servitude) or 5902(b) or (b.1) (relating to prostitution and related offenses), must pay a \$5,000 fine for each offense [1]. This fine should be deposited into the Safe Harbor for Sexually Exploited Children Fund. The money from this fund is used for providing victim services and increasing public awareness through an anti-demand campaign. As a result of this fine, individuals who have profited from the harms of trafficking will contribute money towards assisting the victims of their crimes.

Since the enactment of Pennsylvania’s anti-human trafficking statute in 2014, 60 people have been convicted of trafficking related offenses in Pennsylvania. Out of the 60 people who

have been convicted, only three have paid human trafficking fines. Although Pennsylvania law specifically requires that defendants convicted of human trafficking violations pay a fine towards the Safe Harbor for Sexually Exploited Children Fund, most defendants were not ordered to pay it. However, almost all of the convicted defendants were required to pay fines towards domestic violence compensation and crime victims’ compensation. While the money from domestic violence or crime victims’ compensation fines may indirectly benefit victims of human trafficking, it is critical that the fines for perpetrators of trafficking offenses are used to directly assist the victims of their crime. In an effort to ensure that fines for those convicted of human trafficking offenses go towards benefitting victims, the CSE Institute suggests that judges always impose human trafficking fines for appropriate defendants at the time of sentencing.

4.2 Precise Charging Matters

In Williamsport, Pennsylvania, Lycoming County Detectives accused Christopher D. Fraunfelter of sexually assaulting a 15-year-old girl. The encounter had been arranged by a man whom the victim referred to as “Papa-dom” or “Daddy Dom,” as one of multiple commercial sex encounters in 2021 [1]. Fraunfelter picked up the minor in his truck and sexually assaulted her within hours of another man sexually assaulting her [2]. It is alleged that “Daddy Dom” set up the “dates” where men would pay him to sexually assault the 15-year-old girl [3]. Although Fraunfelter was charged with sexual assault, the minor described that he had recorded himself assaulting her and that on January 1st she was forced to have sex with him and another man [4]. Even though Fraunfelter sexually assaulted and drove the minor girl in order to receive a commercial sex act, he was not charged with sex trafficking under § 3011 or § 3013 [5]. Further, he

was not charged with buying sex under § 5902(e).

A similar pattern of mischarging was illustrated in a 2020 case where Gregory Miscik, a health therapist in Latrobe, Pennsylvania, was accused by 8 of his former female clients of groping them, harassing them, and offering them cash in return for nude photographs during their counseling sessions [6]. Miscik took pictures of the young girls naked during their counseling sessions and then give them cash or drugs in return even though they were seeing him to get over their addictions [7]. Despite the acts committed, Miscik was not charged with trafficking [8].

These two cases are indicative of the larger issue of prosecutors failing to use the human trafficking chapter in the crimes code. Prosecutors should identify and properly charge trafficking conduct. The alleged conduct exhib-

ited by Fraunfelter and Miscik fits the statutory definition of sex trafficking [9]. Fraunfelter allegedly purchased sex with a minor through an encounter set up by another. He clearly could have been charged under § 3011 and § 3013. Miscik solicited and enticed his clients into providing sex acts by giving them money and drugs in exchange. This is precisely the conduct prohibited by the Trafficking in Persons statute [10]. Merely charging these men with sexual assault charges minimizes the harm suffered by their victims. It furthers the misunderstanding that trafficking does not occur in the Commonwealth of Pennsylvania and makes it more difficult for victims to access services specific to their experience. The mischarging in these cases demonstrate the necessity of comprehensive education regarding Act 105(2014) for prosecutors across the Commonwealth.

4.3 Police Sexual Misconduct

The criminal justice system in this country actively perpetuates sexual violence by its officers, both on and off duty; in fact, sexual violence is the second most common type of violence committed by law enforcement next to excessive force [1]. A law enforcement official is caught in an instance of sexual misconduct every five days [2]. Officers not only abuse the power of their badge to extort sex, often repeatedly and especially against women of color, but also engage in legal tactics to commit sexual assault while participating in police investigations [3]. This misconduct occurs in a variety of situations, ranging from encouraged sexual

encounters with confidential informants in prostitution stings to sexual violence against individuals in custody, those questioned by police, or those that simply cross paths with police on patrol. Officers often coerce sex acts as quid pro quo to get out of arrest or threatened detention.

In 2017, this issue was brought into the public spotlight when two New York Police Department (“NYPD”) officers were charged with sexually assaulting and kidnapping an 18 year-old woman after placing her in custody for possession of a small amount of drugs [4]. In New York at the time, the officers could uti-

lize the consent in custody loophole in the law. This loophole allowed officers to claim, as a defense to prosecution, that the individual in their custody consented to sexual contact. [5]. Ultimately, the rape charges were dropped because the judge questioned the victim’s credibility; he found the implication that the victim used sex acts to bribe the officers to release her from custody more culpable than the officers’ sexual violence and abuse of power [6]. The officers resigned but received no jail time [7].

These instances have been and continue to occur across the country, in-



The Kensington neighborhood of Philadelphia is known for open-air drug sales and street prostitution.

cluding in Pennsylvania. In 2002, two Philadelphia police officers were convicted of sexually assaulting a woman in their squad car, with investigators finding multiple other women who had similar experiences with the pair [8]. In 2018, a Luzerne County officer was at the center of a federal civil rights lawsuit that claimed he had sexually assaulted two women after he stopped or arrested them, with multiple other women making similar allegations [9]. In 2019, a former Philadelphia police officer plead guilty to deprivation of rights after sexually assaulting a woman in his squad car, who he met while responding to a robbery call at her apartment [10]. In the same year, a Wilkes-Barre police officer was arrested for sexually assaulting four women in his patrol car while on duty [11].

The power imbalance is especially problematic among persons in prostitution, who face the very real possibility of arrest if they refuse to comply. Officers target vulnerable populations whose credibility will be questioned if they come forward, meaning these cases often go unreported [12]. For example, in Oklahoma City in 2014, an officer was convicted for targeting and sexually assaulting Black women with a history of

drug use and prostitution [13]. This conduct went unreported for months, until the officer assaulted a woman passing through his neighborhood, who was not afraid to go to the authorities [14].

More shocking, from a policy perspective, are the cases where confidential informants are encouraged to solicit sex from prostituted individuals in prostitution stings [15]. Only after the C.I.s deceive and sexually assault these individuals does law enforcement move in to make arrests. The CSE Institute has covered numerous instances of this conduct in Pennsylvania in the last five years. In 2016, a confidential informant in Luzerne County paid a prostituted woman at a spa for a sex act; later that evening, law enforcement descended upon the spa and arrested the women working there [16]. In 2019, in Lancaster County, a woman was sentenced to two years in prison for manually stimulating a confidential informant at a spa [17].

This conduct persists despite the fact that Pennsylvania Courts have invalidated this practice. In 1998, in *Nolan v. Cooper* [18] the Third Circuit ruled that to prove the defense of outrageous government conduct, an individual

“need only show that the government consciously set out to use sex as a weapon in its investigatory arsenal, or acquiesced in such conduct for its own purposes once it knew or should have known that such a relationship existed [19].” Following this precedent, in *Commonwealth v. Su Cha Chon* [20], the Pennsylvania Superior Court held that the use of a confidential informant to purchase sex acts was outrageous government conduct [21].

While common law precedent has developed to address these egregious practices, legislatures have been slow to create law enforcing these decisions. The consent in custody loophole exists because most state laws, as well as federal law, only invalidate consent between correctional officers and inmates or parole officers and parolees, yet do not mention police officers and persons in their custody [22]. After exposing the story of the woman in New York assaulted by NYPD, BuzzFeed reported that 35 states had this loophole [23]. New York amended its consent law in 2018 to provide that a person is incapable of giving consent when “detained or otherwise in the custody of a police officer, peace officer, or other law enforcement official [24].” Color-

do, Delaware, Illinois, Kansas, Louisiana, Maine, Maryland, Minnesota, Nebraska, Nevada, New Hampshire, and Texas followed suit and have passed similar laws closing the consent in custody loophole; Massachusetts, South Dakota, and Rhode Island have taken steps toward doing the same [25]. However, Alabama, Arkansas, DC, Idaho, Iowa, Kentucky, Michigan, Mississippi, Missouri, Montana, New Mexico, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming still have laws in place that create the consent in custody loophole [26]. Additionally, the federal Closing the Law Enforcement Consent Loophole Act of 2019 has been stalled in the Senate for almost two years [27].

Pennsylvania is one of the states that has closed the consent in custody

loophole. In 2019, the General Assembly amended Title 18 of Pennsylvania Consolidated Statutes § 3124.2, Institutional Sexual Assault, to add a sub-section that outlines sexual assault by peace officers [28]. However, this amendment only provided for protection when an individual is “under official detention or in the custody of the person or is a confidential informant of the person [29].” Thus in 2020, Representatives Joanna McClinton and Christopher Rabb introduced House Bill 2709 that sought to amend § 3124, creating the crime of sexual assault by a police officer [30]. This addition to Pennsylvania’s crimes code would make it a felony of the third degree for peace officers to engage in sexual intercourse with anyone being investigated, arrested, or otherwise detained [31]. Additionally, the actor’s

employment as a peace officer would be terminated and he would not be eligible for rehire as a peace officer in the state or any correctional facility [32]. We are hopeful that Representatives McClinton and Raab will reintroduce this legislation this session.

The CSE Institute supports measures that both recognize that consent in custody is not consent and hold law enforcement accountable for bad acts committed by leveraging their authority. Without such laws, vulnerable populations, like prostituted persons, especially women of color and transgender women, are subject to officers empowered by their badge to commit sexual assault. Those who enforce the law should not feel encouraged or have the power to assault individuals. A just society holds them to a higher standard.

Coercion and Abuse by Authority Figures

People in positions of power within the legal system can and do weaponize their knowledge of the inner workings of the legal system against their victim’s vulnerabilities. This abuse of power demonstrates the need for accountability and reform within our criminal legal system.

In February 2021, the Pennsylvania Attorney General Josh Shapiro (AG) announced that Bradford County District Attorney, Chad Salsman, is facing charges of sexual assault, indecent assault, intimidation of a witness or victim, obstruction of justice, and prostitution [1]. A grand jury determined Salsman coerced, manipulated, and assaulted numerous women while he represented them as their criminal defense attorney [2]. The AG noted that Salsman specifically chose his victims because he believed they would be easy to silence and would be unlikely to be believed [3].

Candace Talley, a Delaware County foster care caseworker—a government employee—was charged with and pled guilty to sex trafficking and promoting prostitution,

both felonies [4]. Talley used her position as a government employee to access criminal prostitution records of the mothers of the children on her case load [5]. Talley promised to provide those mothers with negative drug tests and positive custody determinations if they engaged in commercial sex that financially benefitted Talley [6]. Talley was ultimately sentenced to six years of probation [7].

Both Talley and allegedly Salsman abused their positions of authority to exploit women who were in vulnerable positions and unlikely to be believed by law enforcement if they reported their victimization. Even when Talley was sentenced, her abuse of power and exploitive conduct was minimized, and she was given a sentence well below the guidelines [8]. These injustices demonstrate the necessity of both comprehensive education regarding sex trafficking and reform of our criminal legal system. Those in a position of power and authority should be held to a higher standard—we can and should expect more from those who are supposed to protect those in their care.

4.4 Who Needs to be Arrested to Build a Sex Trafficking Case?

The short answer is, not the victims. However, we consistently see law enforcement engage in “human trafficking stings” where they arrest victims for prostitution, instead of providing appropriate resources and care [1].

The CSE Institute recently had the opportunity to sit down with Les Glauner, a police officer with the Upper Merion Police Department and member of our Board of Advisors, to discuss this issue [2].

Law enforcement conduct toward persons in prostitution begins with the societal view of these individuals as people making a choice to sell sex. Their choice may be the result of drug addiction or poverty, but law enforcement nevertheless views it as a genuine choice. These misconceptions are then reinforced as part of law enforcement training. In fact, Glauner says police academies regularly teach that prostitution is a victimless crime. Those selling sex are viewed as accomplices in their prostitution rather than victims of it.

These misconceptions ignore the reality of choice and consent. Those selling sex rarely have a choice; they are constrained by poverty, homelessness, or lack of formal education, or are exploited by a sex trafficker. Sex buyers always have a choice. A sex buyer never

needs to buy sex, they merely want to. Traffickers force or coerce their victims into selling sex because sex buyers create the demand for commercial sex.

While there has been ongoing human trafficking training for police departments in some places, Glauner says this year is only the third time it has been held for his department. For victims of commercial sexual exploitation, the consequence of this failure is continued harm from law enforcement. For law enforcement, the consequence is an erosion of trust between police and a vulnerable community. Every time law enforcement commits harm by arresting someone in prostitution, they cause that person and others to lose faith in the system, which leads people in prostitution to not reporting crimes perpetrated by sex traffickers or sex buyers.

Unfortunately, many police departments and district attorney’s offices believe that arresting persons in prostitution and using criminal charges as leverage is the only way to ensure they testify against their sex traffickers. Glauner says this ignores that sex trafficking investigations proceed much more smoothly when the victims are not penalized for the actions of the person who trafficked them. Glauner, who approaches his investigations with the knowledge of who has choice, says that it is a matter of good investigation.

Even when victims do not completely cooperate with investigations, it is law enforcement’s responsibility to do a more thorough investigation into what information is available and gathering necessary evidence.

Glauner has successfully participated in the prosecution of sex traffickers without arresting their victims, and it has yielded better results than traditional prosecutions. In one specific case, Glauner recounted a sex trafficking sting in Allentown, PA. He worked with a team that was a little “rough around the edges”. Initially, officers treated an identified victim harshly, yelling at her as she attempted to follow his directions and then attempting to place her under arrest. But Glauner stepped in. He asked the victim if she was safe or if she needed something to eat. He built a bond with her, and she became cooperative. Glauner offered her services, which he made sure to have readily available, and she told him her story about how she was trafficked. By treating her with respect rather than like a criminal, Glauner was able to arrest multiple sex buyers. Glauner says it all comes down to how you talk to and treat people, and while the paradigm in law enforcement is slowly changing, the change must continue with police academy’s educating on this topic.

**Those selling sex rarely have a choice.
Sex buyers always have a choice.**

4.5 Attorney Collaboration: Creating a Web of Support for Survivors of Sex Trafficking

Getting and staying out of the sex trade, referred to by many as “the life,” is incredibly difficult. Without a network of support and robust resources it can be next to impossible. Legal services are an integral part in this support system, but many attorneys are unsure of their role. Some attorneys recognize that survivors might need criminal defense attorneys, or plaintiff’s attorneys. The real answer is that survivors often need both, and much more, which is why attorney collaboration is integral to the fight against sex trafficking.

Because the legal field has a number of niche practices, attorney collaboration is necessary to provide the multifaceted legal care survivors need. Building systems of support will lead to a more efficient and effective safety net for survivors as they attempt to exit and stay out of “the life.” When a survivor has a legal need, individual attorneys should approach the situation holistically, considering collateral consequences throughout the process. Ideally, attorneys will have referral networks in place, not only for legal issues but for a variety of resources. Minimally, victims’ services centers, counseling options and relevant medical service provider’s contact information should be readily available. The Office for Victims of Crime of the U.S. Department of Justice has a non-exhaustive list of needs that sex trafficking survivors might require when they are exiting “the life” [1]. While this list is not conclusive, it accurately suggests that every lawyer should have resour-

ces for: child specific assistance, crisis intervention, education, ESL classes, food, housing, medical and mental health care, religious and spiritual assistance, and public benefits [2]. Outside of this list, cooperation among attorneys—with family lawyers, tax attorneys, immigration attorneys, and attorneys that work in housing law—is essential [3].

The attorneys that currently have the most consistent contact with survivors are prosecutors and criminal defense attorneys. But survivor interactions with these groups tend to be negative, especially with prosecutors [4]. Sex trafficking victims are frequently met with criminal charges, often for prostitution, rather than resources that could help them leave “the life” [5]. It is not just the legal field that is failing survivors; other professions such as law enforcement and medical providers have analogous issues with missing opportunities to provide support, or causing additional harm.

Anne (client’s name has been changed) is a sex trafficking survivor and client of the CSE Institute. She successfully left the life, but there were many times along the way that law enforcement and the medical field failed her. When she was arrested, law enforcement did not offer her resources, but rather treated her like a criminal. She had the same experience with the medical field. Rather than giving her resources, or finding a way to help her, they treated her like a criminal without

asking her if she needed help. While stories like Anne’s are not uncommon, cooperation among the legal, medical, and social services fields could create a system in which survivors are provided support rather than re-traumatized [6].

Despite these systems regularly letting survivors down, there are people working for change within them. Les Glauner, a police officer with the Upper Merion Township Police Department and member of our Board of Advisors, keeps resources readily available to help the survivors he interacts with. He noted that having services on hand for survivors bolstered their faith in him and made them more likely to engage with the resources available. His connections and knowledge of available services have been invaluable to his work.

Being able to affirmatively offer a survivor information about the specific resources they need would enhance the lawyer-client relationship, and increase survivor access to lifesaving services. Survivors have been failed by different systems so many times. Attorneys who seek to aid survivors must ensure they do not fail them further. Having resources and connections to services in place that allows lawyers to respond to survivors’ needs efficiently, proactively, and holistically is a major way to the legal field can effectively support sex trafficking survivors.

4.6 Federal Focus: AUSA Sean Camoni

The CSE Institute recently had the opportunity to speak to Villanova University alumnus and Assistant U.S. Attorney (“AUSA”) Sean A. Camoni about the expanding role of criminal law in trafficking investigations and the success he has had in holding hotels liable for sex trafficking in Pennsylvania. Hotels and motels are among the most common venues for facilitating and financially benefitting from sex trafficking. These venues provide easy access for buyers and the ability to maintain financial secrecy [1]. Although the Trafficking Victims Protection Act (TVPA) and the Pennsylvania Crimes Code both provide means of criminally convicting and holding hotels liable for their participation in trafficking, it rarely happens [2]. (See 3.1 Current Law). The conviction of Faizal Bhimani (Pocono Plaza Inn Hotel Manager), Nazim Hassam (Pocono Plaza Inn Hotel Owner), Pennsylvania corporation Om Sri Sai, Inc., and the Pocono Plaza Inn Hotel, prosecuted by AUSA’s Sean A. Camoni and Jenny Roberts, is the first time a hotel, as a corporate entity, has been convicted of sex trafficking in the Commonwealth of Pennsylvania [3]. To the CSE Institute’s knowledge, it is the first time a corporate entity of a hotel has been held criminally liable for aiding sex trafficking operations on hotel grounds in the United States.

This conviction was the result of a six-year, joint investigation into sex trafficking, drug trafficking, and violent crime in Monroe County by the Organized Crime Drug Enforcement Task Force (“OCDETF”). The evidence presented at trial showed that Faizal Bhimani, as manager of Howard Johnson Hotel, made rooms available for sex traffickers and traded discounted and free rooms for the chance to rape the victims. The evidence further showed that Bhimani was closely connected to the traffickers and knew of the methods the traffickers used to coerce victims to have sex for money. The jury found that all property owned by Om Sri Sai, Inc. was property that facilitated the company’s sex trafficking crimes. Om Sri Sai, Inc. and Faizal Bhimani were both convicted of aiding and abetting sex trafficking by force, fraud, and coercion, and sex trafficking conspiracy [4].



Assistant United States Attorney Sean Camoni

For AUSA Camoni, the egregious facts of the case were a major factor in the successful conviction [5]. Specifically, the fact that the owner and managers not only knew that trafficking was occurring in their hotel but participated in it as well. The difficulty in holding hotels accountable is that the corporate entity must know that trafficking is taking place in their hotel. While it was possible to prove knowledge in this case because it was a small hotel chain, it’s not as simple when it comes to large scale hotel corporations. While Camoni is hopeful that this case will serve as precedent for prosecuting hotels in the future, he believes that, more importantly, it will encourage a change in hotel industry standards. Simple changes, such as posting the National Human Trafficking Hotline phone number on bathroom mirrors, can have huge potential for helping victims being trafficked in hotels. The CSE Institute applauds Assistant U.S. Attorney’s Sean A. Camoni and Jenny Roberts, Villanova Law alumna, for pursuing a successful trafficking conviction against the hotels in this case and encourages the hotel industry to implement changes to further prevent trafficking in their hotels.



The William J. Nealon Federal Building and United States Courthouse in Scranton, Pennsylvania.

4.7 Civil Impact Litigation

Since 2015 the CSE Institute has been tracking impact civil litigation brought against third-party facilitators of sex trafficking, like Backpage.com [1]. After the first suit of its kind was brought in 2010, dozens of other lawsuits have been filed against third-party facilitators of sex trafficking, including hotel and motel chains, social media platforms, and others [2]. This year the CSE Institute followed a different kind of fight against third party facilitation: a grassroots campaign to end the exploitation on popular porn streaming website, Pornhub.com.

#Traffickinghub Begins

In February 2020, Exodus Cry's Director of Abolition, Laila Mickelwait, published an op-ed called Time to Shut Pornhub Down [3]. Pornhub is a website that hosts user generated and uploaded pornographic content [4]. The op-ed illustrated that despite Pornhub's popularity, a huge volume of nonconsensual sexual violence and commercial sexual exploitation was hosted on the website [5]. In one case, 58 videos were posted to the site depicting the rape and sexual abuse of a fifteen year old missing girl [6]. Another case resulted in 22 women winning a \$12.7 million lawsuit against GirlsDoPorn for coercing them into pornography, all of which was uploaded to Pornhub [7]. Additionally, the piece shed light on how this was allowed to happen, and why Pornhub could and should be liable as a third-party facilitator [8].

Pornhub was rife with sexual violence

because it essentially operated without a system to verify the age or consent of people visible in uploaded content [9]. To upload content to Pornhub, a user only needed an email address [10]. To become verified, which allows users to monetize their content, the user only need submit a photo of themselves holding a paper with their username written on it [11]. As one attorney with the U.S. National Center on Sexual Exploitation described their age verification process as "a joke [12]." This lack of sex trafficking prevention, coupled with Pornhub's repeated failures to respond to victims' take down requests made the website potentially civilly and criminally liable for facilitating and profiting off of sex trafficking [13]. As one child sex trafficking survivor told the New York Times, "Pornhub became my trafficker . . . I'm still getting sold even though I'm five years out of that life [14]."

Exactly how popular is Pornhub? In 2019 Pornhub was visited over 42 billion times, with an average of 115 million visits per day [15]. As Pornhub itself points out, 115 million visits are the equivalent of the populations of Canada, Australia, Poland and the Netherlands all visiting in one day [16]. They had more visits than Netflix, Yahoo, or Amazon [17]. That's almost 3 billion ad impressions a day, which created an exorbitant amount of profit. And visitors of the site were not just viewing videos housed on the website. Another feature of Pornhub that made it so dangerous was the "download" function [18]. Us-

ers could save videos onto their personal devices and continue to proliferate them on the internet, even if they were officially taken down off of the site [19]. This means that victims and survivors were not only dealing with the potential that 115 million people watched them get raped and assaulted on a single day, they also have to accept that millions of additional people could still be viewing their victimization because someone downloaded it and shared it [20].

The op-ed sparked a petition that over 1.5 million people from 192 countries signed, and the campaign continued to gain traction [21]. In July 2020 a video made for the Traffickinghub campaign went viral and reached over 25 million views across social media platforms [22]. The video outlines the way Pornhub allowed abuse to continue on its site [23]. Over 300 anti-trafficking and child protection organizations supported the campaign, including the CSE Institute. And eventually, it worked.

Society Responds

In December 2020, less than a year after the Traffickinghub campaign began, Pulitzer Prize winner Nicholas Kristof wrote an op-ed for the New York Times called The Children of Pornhub [24]. This article discussed the same types of sexual exploitation and child sexual abuse material exposed by the Traffickinghub campaign and ended with the particularly disturbing thought, "With Pornhub, we have Jeffrey Epstein times 1,000 [25]." Within days, the ma-

“

Pornhub became my trafficker. . . I'm still getting sold even though I'm five years out of that life.

”

for financial institutions Mastercard and Visa pledged to investigate the claims made in the New York Times article and take “immediate action” if the veracity of the claims were proven [26]. American Express already prohibited using their cards on adult websites, and Paypal had cut ties with the website the year before [27]. Lawmakers sprang into action as well. A group of bipartisan senators in the United States introduced the Survivors of Human Trafficking Fight Back Act, legislation that would make websites civilly liable for knowingly distributing forced, coerced or otherwise nonconsensual sexual content [28]. Additionally, the Canadian government held a series of hearings and began an investigation into Pornhub’s parent company, Mindgeek [29].

Pornhub Concedes

In his article, Kristof made three demands of Pornhub: 1.) Allow only verified users to post videos; 2.) Prohibit downloads; and 3.) Increase moderation [30]. Shortly thereafter Porn-

hub released a statement that it will be complying with all three requests, essentially changing their entire business model to meet the demands [31]. Pornhub removed millions of videos to conform with the changes, going from 13.5 million videos to approximately 3 million [32]. The removal of this many videos supports the claims that Pornhub had not been adequately monitoring its content.

This is a big win for victims and survivors, but it is not the end of the fight. There are still many places on the internet that host content involving sexual violence and exploitation. There are more changes that need to be made to ensure that the internet is safer, particularly ensuring that the mechanisms are in place to hold responsible parties accountable. Survivors should not have to rely on social awareness campaigns; there should be civil remedies available for them when corporations profit off of their victimization. Moreover, survivors are not free from the fear of their ex-

ploitation following them for years. As discussed in *The Children of Pornhub*, explicit videos surfacing of someone online make employment, housing and educational opportunities more difficult and, in some cases, dangerous. Some employers and landlords further exploit survivors after they find out sexual content of them exists, expecting them to be interested in exchanging sex for opportunity. These are a few, among many, of the issues that are inherent within the sex trade.

The CSE Institute commends all those who raised their voices against Pornhub’s exploitative practices and encourage lawmakers to ensure survivors can hold third party facilitators accountable—whether they facilitate digitally, or in real life. Commercial sexual exploitation will always expand along with increases in demand for commercial sex. Pornhub, and the internet generally, shows that when the demand for commercial sex is allowed to flourish, sexual exploitation will too.

Recognizing Our Pro Bono Partners

The CSE Institute provides legal representation and resources to every survivor we encounter who needs our assistance. However, many of our clients live or work out of state or require legal assistance outside of the CSE Institute’s capacity. Without the support of our excellent service provider partners and our dedicated network of pro bono attorneys, we could not achieve our mission. We would like to recognize a few of our partners who enable us to fulfill our mission of putting survivor needs first.

Hewlett Packard Enterprise (“HPE”) has been actively engaged in the effort to combat human trafficking for several years, focusing primarily on labor trafficking in their own supply chain. This year, they expanded their efforts to include sex trafficking as well. The CSE Institute partnered with The Salvation Army’s New Day to Stop Trafficking Program to provide training on sex trafficking and trauma-informed lawyering to HPE attorneys and staff across the country. They have enthusiastically joined our ever-expanding network of pro bono attorneys.

Valerie Caras is an associate with Richards Layton & Finger and an alumna Villanova University Charles Widger School of Law. She has been dedicated to the CSE Institute’s mission since her first year in law school. This year, Ms. Caras represented one of the CSE Institute clients in a case in Delaware, allowing us to move forward with the client’s Pennsylvania legal matters.

Marie Bussey-Garza is an associate with Cozen O’Conner and also alumna of Villanova Law. She has been a champion of the CSE Institute’s mission since our inception. She has represented survivors in a pro bono capacity in record clearing matters, and her firm Cozen O’Connor has been a dedicated supporter of the CSE Institute.

We have also seen a dramatic increase in the number of local attorneys volunteering pro bono hours to the CSE Institute. To the entire legal community- thank you for supporting us. Thank you for supporting survivors.

5. Law and Social Change

5.1 Jennifer Glatthorn. Woman. Mother. Daughter. Survivor: Finding Beauty After Trauma

During the summer of 2016, Jennifer Glatthorn had her last run in the life on the streets of Kensington – her worst ever run. Every single night, she discovered other women in the life were being murdered along the streets by someone targeting them. Jennifer saw only the victim’s bloody footprints left behind. During this last run, nothing numbed her pain anymore, not even drugs. Each night, she felt alone and desperate, fearing for her life. Soon, it was the fear and a whisper in her ear that told her she had to face her fear and leave the life.

In August of 2016, she applied to the Delaware County Drug Treatment Court from a jail cell, knowing that this was how she could gain control over her addiction and herself. Before this moment, she had never fully disclosed her substance use disorder. In past assessments she would lie and then, without any treatment, she would relapse. But now, she chose to advocate for herself. She told the court about her addiction and insisted that she would do anything to take control of her life again. In December 2016, the court accepted Jennifer into the program.

Through the Delaware County Drug Treatment Court, Jennifer completed in-patient treatment at Gaudenzia in West Chester. Upon her release, she spent three months at a halfway house before transferring to the MVP Recovery House, where she lived for almost a year. As part of treatment, she attended Alcoholics Anonymous (AA), where she found a home group and a sponsor. Her director at MVP, unlike anyone else in her life prior to treatment, realized that Jennifer had experienced trauma and recommended she attend trauma therapy at Delaware County Women Against Rape (WAR). She did.

Today, she credits the lessons she learned from AA and WAR as life changing, for they equipped her to understand herself, her trauma, and most importantly, her potential.

Growing Up: Pain and Adversity Normalized

In 1981, Jennifer was born into abuse; her father physically abused her mother before and during the pregnancy. So, to

protect herself and her daughter, her mother fled from Pennsylvania to Florida shortly after Jennifer’s birth. The two only returned when her mother learned that her father moved away to New Jersey and married another woman. His absence, and her father’s other family, left Jennifer yearning for his love.

Jennifer grew up with her mother, grandparents, two uncles, and the constant presence of a keg built into their refrigerator. The adults in her home all struggled with drugs and alcohol overuse, and her mother used drugs regularly. Jennifer often spent her days at a neighbor’s house. She would play outside while her mother spent her time using inside with the neighbor and the neighbor’s friends. The chronic absence of her father and the unreliable nature of her mother left her alone and vulnerable.

One of her neighbor’s friends— a man in his twenties - entered Jennifer’s life when she was about ten years old. Seeking the love and affirmation of a father figure, she bonded with him, believing him to be a friend and confidante. But he wasn’t, he was grooming her. For the next few years, he sexually abused her until he moved away.

When Jennifer turned twelve, her mother entered rehab. Her mother committed to recovery and met a man who became Jennifer’s stepfather. She watched her mother and stepfather start fresh by building a new family with two new children of their own, deepening Jennifer’s feelings of isolation within her own family. She believed that her mother, like her father before, wanted a new family over her.

Although Jennifer attended school and performed well academically, she struggled to connect with her classmates. She sought love and affection the only way she knew how, by mimicking the behaviors that her abuser had taught her. Her classmates labelled her “promiscuous,” girls avoided her, and boys used her. Her feelings of abandonment, loneliness, and thoughts about her father only increased with each new boy, until they spiraled out of control. At thirteen years old,

“Trauma survivors repetitively relive and recreate a past trauma in their present lives. But human beings are adaptive, so children will adapt to adversity by changing their definitions of “normal” – and human beings resist changing ANYTHING that has come to feel “normal.” One of many important consequences of this adaptation is an increased likelihood that the child will end up reenacting the trauma, and in doing so, will be revictimized or may turn to victimizing others.” [1]

consumed by feelings of depression and abandonment she attempted suicide. Despite her physical recovery, no one addressed her mental health.

Her family later moved to Drexel Hill, where she attended Upper Darby High School. There, she graduated by the skin of her teeth while avoiding any real connection by isolating herself from her classmates. Instead, she took the train to Kensington searching for love and a man to fix. At nineteen years old, she became pregnant. Her boyfriend at the time left her when she decided to keep the baby. In 2000, Jennifer gave birth to her daughter, and she cared for her for several years until her daughter's paternal grandparents took custody.

Self-Medicating: The Growth of Addiction and Abuse

At twenty years old, Jennifer underwent surgery, and for her recovery, her doctor prescribed Percocet to relieve the pain. Each pill relieved not only her physical pain, but also numbed her loneliness and unaddressed trauma. Soon, drugs took over her life. The Percocet turned into Xanax, and the Xanax turned into cocaine.

Six years later, Jennifer met J.R. at a club on Erie Avenue. She remembers thinking that J.R. reminded her of her father; he had just been released from jail and was actively using, just like her. He was cool and, ignoring the fact that he was still seeing another woman, she started dating him. Soon, the two moved in together, and their relationship - struggling in throes of their addictions - turned abusive. J.R. began a cycle of engaging in multiple affairs while verbally abusing Jennifer..

In 2008, after the birth of their son, J.R. began to physically abuse her. Surviving their relationship meant doing whatever it took to please him. If she had to choose between milk for her son and weed for J.R., the weed would always win, for she would do anything to avoid the unrelenting abuse.

J.R. dealt drugs, specifically heroin. The easy access meant Jennifer soon began using heroin instead of cocaine to cope. It numbed her—giving her a chance to forget her past trauma, her loneliness, J.R.'s physical abuse, and her guilt. One night, J.R.'s abuse escalated after she used his stash. Terrified, Jennifer called the police. J.R. fled upon their arrival, but he was eventually found and arrested. But, like so many victims of abuse, Jennifer recanted her report, for she still loved him and believed he could change. However, she also

feared his family, who had threatened her if she followed through with the report.

After his release, J.R. refused to leave Jennifer alone. He'd appear on the streets after her shifts at work, following her, constantly watching and threatening her. She would return to work with a black eye, facing stares and isolation from customers and co-workers. Then, in 2012, police arrested J.R. on an outstanding warrant. During his incarceration, Jennifer finally escaped his control.

The Life: Childhood Trauma Resurfaces

Jennifer had a steady job at a Target, but her wages could not cover the cost of her addiction. Eventually, she was fired. Left with no income and an addiction that controlled her life. Seeing women in the life all around her hopping into cars, Jennifer began to believe that selling sex was the only option she had left. It began in Kensington - where she used to take the train as a teenager - with a few propositions from faceless men in cars. Desperate, she accepted.

After she began to sell sex, Jennifer met a woman who offered her a place to stay. After instructing Jennifer on Backpage.com, the woman began to post ads for Jennifer. She arranged dates for Jennifer. She took a cut of the money sex buyers paid Jennifer. If she didn't pay, Jennifer would be left on the streets, abandoned and afraid. The woman introduced her to intravenous drugs, which Jennifer began to use daily to numb her constant pain and escape - for just a moment. When one night Jennifer refused to give the woman a cut from one of her dates, she kicked Jennifer out, leaving her once more to the streets.

Living on the streets, Jennifer had regulars who would trade her drugs or a place to stay. Every night, she had to choose between the uncertainty of sleeping on the streets or trading sex in exchange for a warm bed. During this period, she was arrested a few times for prostitution and simple possession, each arrest compounding her trauma. Soon, she met a man she believed to be a friend. He had his own home where he offered her a room and promised to take care of her - at a cost. He forced her to continue selling sex in exchange for the room; a circumstance Jennifer knew well.

Another regular buyer would pick her up in Kensington and drive her to his house in the far northeast. He offered her a place to stay but only in exchange for complete control over her by controlling her access to drugs. When he discovered she used drugs from other sources, he forced her back to the

streets. However, the cycle repeated, and he would come back to take her to his house, while she was forced to live her life at the whims of sex buyers.

Then one night in January of 2015, she was solicited by an undercover officer who arrested her for prostitution. Once she was in his car, she figured out that he was undercover, but she didn't try to get out. She didn't fight. She didn't care. The streets were so cold.

Taking a Chance on Today

After graduating from the drug treatment court in March 2019, Jennifer knew that she wanted to begin to help others in similar situations regain control over their lives and face their trauma. To do so, she became a certified recovery specialist and currently works in Chester County for the Council of Southeastern Pennsylvania, walking people through the recovery process and encouraging them to take chances on themselves to improve their lives like she had before.

Jennifer strives to give back to the community of Kensington by volunteering regularly. She helps deliver packages and food to those who cannot get to the stores with the Paper Mill Project. She also volunteers in Kensington through Circle of Hope Church. With Circle of Hope, she helps provide food to the unhoused. Jennifer strives to provide for unhoused individuals as part of her recovery because of her own experiences living on the streets.

Jennifer currently attends the Delaware County Community College because she strives to become a paralegal. Her

5.2 Criminal Record Clearing Options

Criminal record clearing options are pivotal tools for survivors of sex trafficking seeking to leave “the life” behind them. Criminal records listing the crimes survivors committed as a result of their sex trafficking victimization create barriers in many areas of life, from securing safe housing and gainful employment to immigration status and family law issues, to accessing continuing education,[1] and voting rights [2]. In the 2019 National Survivor Network survey of 130 survivors, 73 percent of survivors surveyed reported loss of employment or not receiving employment due to their existing criminal records, and 58 percent of survivors surveyed reported barriers to accessing safe, affordable housing for the same reason [3]. Enabling survivors to clear their criminal records affords them the justice the judicial system initially failed to deliver.

experience with the criminal legal system demonstrated to her the system's need for empathetic and understanding advocates. Throughout her life, she encountered many professionals who could have changed things for her if they knew what to ask or what to look for. If professionals had a clear understanding of her trauma, and how to incorporate trauma informed skills into their provision of professional services, interventions in her life may have come much sooner.

In her future career, Jennifer endeavors to be the person that she needed, a person who would have supported her and provided alternatives to continued criminalization and exploitation. Her own criminal record has held her back in many facets of her life. Thankfully, that will no longer be the case. In April 2021, with the CSE Institute's assistance, Jennifer's convictions in Philadelphia were vacated. She hopes to help others clear up their records because it has been one of the best gifts she has received and because she knows no one should be criminalized because of their exploitation. Most importantly, Jennifer works every day on repairing her relationships with her children, especially her twenty-year-old daughter. For the past four and a half years, she has worked on building a relationship with her daughter. Now, her daughter wants to spend time with her, they go on vacation together, and they all have family dinner together on Sunday nights. She is also raising her seventh-grade son, who is about to start Muay Thai. Jennifer looks at her son, and though he does not look like her, she sees her spirit and joy in him.

Today, Jennifer calls her relationships with her children, her love for them, and her new control over her life: Beautiful.

Nearly every state has a provision allowing criminal record clearing for sex trafficking survivors, but the laws vary greatly, creating a patchwork system that is difficult for survivors to navigate without an attorney's assistance [4]. Some states such as Louisiana, Missouri, and Tennessee, only provide criminal record relief to minor victims of sex trafficking [5]. While an important start, that narrow relief denies adult survivors the opportunity to clear their records. Because criminal record relief is the “righting of a historical wrong,” legislatures should prioritize providing adult survivors with criminal record relief[6].

Criminal record relief for survivors takes various forms and provides varying levels of relief. Specifically in Pennsylvania, the legislature has provided a few key ways for survivors to clear criminal records. Most, such as sealing, expungement,

and pardons, are available to all eligible individuals, while one, vacatur, was specifically created for survivors of sex trafficking.

Sealing.

Sealing is the least protective form of criminal record relief. When a record is sealed, the charge or conviction still exists, but is hidden from the view of most agencies outside the criminal justice system[7]. Thus, an employer running a background check will not be able to see the criminal record, but the criminal record will still be available to the police and court systems. In Pennsylvania, most misdemeanor convictions are eligible for sealing. A conviction is eligible for sealing if it carries a prison sentence of two years or less, and if the person has not committed another offense that carries a prison sentence of one year or more in the ten years since their conviction[8]. Summary offenses are also eligible for sealing[9]. In all cases, the person applying for sealing must have also paid all court costs and restitution.

Expungement.

In Pennsylvania, the expungement remedy is limited. For the most part, expungement is only available for (1) non-convictions, and (2) summary offenses. Summary offenses are the lowest level of criminal offense, encompassing crimes such as disorderly conduct[10]. Even if expunged, the criminal record is still available to certain government agencies[11]. Those who are eligible for expungement include: a person 70 years of age who has not been arrested or prosecuted for ten years following final release from confinement or supervision; a defendant who has been dead for three years; a defendant with a summary offense who has not been arrested or prosecuted for five years; a person whom the court determines is acquitted of an offense[12]. The benefit to expungement is that the person has the ability to erase most arrest and conviction information from public view which means future employers or landlords will not be privy to the information. The limitations are that expungement does not remove arrest information entirely from public view, the record information can still be seen by government agencies which can result in deportable consequences for immigrants, and the eligibility for expungement is severely limited.

Pardons.

Pardons are also an incredibly powerful form of criminal record relief. In the past twenty years, Pennsylvania governors

have pardoned 3,170 people[13]. In PA, an individual can submit a petition for clemency to the Board of Pardons[14]. For most cases, if the majority of the Board of Pardons recommends an individual should be pardoned, the Governor can pardon that person[15]. If the individual was sentenced to death or life imprisonment, the Board of Pardons must unanimously recommend the individual be pardoned[16]. The Board of Pardons is comprised of the Lieutenant Governor, the Attorney General, and three members appointed by the Governor[17]. Of the three appointed by the governor, one must be a crime victim, another a corrections officer, and the other either a medical doctor, a psychiatrist, or a psychologist[18].

Vacatur.

Vacatur is one of the most powerful forms of criminal record relief. The Pennsylvania vacatur law exists solely to provide criminal record relief to victims of sex trafficking. If a survivor committed a crime as a direct result of being sex trafficked, the Pennsylvania vacatur law provides those convictions are eligible to be vacated. Vacatur not only involves expunging criminal record information, but it also serves as a judicial recognition that the individual should not have been criminalized[19]. Unlike expungement, which simply erases criminal information, vacatur erases criminal information and declares the survivor factually innocent of the criminal activity and eliminates the vacated offense's associated fines and costs[20]. Vacatur expunges all derivative information from the originating arrest through the criminal trial.

In Pennsylvania, vacatur is limited in application. Only six crimes are eligible to be vacated by the court[21]:

- Prostitution
- Criminal trespass
- Disorderly conduct
- Loitering and prowling at night time
- Obstructing Highways and other public passages
- Simple possession of a controlled substance

Convictions are eligible if the crime was committed as a result of the individual being trafficked (See 3.1 Current Law for an overview of Pennsylvania's trafficking law.).

5.3 Vacatur: Successes and Set-backs

The CSE Institute's Justice for Victims Fellow provides direct legal services to survivors of sex trafficking through post-conviction relief. Much of our efforts are focused on seeking vacatur for our clients. We have seen great success including clients with over 20 convictions vacated, District Attorneys in four jurisdictions consenting to motions being filed, and many clients with now entirely clear criminal records.

To petition for vacatur, a survivor, or their representative, must complete four steps: (1) submit a written petition requesting vacatur, (2) secure the consent for the vacatur petition from an attorney for the Commonwealth, (3) describe supporting evidence for vacatur with particularity, (4) include documents that show the party is entitled to vacatur relief [1]. In practice, three of those four steps greatly hinder survivors from experiencing criminal record relief.

State Legislators Should Amend the PA Vacatur Law to Function More Effectively

Advocates have identified three problems in Pennsylvania's vacatur practice.

Problem 1: The Six-Offenses Eligible for Vacatur Do Not Adequately Provide Relief for all Survivors of Sex Trafficking

First, the current list of six offenses is too narrow and does not represent a complete picture of the crimes victims commit as a result of their trafficking victimizations [2]. Pennsylvania's neighboring state of New Jersey has an even narrower law than Pennsylvania; New Jersey only permit petitioners to vacate prostitution convictions [3]. In contrast, other states have recognized retail theft or misdemeanor theft offenses,

misdemeanor forgery, kidnapping, or even indecent exposure as crimes which may be vacated [4]. Additionally, some states permit vacatur for any conviction, as long as the conduct was a result of being a victim of human trafficking [5]. In that same vein, the American Bar Association, in collaboration with the United States Department of Justice and the Survivor Reentry Project, created a best practice guide for states to approach vacatur laws [6]. The guide posits that vacatur laws should apply to all types and levels of offenses [7]. In line with those best practices, Pennsylvania legislators should remove the six-offense limitation to vacatur petitions and instead expand eligibility to any offense committed as a direct result of sex trafficking victimization.

Problem 2: Requiring Prosecutorial Consent Can Act as a Complete Bar to Survivors' Access to Legal Remedies

Second, Pennsylvania legislators must improve survivors' access to vacatur by discarding the prosecutorial consent requirement [8]. Pennsylvania is the only state that requires the procedural hurdle of obtaining prosecutorial consent in order to even file a petition for vacatur [9]. Allowing prosecutors, those whose very job it is to enforce the laws of our Commonwealth, the sole discretion as to whether an individual was mis-prosecuted is unacceptable. This, as in all other post-conviction matters, belongs in the hands of the judiciary. The Pennsylvania General Assembly should require vacatur petitions to simply give notice to the prosecuting attorney. This strikes the proper balance between providing the prosecution with an opportunity to object while also ensuring survivors have their day in court, or simply ensuring that survivors have

access to the seek the remedy from the judiciary. No other state requires prosecutorial consent for vacatur petitions. The Pennsylvania General Assembly should join the rest of the nation in providing survivors uninhibited access to the judicial process in order to redress the historical wrongs against them of criminalizing survivors for their sex trafficking victimization.

Problem 3: Sex Trafficking Survivors Deserve Trauma-Informed Lawyering, which the Particularity Requirement Rebuffs

Third, the Pennsylvania vacatur law currently requires survivors to state "with particularity" the evidence of their victimization in their petitions. Per the American Bar Association's best practice guide for vacatur laws, survivors should not have to appear in person at a hearing about their vacatur [10]. Survivors of trafficking are likely to have experienced trauma as a result of their victimization [11]. Trauma has an extensive impact on the brain both in the short and long term; for survivors, this often takes the unique form of complex trauma [12]. Research confirms that trauma impairs an individual's ability to encode memories [13]. Details like dates and locations may not be recalled because they were not properly encoded [14]. Survivors may misremember when, where, or even if they were arrested [15]. Further, speaking in detail about traumatic instances forces a survivor to relive the event and may cause re-traumatization [16]. Requiring evidence to be described with particularity discourages survivors from rightfully using this remedy, as the General Assembly intended. Several of the CSE Institute's clients have avoided seeking the vacatur remedy for months or years, knowing it would require them to

speak candidly about the most painful moments of their lives and have it reduced to writing in an affidavit that is filed with the court.

Our colleagues at the Philadelphia District Attorney's Office (DAO) have empowered survivors by providing consent for vacatur petitions to be submitted to a judge for review. In a trauma-informed fashion, the Philadelphia DAO has also waived appearances for survivors who do not feel comfortable attending vacatur hearings, which have the potential to be extremely retraumatizing. Additionally, in late 2019 the First Judicial District created a streamlined process for filing and scheduling hearings for vacatur petitions. As this vaca-

tur remedy is unique and still relatively new, having a judicial district create an avenue for these petitions to proceed has been invaluable for survivors already wary of the court system. Philadelphia's DAO position on vacatur has not only been beneficial in changing survivor's opinions of the criminal justice system at-large but has also had a hand in changing their lives.

The Pennsylvania General Assembly should consider limiting the particularity requirement which can be potentially retraumatizing. Because vacatur functions as the righting of a historical wrong, the process of petitioning for vacatur should provide deference to

survivors and recognize a victim-centered and trauma-informed approach. Vacatur relief is a promise from the legal system that the legal system will no longer aid in the stigmatization of survivors of sex trafficking. Vacatur is a necessary admission by the legal system that the legal system failed survivors in the past, and it ensures that survivors are not stigmatized or discriminated against because of that error every time they fill out a rental or job application in the future. Vacatur gives survivors social mobility to build a life not inhibited by the stigma of an unjust criminal record.

5.4 Forty Years is Enough: Cyd Berger's Petition for Commutation

Life without the possibility of parole. Those are the words that Cyd Berger heard back in 1981 when she was sentenced for first degree murder. But what wasn't heard in that courtroom, or at any point throughout the trial, was that Cyd was a victim of sex trafficking and that her victimization was intimately connected to her participation in the crime [1].

In the years leading up to her crime, Cyd was in an abusive relationship with a man named Dwayne Hicks. He physically abused her, threatened her family, kidnapped her son, and forced her into prostitution as a way to fund his drug addiction. Dwayne Hicks strangled and killed a sex buyer in order to steal his car. Hicks carried out the murder while Cyd sat in another room terrified. Cyd was convicted as a co-conspirator for her role in the crime.

In 1981, there was no definition of sex trafficking, no services for victims, and no punishment for traffickers – it was not a recognized crime. The absence of trafficking laws does not mean that trafficking was not happening; it simply means there was no word to describe the lived experience of women like Cyd. Today, forced prostitution is sex trafficking under Pennsylvania and federal law [2].

The CSE Institute heard about Cyd's case and agreed to prepare and submit her commutation application. The CSE Institute recognizes Cyd as a trafficking victim and believes further incarceration is unwarranted. After a year of work, we submitted Cyd's petition for commutation to the Pennsylvania Board of Pardons for consideration in April 2021. "The journey has been long, but it has been well worth it," Cyd said.

“On one of our weekly phone calls, Cyd told us that working with the CSE Institute reminded her of verse 4:14 from the Book of Esther that reads ‘And who knows but that you have come to your royal position for such a time as this.’ The goal of the CSE Institute has always been two-fold: to serve human trafficking survivors and create a coalition of future-lawyers equipped to handle real-world problems. Working with Cyd has truly been a culmination of why the CSE Institute was created. Cyd reminds us why we're here in this law school, engaging with students and survivors, and doing this work -- it is for such a time as this.”

- Shea Rhodes

When asked what it was like to work with the CSE Institute team, Cyd recalled that she had always believed she would get out eventually but keeping that faith alive was becoming harder. Talking weekly with the team helped her to understand her own life in a new way; she had heard about trafficking before but was truly able to grasp what had happened to her while talking it through during the interviews with the CSE Institute. Cyd especially appreciated that the team working on her application were all women. Cyd believes her application is a testament to the power of women.

Cyd has a lot she wants to do with her life if she is released. She is 65 years old, a mother, a grandmother, and a sister. Her first priority would be spending time with her family. Beyond that, she sees herself continuing her education, sewing as much as possible, potentially starting a soup kitchen, and, most importantly, speaking to other women about healthy relationships. When we asked her what she would say she said, “Love is not supposed to hurt you. Women have a right to have boundaries and opinions, and those boundaries should not be violated. Leave that bad relationship behind you; there is a better way.”



Artist Mary DeWitt created a series of murals to draw attention to Cyd Berger and the injustice of her continued incarceration.

5.5 Commercial Sexual Exploitation: At the Intersection of Racism, Mysogyny, and Poverty

The past year has brought racial justice and conversations regarding systemic racism to the forefront of the American psyche [1]. The callous and unjust murders of George Floyd [2], Breonna Taylor [3], and countless other men and women have drawn necessary attention to the systemic racism experienced daily by people of color. The recent shooting in Atlanta demonstrates the profound dehumanization of Asian women [4]. The intersection of systemic racism and misogyny is necessary conversation as it pertains to commercial sexual exploitation. The best ways to combat commercial sexual exploitation and sex trafficking is through implementation of policies that change societal perceptions of those who are harmed in the sex trade and address the systematic vulnerabilities that result in exploitation to begin with.

Sexism and misogyny are pervasive in the United States. Systemic racism permeates every aspect of our society—from housing and homelessness,

to education rates, to employment and income, to systems involvement. Women face inequality in education and the workplace and face rates of domestic violence and sexual assault for which there is often little to no recourse. The intersection of racial inequities and sexism leave women and girls of color disproportionately vulnerable, and thus at increased risk for sexual exploitation.

Vulnerabilities in Black and Brown Communities:

In 2017, 52% of all child sex trafficking survivors in King County Washington were Black, while Black girls only comprised 1.1% of the general population [5]. In 2018, 49% of child sex trafficking survivors in Louisiana were Black girls, though Black girls only comprised 19% of Louisiana’s youth population [6]. Girls of color are disproportionately represented in commercial sexual exploitation. The same can be observed for women of color. In 2017, 50% of the individuals sold online for sex in

Nebraska were Black women, while they only made up 5% of the population [7]. In 2016, Native American women made up 40% of sex trafficking survivors in South Dakota, while they only made up 8% of the population at the time [8].

The disproportionate representation of women and girls of color amongst trafficking victims and survivors is a direct result of the systemic racism and sexism experienced by this population. Systematic racial inequities are the direct result of historical oppression of communities of color. Education systems [9], loan disbursement [10], and criminal codes [11] were built in a way that specifically disadvantaged people of color [12]. These systems continue to exist and continue to disadvantage women and girls of color, resulting in higher rates of poverty, homelessness, abuse, child welfare involvement, and marginalization. 40% of individuals experiencing homelessness are Black, despite making up only 13%

of the population [13]. Without safe or reliable shelter, women and girls of color may be forced to trade sex for a place to stay [14], or have a trafficker provide housing in exchange for fulfilling certain “quotas”. Significant wage gaps also leave Black women behind. The median wage for Black women is \$36,735, \$10,000 less than their white counterparts, and nearly \$25,000 less than that earned by white men [15]. Hispanic women earn even less—with a median wage of \$32,002. These stark disparities leave women and girls of color uniquely susceptible to exploitation by traffickers and by sex buyers.

Systems involvement, whether the foster care and child welfare system or the delinquency and juvenile justice system, is often a precursor or indicator of commercial sexual exploitation. Black, Hispanic, and Indigenous children are disproportionately represented in the foster care system [16]. In 2014, there were approximately 189,113 girls in foster care, with 57% of those being girls of color [17]. Of the nearly 25,000 runaways reported to the National Center for Missing and Exploited Children (NCMEC), one in seven were likely victims of child sex trafficking and of those, 68% were missing from social services [18]. Youth involved in the child welfare system often crossover into the juvenile justice system; this is particularly true amongst girls who have experienced sexual abuse and thus have untreated trauma [19]. Girls of color are disproportionately represented amongst incarcerated youth [20]. Representing

only 24% of the youth population, girls of color nonetheless make up 68% of girls in residential placement [21]. These stark disparities leave women and girls of color uniquely susceptible to exploitation as traffickers actively target vulnerable populations—looking for weaknesses they can exploit [22].

Societal Attitudes:

Systemic racism is exacerbated by societal attitudes toward women and girls of color. Sexually racist attitudes have become a part of this country’s social structures, systems, and mindsets; as such, they contribute to the disproportionate representation of women and girls of color in both commercial sexual exploitation and the criminal justice system today [23]. Who is deemed a victim and which victims and survivors are worthy of attention in the eyes of the public are molded by the characterizations that individuals harbor about women and girls of color [24]. Legal outcomes, and long term justice for victims of commercial sexual exploitation, are directly impacted by stereotypes and mischaracterizations rooted in sexualized racism. While the stereotype may differ across racial lines, the result is increased vulnerability, increased abuse, and increased criminalization for women and girls of color.

Society adultifies Black girls, viewing them as “less innocent, less in need of protection and nurturing,[and] ... older than similarly aged white girls [25].” Due to the discretion inherent to the criminal and juvenile justice systems, adultification has a substantial impact

on the way that police officers, probation officers, district attorneys and judges view and handle black girls [26]. It is not uncommon for “white children and women [to be] considered victims of prostitution ... [whereas] Black [women] are considered perpetrators of prostitution [27].” As a result, Black women and girls tend to be punished more frequently and much more severely than their white counterparts, as they are seen as criminally responsible for their own victimization [28].

The fetishization and hyper-sexualization of Asian women fuels the demand for illicit massage businesses [29]. The success of these businesses is a manifestation of years of stereotypes depicting Asian women as simultaneously over-sexualized and innocent. By fetishizing an entire population of women, society has dehumanized them and transformed them into sex objects. Many of the women who ‘work’ in illicit massage businesses are victims of trafficking trapped by fear of violence, threatened deportation, or lack of resources [30]. And yet, the women are viewed as choosing their exploitation and thus deserving the abuse perpetrated by sex buyers and by law enforcement [31] is justified by dehumanization and the active minimization of harms against women of Asian descent [32]. On March 16th, eight people, six of them women of Asian descent were murdered by a white man in Atlanta, Georgia. The man targeted massage businesses and claims he was seeking to remove the temptation to purchase sex from these businesses. His heinous actions

“By fetishizing an entire population of women, society has dehumanized them and transformed them into sex objects.”

were justified by law enforcement as the product of a “bad day.”

Native American women experience sex trafficking victimization at a higher rate than any other population, largely due to the incredible vulnerabilities uniquely experienced by indigenous peoples. Violence can be directly traced back to the historical violence perpetrated against Native populations during, and as a result of, colonization [33]. Europeans actively fetishized Native women throughout colonization; it was European colonizers who introduced the concept of commercial sex to the Americas and have been buying, selling, and trading Native women since then. Government conduct during colonization encouraged violence against Native populations. The legacy of the violence and fetishization is the continued devaluation of Native women and minimization of the crimes committed against them [34]. More than one in three Native women will be raped in her lifetime [35]. Native women are stalked at nearly twice the rate of other women and are murdered at nearly ten times the rate of other women [36]. 88% of this violence is committed by non-Indigenous people [37].

The impact of this violence is exacerbated by the incredible rates of poverty, homelessness, and substance use within the American Indian population [38]. Native Americans represent only 1% of the general population and yet, they represent 11% of homeless adults [39]. Studies on those in prostitution in Anchorage, Alaska and Minneapolis, Minnesota have found that Native women represent nearly 30% of those in prostitution in those cities [40]. The rise of fracking in Minnesota, North Dakota, and South Dakota has increased rates of trafficking victimization in tribal areas as the demand for commercial sex has risen dramatically [41].

Do Better, Be Better:

The result of historical oversexualization, systemic racism, and societal attitudes is that women and girls of color are profoundly over-represented among sex trafficking victims. The anti-traf-



Protests across the country this year brought national attention to racial injustice. Men and women took to the streets to speak out against police brutality, economic inequality, and systemic racism.

ficking community must work to uplift the voices of women and girls of color, and directly address the disparities that exist in commercial sexual exploitation as a part of the anti-trafficking movement. “Even though Black girls are disproportionately detained for prostitution offenses, anti-trafficking advocacy materials seldom depict their faces, and the silence around their experiences in antiracist discourses function to marginalize their voices [42].”

The laws in the United States are written to reflect societal priorities. The anti-trafficking community must expand our gaze and consider the systemic issues that drive commercial sexual exploitation. We have identified sex buyers as driving the market, but we must pay equal attention to the forces driving the vulnerability of the exploited. It is not enough to arrest traffickers, to target buyers, to assist those currently exiting the life. We must act to prevent exploitation from the outset. This requires advancing anti-racist policies. It requires seeking equality for women in the law and society. It requires

ensuring a social safety net to protect and affirm those in poverty. The Equality Model identifies systemic factors as the driving force in exploitation, and if properly implemented, these factors are targeted as part of a larger effort to combat trafficking. Commercial sexual exploitation lives at the intersection of race, gender, and class, its eradication requires the movement to directly target these pervasive inequalities.

6. Misinformation and Misunderstanding in the Movement

Seeing and Defeating Division

Over the course of the past year, the COVID-19 pandemic coupled with political and social turmoil has brought unprecedented attention and challenges to the movement to end commercial sexual exploitation. Myths and misconceptions ran rampant on social media, as QAnon created and promulgated blatantly false information about trafficking. In addition, ongoing efforts on how best to address sexual exploitation in America continue to divide efforts to serve persons in prostitution. Pro-sex work organizations push the narrative that “sex work” is work, while ignoring the harms inherent to prostitution and the voices of survivors seeking to be heard. Some Christian organizations claim to serve survivors while only serving their own image and sense of righteousness. These divides are ever-present in the fight against commercial sexual exploitation.

Commercial sexual exploitation is a human rights issue, not a political issue. To make real lasting change, efforts must be united, not divided. It is critical for experts and organizations committed to ending sexual exploitation combat harmful misinformation about the sex trade. It is imperative that individuals and organizations committed to targeting offenders and providing support and exit strategies to victims and survivors rely on accurate, reliable information from credible sources. False narratives, regardless of where they originate, ignore the diverse and varied lived experiences faced by actual victims and survivors. Crimes related to sexual exploitation do not discriminate based on gender, race, ethnicity, religion, class or political party. No community is immune from sexual exploitation. Above all else, the movement to end sex trafficking and sexual exploitation must demand survivors’ voices are at the forefront of every effort to end the sex trade.

6.1 #TraffickingTruths: Combatting QAnon and Human Trafficking Conspiracy Theories

For years, sex trafficking has been falsely depicted and generally misunderstood by the American public. Over the course of the past year, conspiracy theories regarding sex trafficking were circulated by the masses on social media, driven by the conspiracy group QAnon. Drawing on fears related to the COVID-19 pandemic, the presidential election, and the highly publicized arrest of Manhattan socialite, Jeffrey Epstein, the group took to Twitter, Facebook, Instagram, TikTok and other social media platforms to spread theories blaming politicians, celebrities, and corporations for sex trafficking and other acts of sexual violence against women and children [1]. QAnon relied on general misconceptions about sex trafficking to cause mass hysteria and encouraged individuals to circulate conspiracies about the sex trade. The sensationalized imagery of sex trafficking posted across the internet compelled many to join the “fight” against the “underground sex traffick-

ing rings” targeting American youth [2]. Any effort to end sexual exploitation that relies on myths or inaccuracies about the sex trade does nothing to help real victims and survivors. Rather, the spread of misinformation coupled with false imagery is detrimental to the identification of real victims and the efforts to target real perpetrators.

By preying on preexisting public ignorance about sex trafficking, QAnon was able to use factually inaccurate information and false imagery to incite online campaigns and in-person protests across the country [3]. As a consequence of QAnon’s efforts, an online coalition adopted the hashtag “#SavetheChildren” to spread false information suggesting President Trump was tackling an underground network of celebrities and politicians trafficking children across the country [4]. The hashtag “#SavetheChildren” was used over 800,000 times and linked to multiple videos with thousands of view



For several months in 2020, the CSE Institute engaged in a myth busting campaign. We worked with Rebecca Bender to promote #TraffickingTruths on social media.

depicting sensationalized imagery of battered women and children [5]. Their efforts amplified common misconceptions about sex trafficking including: sex trafficking only happens overseas, sex traffickers must smuggle their victims over borders, sex trafficking must include some form of kidnapping or bondage, and the crime of sex trafficking only involves the trafficker and the trafficking victim. By identifying and debunking these popular misconceptions or myths, we can redirect efforts to target traffickers and support actual victims and survivors.

Sex trafficking is a very real issue in the United States, not just abroad. The media, however, often portrays trafficking victims as foreign nationals illegally transported to the United States from different countries [6]. This misconception encourages a belief that sex trafficking is less of a threat to American citizens. Sex trafficking frequently occurs in every state across the country [7]. Many victims are recruited in their own homes or neighborhoods by family members or individuals they know [8]. The National Trafficking Hotline list the top five recruitment tactics for sex traffickers as (1) recruiting an intimate partner, (2) familial trafficking, (3) employment offer (4) posing as a benefactor, (5) offering false promises/fraud [9]. We also know certain youth face an increased risk of being targeted by traffickers. Juvenile populations most vulnerable to trafficking are African American or Latino youth, refugee and migrant children, LGBTQ youth, youth in the child welfare system, homeless youth or runaways [10]. In a two-year review of all suspected human trafficking incidents, 40% of sex trafficking victims were African American [11]. Nearly 50-90% of children victims of sex trafficking were involved in the child welfare system [12]. One out of five homeless youth in the U.S. and Canada were victims of human trafficking [13]. And in New York City, more than one in four homeless LGBTQ children were child victims of sex trafficking [14]. Portraying one general image

of sex trafficking, specifically images depicting foreign children, does not accurately represent the diverse community of trafficking victims and survivors within the United States. Victims being trafficked might not believe they are victims of sex trafficking and deserving of support because their experiences differ from the sensationalized imagery used by the media.

The myth that most trafficking victims come from overseas is often coupled with a belief that the crime of sex trafficking requires relocation of a victim. It is critical to understand both federal and Pennsylvania law do not require “transportation” as an element of the crime of sex trafficking [15]. Victims can be trafficked without movement of any kind. Additionally, sex trafficking does not require that victims are kidnapped or physically restrained by traffickers. While some traffickers physically constrain their victims, it is more common for traffickers to psychologically control a victim through fear, trauma, drug addiction, threats against families, and other vulnerabilities such as poverty, homelessness, and abandonment [16]. Instead of physical constraints, traffickers may prevent victims from leaving or seeking help by threatening victims' families, confiscating passports, threatening imprisonment or deportation and controlling a victim's finances [17]. Using images of foreign youth being smuggled across borders or children bound with duct tape over their mouths sensationalizes human trafficking and promotes harmful stereotypes. When lies are spread that the crime of sex trafficking only concerns foreign nationals, those who are moved across state lines or individuals kidnapped and physically restrained, victims who do not meet that criteria might not believe they are victims and might avoid seeking help. Additionally, efforts to recover and support only one “type” of victim ignores the diverse lived experiences of victims and survivors and prevents the survivor community from accessing the resources



A meme similar to those promulgated by QAnon during 2020.

they need.

Another common misconception about the crime of sex trafficking is that it only occurs when person “a” sells person “b” for sex. However, under federal and state law, third parties such as hotels and websites can be held both criminally and civilly liable for trafficking if they financially benefit from permitting trafficking-related acts to occur while using company services. Civilly, victims may bring law suits against anyone who financially benefited from their victimization and knew or should have known the acts were in violation of sex trafficking law. In 2017, two cases were filed in Pennsylvania civil court against hotels on behalf of minors who were victims of sex trafficking [18]. In October 2020, the United States Attorney's Office for the Middle District of Pennsylvania announced a Pennsylvania corporation Om Sri Sai, Inc., the Pocono Plaza Inn Hotel (otherwise known as the Quality Inn in Stroudsburg, Pennsylvania), along with the hotel's owner and manager, were criminally convicted of sex trafficking and drug trafficking charges [19]. (See 4.6 Federal Focus for further discussion). This marked the first time that the corporate entity of a hotel was held criminally liable for knowingly benefiting financially or by receiving anything of value [20] from participation in a trafficking ven-



Above is the symbol of “QAnon,” one of the leading creators of trafficking conspiracy theories and myths.

ture [21] in the United States. Persons who operate pornography websites can also violate sex trafficking laws. In California, the operators of “GirlsDoPorn” were criminally charged with trafficking and conspiracy to commit sex trafficking after they allegedly used deceptive practices to convince college-age women to fly to San Diego to film pornographic videos [22].

Public awareness and social activism are critical to ending sex trafficking. While we encourage a heightened awareness to the issue of human trafficking, we denounce a response that involves spreading damaging misinformation. Sensationalized imagery and rhetoric lead to the spread of damaging misinformation and harmful falsities about sex trafficking. It is necessary that awareness campaigns use credible information from legitimate anti-trafficking organizations. In doing so, we diminish the risk of real survivor being overlooked and ignored. We must rightfully direct our attention and assistance to victims and survivors, the majority of whom have experiences that substantially differ from those depicted by conspiracy theorists and their followers.

6.2 A Christian Response

Sister Brigid Mary, CWSL ‘22

As a Religious Sister of Mercy, “mercy” uniquely defines my life and commitments. However, during my first year of law school, I was shocked to discover that many Christian responses to commercial sexual exploitation have misused the word “mercy” in such a way as to assert a false sense of superiority and of fullness—as if to say, “I am more blessed, so I serve you.” My community has a special devotion to Saint Thomas Aquinas, who defines “mercy” as the courageous willingness to reserve an absence within oneself, which absence, when willed, can communicate the room one has within for receiving another [1]. Perhaps, for this reason, the word for womb in ancient Hebrew, *rahamim*, also means “mercy.” Mercy requires a recognition of the poverty within oneself. The word for “absence” in Latin, “*defectus*,” also means failure, weakness, defect; in other words, in order to make room for another within, it requires a painful willingness and strength to be so weak as to experience heart break, to be so emptied as to say, “I thirst [2].”

Pope Francis declared in 2019 that working against human trafficking is a Christian duty [3]. The Holy Father’s imperative, while recently articulated, is not new; in fact, the direction for following this imperative has been well articulated in the history of the Church. This work against human trafficking must be Christian at every point—the “how” a Christian works against human trafficking matters just as much as the “why [4]” False “mercy,” which implicitly communicates a certain hierarchy among those serving and those served, forgets the promise of Christ Himself, who said He is the oppressed, the sick, the imprisoned, the prostituted individual [5]. Those whose work is characterized by such forgetfulness express a service in contradiction to what Christ and His Church have modelled from the beginning of Christianity.

The Church has long honored Saint Mary Magdalene as “the Apostle to the Apostles,” a title given her by Saint Thomas Aquinas [6]. As early as 591 A.D., Pope Gregory I speaks of Mary Magdalene as a woman caught in

prostitution and as the one thrown at the feet of Jesus [7]. In this tradition, the first time Jesus meets Mary Magdalene, His response involves Him bending down and drawing in the dirt [8]. Scholars have inquired for centuries: what did He draw? It is, perhaps, not what He drew but that He bent down and let His Flesh enter the dirt upon which she was cast. The religious leaders stood apart, with stones raised in their hands and made her stand in their midst; while Jesus, remaining stooped down to the ground, traced the dust with His hands. The pharisees, quoting the law, carried miniature tablets of stones in their hands (a reminder of the tablets upon which God inscribed the first laws), ready to kill her by the law. While Jesus, as if inscribing the law with His finger, called everyone to remember their shared humanity—from dust you have come, and to dust you shall return [9]. The first lesson: a Christian response to sex trafficking cannot be distanced from the perspective of the exploited individual.

Throughout the Gospels, Mary Magdalene continues to be the person chosen by God through whom the Christian message of victorious life is communicated. According to Church tradition, it is to Mary Magdalene that Jesus says, “wherever this gospel is proclaimed in the whole world, what she has done will be spoken of, in memory of her [10].” For love of her, Jesus raises Lazarus (her brother) from the dead and commands to the amazed crowd, “untie him and let him go [11].” The second lesson: a Christian response to sex trafficking must involve a profound recognition that freedom is not owned by anyone, but it is a shared experience—each person’s liberty falls short of its capacity so long as one person suffers oppression.

After the death of Jesus, when all the apostles cowered in fear, Mary Magdalene alone ventured to the tomb to tend to the Body of Jesus, whereupon Mary fittingly encounters the Risen Christ, who reminds her of a Gardener. Did she see dirt on his hands [12]? The Church honors Saint Mary Magdalene as an icon of the Resurrection, for it was to her that the Lord first manifested Himself resurrected and to her alone that He gave the great commission to go and tell of His Resurrection to the Apostles. For millennia, the Church has articulated a powerful message: the Christian proclamation of the victory of Life began with the witness of a survivor of sex trafficking. The third lesson: a Christian response to sex trafficking must empower and follow the witness of survivors. Any intervention that stifles the voice of the survivor, that speaks for her, that refuses to recognize her mission, capacity and power, any intervention that does not provide a platform for a survivor to voice to the resurrection is not an authentically Christian intervention.

Despite the well-established guidance for a Christian response to sex trafficking, many efforts against sex trafficking inappropriately emphasize the fight,

merits and purpose of the responder rather than of those of the trafficked individual. One survivor’s complaint echoes through the work of well-intended, but ill implemented organizations: “the most disturbing thing was that they just did not know what to do with me [13].” One organization promotes its “adventures” to end human trafficking, with chic pictures of mountaineering young adults [14]. Another organization promotes its leader as a Christ-like rescuer, while callously showing prostituted women held to the ground at gunpoint by police officers for involvement in the trafficking of minors—never addressing the reality of the victim-offender or the complexities of oppression [15]. Another organization offers professional videos about its organization leaders, with the theme “I am called,” while providing no like expression for survivors; and, in the list of what this organization “does” as a Christian organization, it never lists “we receive,” “we accompany,” “we listen,” “we admire,” “we empower.” In fact, nothing in the list of the organization’s Christian mission relates to the survivor’s worth and calling or to humanity’s need to receive the survivor’s unique and unrepeatably graces [16].

Conversely, in 2018, Global Strategic Operatives (“GSO”) founded by the Sovereign Order of Malta, a Catholic lay religious order, partnered with Dignity Health and Common Spirit health systems to institute the first widespread initiative to equip hospitals and healthcare professionals in comprehensively treating commercially sexually exploited patients [17]. GSO’s program is used throughout the world and by the World Health Organization and United Nations. GSO articulates its mission as the recognition of the inherent dignity of every human person, and the atrocious violations of human rights to those being trafficked, and it cites Pope Francis’ comments to the United Nations in 2015: “evils like human trafficking cannot be met by solemn commitments alone. We need to ensure that our institutions —

and all our efforts — are truly effective [18].” GSO has several survivors in its leadership and has survivor instructors assist in delivering the program to the healthcare entities—the witness of the resurrection begins with the survivors, and healthcare personnel are trained to follow their lead. There are many truly effective Christian organizations responding to commercial sexual exploitation, this is just one among them; but this reflection is not meant to praise or defame any organization; rather, it is an individual call to all, Christians and non-Christians alike, that we follow the primary example set forth by Jesus and Saint Mary Magdalene—the last lesson: a truly effective response to commercial sexual exploitation requires a personal, life changing encounter with the exploited, and the life that is to be changed must first be the responder’s.

Saint Thomas Aquinas warns that there is a particular temptation in mercy to avarice and self-indulgence, because “a hunger and thirst for righteousness belongs to mercy [19].” Few can withstand the poverty and sense of incapacity one experiences in the recognition of liberty’s dependence on and union with another’s liberty. Willingly engaging that absence that exists in every person in the face of oppression requires justice to govern the proper exercising of that hole—how will it be filled? “Mercy and justice,” Aquinas says, “are so united that the one ought to be mingled with the other; justice without mercy is cruelty; mercy without justice, profusion,” or, in other words, mercy without justice is self-indulgent [20]. It is not enough, he says, that we desire righteousness, we must be willing to suffer for it: “blessed are those who hunger and thirst for righteousness, for they shall be satisfied [21].”

A Christian Response: Behind the Author

I am a Religious Sister of Mercy of Alma, Michigan and a second-year law student at Villanova. Previously, I was assigned to a hospital where we have a convent. Our convent door opens to the hallway connecting the trauma emergency bay with the surgery rooms. Walking out that door one day, nurses rushed a woman by on a gurney. I could see several blood pools spotting the sheet covering her. Seeing me, she cried out, “Sister! Pray with me! Don’t leave me.” She reached her hand out, which I held as I ran alongside her. She had multiple stab wounds—the punishment she received for trying to escape prostitution. As I ran with her down that hallway, holding her hand, feeling her long nails piercing my palms, I knew then that I never wanted to stop running alongside her.

My first year of law school, I was blessed to have Professor Dempsey for Criminal Law. Several years had passed since that hallway sprint, and I had started to doubt that I could continue the run. Professor Dempsey reinvigorated my hope by modelling for us accompaniment coupled with grace and strength. She introduced me to Shea Rhodes, and the two of them, along with everyone in the CSE Institute, taught me the secret of moving forward: we do not run alone.

Early in my work with the Institute, I accompanied the Justice for Victims’ Fellow to the New Day to Stop Trafficking Drop-In Center in Kensington. While we worked, a new arrival passed us in the hallway. She beckoned for me. Her name means “blessed” in Scandinavian; however, she is from Ecuador and speaks only Spanish. She has two daughters who live in Chicago: one daughter’s name means “God’s promise of splendor;” she has not seen them for years. She wanted to show me pictures she had previously painted; they were of sunrises and flowers. We spoke about the power of light, how no matter the heaviness of darkness, the light of a single candle can lift it. I told her I saw that light in her eyes; she said she saw it in mine. When she was leaving the center, I watched her pass by the room where we worked. She stopped and looked at me; I felt a hole in my heart that cannot be described. Jumping up from the table, I ran to her and wrapped my arms around her. I did not want to let her go, and she held on just as tightly to me. As she walked away, she walked backwards, so to not take her eyes off of me. For my part, I knew I was to remain there, motionless in that hallway, soaking in those last moments with her and letting her soak them in with me, until the door closed, and she was gone.

That day at the drop-in center, I experienced one side of what survivor Lilla Watson previously articulated: “if you have come here to help me, you are wasting your time. But, if you have come because your liberation is bound up with mine, then, let us work together.” [1] My liberation was bound up with her as I stood in the hallway that day, and I longed for freedom: for mine to move and for hers to stay. The CSE Institute is teaching me how to move; and I pray that as I find this freedom, she also will find hers.



Above: Sister Brigid Mary ‘22 is one of the externs at the CSE Institute. Her experience as a Sister of Mercy has been invaluable to the work done at the CSE Institute

6.3 The Dangers of “Sex Work” as Language and Policy

Despite its absence in the law, the term “sex work” is often used colloquially in place of commercial sexual exploitation or prostitution. Individuals who support decriminalizing the sex trade created the term “sex work” to amplify the idea that prostitution is consensual work. They argue that the term “sex work” destigmatizes those in the sex trade and that decriminalization would result in increased safety for those selling sex, as well as access to employment benefits and other labor rights [1]. A pro-sex work theoretical perspective equates sexual liberation with the freedom to com-

modify bodies; the body is regarded as an avenue to financial success and other resources. The pro-sex work agenda relies on two major assumptions: persons in prostitution always have the choice to freely engage in the sex trade and all prostituted persons will benefit-financially, physically, and emotionally—from the full decriminalization of the commercial sex trade. But, the continued use of the term “sex work” oversimplifies the violence and trauma suffered by persons in prostitution and calls for a legislative response that would cause more harm [2].

Currently, there exists four policy options to address commercial sexual exploitation: status quo, legalization, full decriminalization, and the Equality Model.

State laws govern prostitution—and in every state both selling and buying sex is illegal. The “status quo” is upholding current laws. The current approach allows prostitution policy to vary according to state, resulting in the inequitable enforcement of crimes related to the sex trade. Despite Pennsylvania’s

criminalization of both the sale of sex and the purchase of sex, the state continues to criminalize prostituted persons at a higher rate than those who purchase sex [3]. (See 4.1 Criminal Law Overview and Statistics).

Legalization of the sex trade allows commercial sexual exploitation to exist per compliance with government regulation. Full decriminalization allows the commercial sex trade to operate without any government involvement. When a full decriminalization policy is adopted, neither prostituted persons nor sex buyers are subject to criminal penalties [4].

The Equality Model is a response to the inequitable criminalization of individuals involved in the commercial sex trade. The Equality Model calls for a partial decriminalization of the sex trade by decriminalizing those who sell sex but criminalizing those who purchase sex. The purpose of this model is to extinguish commercial sexual exploitation by targeting the demand for paid sex while protecting prostituted persons from criminal penalties [5]. (See 3.4 The Equality Model: In Premise, In Practice).

The pro-sex work initiative calls for a legislative response that would fully decriminalize the sex trade and recognize “sex work” as “real work.” The term “sex work” intends to rhetorically capture all sexual labor, including porn actors, strippers and “sugar babies [6].” This vague definition mistakenly projects a general experience in which those who participate do so by choice or out of genuine professional interest. Using “sex workers” instead of prostituted persons sanitizes an industry in which the majority of those who participate are the world’s most vulnerable and have no choice but to engage in the trade for survival [7]. The term implies a consensual exchange between adults when, in reality, most of the people in the sex trade have no other choice or way of exiting [8].

Supporters of the pro-sex work agen-

da use the term “sex work” as a means of destigmatizing the industry and achieving a “positive” political and social recognition of “sex work” through full decriminalization of the industry [9]. Studies show the stigma associated with “sex work” did not disappear when countries adopted full-decriminalization [10]. After New Zealand implemented full decriminalization in 2003, citizens who identify as “sex workers” still reported feeling uncomfortable disclosing their occupation to their healthcare provider in fear that knowledge of their occupation would affect their treatment [11]. Some sex worker rights organizations have coined the phrase “stigma kills,” to link the stigma of “sex work” with violence [12]. Organizations who have sensationalized the phrase “stigma kills” continuously fail to acknowledge the murders of prostituted people in countries where full decriminalization has been implemented [13]. As of 2015, twenty-eight prostituted women had been murdered in the Netherlands since the country legalized prostitution in 2000 [14]. Over a period of sixteen years in Germany, ninety-one prostituted persons were murdered with forty-eight documented attempts since the country legalized prostitution in 2002 [15]. As of 2018, five prostituted women had been murdered in New Zealand since the country adopted full decriminalization in 2003 [16]. Sweden, with double the population of New Zealand, has seen a dramatic decrease in the rate of violence against prostituted persons since the country adopted the Nordic Model, also known as the Equality Model, in 1999 [17].

A pro-sex worker rights initiative believes the full decriminalization of the commercial sex industry will reduce harm and provide more protections to people in prostitution. Research shows full decriminalization does not guarantee an end to violence in the commercial sex industry [18]. By insisting “sex work is real work” and calling for the decriminalization of an inherently harmful industry, pro-sex worker rights activists must acknowledge instances of rape, beatings, and other forms of

unnecessary violence as more than merely “workplace hazards [19].”

In countries where legalization or full decriminalization models have been implemented, individuals selling sex still consider risk of violence as part of the job [20]. Interviews with prostituted persons in New Zealand revealed that a majority did not think full decriminalization minimized violence they experienced from their sex buyers and did not guarantee better working conditions [21]. Two years after prostitution was legalized in Germany, 87% of the women in prostitution reported having been exposed to physical violence, 82% to emotional violence, 92% to sexual harassment, 59% to sexual violence [22]. In a study aimed to understand the violence experienced by people in prostitution in nine different countries, the majority of prostituted persons who engaged in the study experienced violence and post-traumatic stress disorder [23]. In Columbia, where prostitution is legal, 70% of prostituted persons reported being physically assaulted in prostitution and 47% reported being raped in prostitution [24]. In Mexico, where prostitution is legal, 59% of prostituted persons reported being physically assaulted in prostitution and 46% reported being raped in prostitution [25]. In Australia, where legalization and full-decriminalization policies have been implemented, sex buyers actively participate in online review boards that normalize harm and sexual violence against prostituted persons [26].

The pro-sex work agenda fails to recognize the harmful connection between full decriminalization and the prevalence of sex trafficking. While pro-sex worker rights advocates generally condemn human trafficking, an initiative supporting the unchecked demand for sex via full decriminalization only contradicts this belief. The commercial sex industry is dependent on the economic principal of supply and demand [27]. When demand for commercial sex increases, supply must also increase to meet this

demand; meaning as long as the demand for sex exists, so will sexual exploitation[28]. When commercial sex is fully decriminalized or legalized, traffickers and brothel owners are protected, and police investigations into sex trafficking are limited by access to evidence behind brothel doors leading to underground trafficking operations going unseen by law enforcement [29]. Research into 150 countries shows higher rates of trafficking exist in countries where prostitution is legal [30]. The unregulated demand for sex consequence of implementing full decriminalization allows criminal enterprises to financially benefit from the exploitation of trafficking victims without fear of criminal prosecution [31].

The CSE Institute supports universal implementation of the Equality Model. The Equality Model recognizes that bodies are not commodities to be bought and sold. It also acknowledges that those in the sex trade are victims of other social vulnerabilities, like poverty and drug addiction, and regularly denied access to social services. This model targets the demand for sex and encourages social attitudes that condemn a belief money should provide unlimited access to another person's body while offering society's most vulnerable a life without continued stigmatization, fetishization by buyers, and violence.

Sugaring: Not as Sweet as it Sounds

An emerging trend on social media has encouraged younger generations to romanticize and glamorize prostitution. This phenomenon, known as “sugaring,” or “sugar-dating,” is gaining traction online and typically targets college-aged individuals, often young women. An individual identifying as a “sugar daddy” or “sugar mama” promises to exchange money or gifts for “companionship” or a “romantic relationship” with a younger partner or “sugar baby” [1]. “Sugar daddies” or “sugar mamas” use social media or other online resources to seek out and contract potential “sugar babies.” Due to a false perception projected online that being a “sugar baby” is a quick and easy way to make money while in college, many students, especially those with student loans and other expenses, are drawn to sugaring’s potential benefits, but are unaware of the dangers associated with this form of exploitation. It is critical to remember that behind its glamorous façade, sugaring is a form of prostitution in which a person with financial resources objectifies and purchases a vulnerable person in exchange for sexual gratification. The term “sugaring” normalizes prostitution while intentionally targeting vulnerable youth attracted to a false image of wealth and glamor. Sugaring is always exploitive and always carries a risk of violence to the person being exploited. Sugaring also increases the risk of sex trafficking by connecting vulnerable individuals, such as college students, to strangers looking to trade money for sex.

As the internet continues to rapidly expand, sex traffickers are more active online now than ever. In 2016, 92% of active, high-frequency sex buyers had browsed online for commercial sex [2]. “Sugar daddies” use online websites to advertise for “companionship” that is “mutually beneficial [3].” But this “companionship” is really a coverup for paid sex. The exchange of money, or anything of value including clothing, food and housing, for sex can quickly become sex trafficking as a consequence of the imbalance of power between the “sugar daddy” and “sugar baby.” When the “sugar baby,” for example, declines to perform a sex act as part of the paid “arrangement” the “sugar daddy” can withhold funds until the “sugar baby” complies [4]. This coercive tactic is considered sex trafficking by law [5]. Commercial sexual exploitation exists because of unequal power dynamics attributable to gender, racial, and financial inequalities. When a person believes they can purchase sex, harm to the person in prostitution is inevitable. When terms like “sugar-dating” or “sugaring” are used to refer to commercial sexual exploitation, it encourages those unfamiliar with the harsh realities of “sugar-dating” to romanticize and idealize exploitation. Taking advantage of a person’s unique vulnerabilities using money and other privileged resources is always exploitive, no matter how “sweet” it sounds.

7. Organizations and Groups Working Against Commercial Sexual Exploitation in Pennsylvania

The following is not an exhaustive list and does not constitute an endorsement of any agency or services provided. There are new anti-exploitation organizations forming all across the Commonwealth annually. If your organization is missing from this list, please contact us.

Organization	Web Address
Abuse Network, The	http://www.abusenetwork.org/
A Child's Place (Mercy Health Center)	https://www.achildsplaceatmercy.org/home
A Safe Place, Inc.	http://www/jlc.org/resources/county-resource-guide/forest/safe-place-inc-forest-and-warren-counties
A Way Out	http://www.myawayout.org/
A Woman's Place	http://awomansplace.org/who/contact.html
Abuse & Rape Crisis Center	http://arcceducation.wix.com/arcc#!service/c1pna
ACCESS York, YWCA York	http://ywcaYork.org/
Adams County Children's Advocacy Center	https://www.kidsagaincac.org/index.html
Alice Paul House	http://www.alicepaulhouse.org/
Beaver County Anti Human Trafficking Coalition	http://bcantihumantraffickingcoalition.weebly.com/
Berks Women in Crisis	berkswomenincrisis.org
Blackburn Center	http://www.blackburncenter.org/
Blair County Family Services, Inc.	https://www.familyserviceinc.net
Bradley H. Foulk Children's Advocacy Center fo Erie County, Inc., The	http://www.cacerie.org/
Bucks Coalition Against Trafficking	http://bcatpa.org/
Bucks County Children's Advocacy Center	http://buckscac.com/
Bulter County Alliance for Children - Child Advocacy Center	http://www.butlercountycac.org/
Cambria County Child Advocacy Center	http://www.cambriacac.org/
C.A.P.S.E.A., Inc.	http://capsea.org/
Carbon & Luzerne County Domestic Violence Service Center	http://domesticviolenceservice.org/
Care Center of Indiana County, The	http://carecenterofindianaco.org/
Centre County Women's Resource Center	tp://ccwrc.org/
Chester County Anti-Trafficking Coalition (CCAT)	https://sites.google.com/site/ccatsite/
Chester County Child Advocacy Center	http://www.chesco.org/1610/child-abuse
Children's Advocacy Center of Lawrence County	https://upmcjameson.com/cac
Children's Advocacy Center of Lehigh County	http://lehigh.pa.networkofcare.org/mh/services/agency.aspx?pid=ChildAdvocacyCenterofLehighCounty_794_2_0
Children's Advocacy Center of North Eastern PA	http://cacnepa.org/
Children's Advocacy Center of McKean County	http://www.mckeancountypa.org/departments/children_s_advocacy_center/index.php
Children's Alliance Center of Berks Co.	http://opphouse.org/looking-for-help/child-sexual-abuse-information-forensic-interviews.aspx
Children's Center of Susquehanna & Wyoming Counties	http://www.fsawv.org/childac.php
Children's Home of Easton, The	http://thechildrenshome.org/
Children's House of Pittsburgh of UPMC	http://www.chp.edu/our-services/child-advocacy-center
Children's Hospital of Philadelphia	http://www.chop.edu/
Compassionate Humans Against Trafficking	http://fightwithchat717.wix.com/chat#!more-about-us/c1sxh
Congreso	http://www.congreso.net/
Covenant House	http://www.covenanthousepa.org/

Organization	Web Address
Crime Victims Council of the Lehigh Valley	https://cvclv.org/
Crisis Victims' Center of Chester County	http://www.cvcofcc.org/
Crisis Victims' Center of Erie County	http://www.cvcerie.org/
Crisis Victims' Center of Fayette County	http://www.crimevictimscenter.com/
Crisis Victims Council of Lehigh County	https://cvclv.org/
Crisis Shelter of Lawrence County	http://crisishelter.org/
Dawn's Place	http://ahomefordawn.org/
Delaware County Children's Advocacy Center	http://www.delcochildrensadvocacycenter.org/
Delaware County Women Against Rape	http://www.delcowar.org/
Department of Human Services	http://www.dhs.pa.gov/
Department of Transportation	http://www.penndot.gov/Pages/default.aspx
Domestic Violence Center of Chester County	http://www.dvccc.com/
Domestic Violence Services of Cumberland & Perry Counties	http://www.dvscp.org/
East Side Laser Center	https://eastsidelasercenter.com/the-erase-project
Eden's Farm	https://edensfarm.org
Faith Alliance Against Slavery & Trafficking	https://faastinternational.org/
FREE	https://www.freefromht.org
Geisinger Child Advocacy Center	https://geisinger.org/patient-care/conditions-treatments-specialty/child-safety-and-advocacy
HAVEN of Tioga County, Inc.	http://havenoftiogacounty.org/
Helping All Victims In Need (HAVIN)	http://havinpa.org/
Huntingdon House	http://www.huntingdonhouse.org/
Joseph J. Peters Institute, The (JJPI)	http://www.jjp.org/
Justice at Work (formerly Friends of Farmworkers)	https://www.justiceatworklegalaid.org/
KidsPeace	https://www.kidspeace.org/pennsylvania/
Lancaster Anti-Trafficking Network (LATN)	https://www.facebook.com/LancasterAntiTraffickingNetwork/
Lancaster County CASE Task Force	https://co.lancaster.pa.us/705/C-A-S-E
Lancaster County Children's Alliance	http://lancastergeneralhealth.org/LGH/Our-Services/childrens-Advocacy-Center.aspx
Lancaster Initiative Against Human Trafficking (LIGHT)	facebook.com/LIGHT-Lancaster-Initiative-aGainst-Human-Trafficking-186767311856/
Lawrence County Crisis Shelter	http://crisishelter.org/
Lehigh Valley Community Foundation	https://www.lehighvalleyfoundation.org/
Lighthouse Counseling Services, LLC	https://www.lighthousecounselingpa.com/
Lutheran Advocacy Ministry in Pennsylvania	https://www.lutheranadvocacypa.org/
Luzerne County Child Advocacy Center	https://www.luzernecountycac.org/
Mid-Atlantic Dream Center	http://midatlanticdreamcenter.org
Mission Kids	http://missionkidscac.org/
Montgomery County Anti-Trafficking Coalition (MCAT)	https://www.mcatpa.org/
Montgomery County Victim Services Center	https://victimservicescenter.org/
Mount Nittany Children's Advocacy Center of Centre County	https://www.mounnittany.org/childadvocacycenter
Nationalities Service Center, Anti-Human Trafficking Project	http://nscphila.org/our-work/special-initiatives/anti-human-trafficking
Network of Victim Assistance (NOVA)	https://www.novabucks.org/
Not In My Back Yard (NIMBY)	https://nimby.me/what-we-do/
Northeast Regional Child Advocacy Center	https://www.nrcac.org/
North Penn Legal Services	https://www.northpennlegal.org/
North Star Initiative	https://northstarinitiative.org/
Oasis of Hope	https://www.oasisofhopeusa.org/
Over the Rainbow Children's Advocacy Center	https://overtherainbowcac.org/

Organization	Web Address
Partners for Justice	http://lchscast.weebly.com
PathWays PA	http://www.pathwayspa.org/
Peace Promise	https://www.peacepromise.org/
Pennsylvania Alliance Against Trafficking in Humans - 15 (PAATH-15)	http://www.educateandadvocate-paath.com/
Pennsylvania Coalition Against Domestic Violence (PCADV)	https://www.pcadv.org/
Pennsylvania Coalition Against Rape (PCAR)	https://pcar.org/
Pennsylvania Public Transportation Association	http://www.ppta.net/pages/traffickingtraining/index.html
Philadelphia Anti-Trafficking Coalition	http://patcoalition.org/
Philadelphia Children's Alliance	https://www.philachildrensalliance.org/
Philadelphia Commission for Women	https://beta.phila.gov/departments/commission-for-women/
PinnacleHealth Children's Resource Center	http://www.pinnaclehealth.org/locations-and-providers/practices/6685
Pittsburgh Action Against Rape	https://paar.net/
PPC Violence Free Network	http://www.fscas.org/ppc-vfn.htm
Project to End Human Trafficking	http://endhumantrafficking.org
Salvation Army New Day Drop-In Center	https://pa.salvationarmy.org/greater-philadelphia/NewDay
She's Somebody's Daughter	http://shesomebodysdaughter.org/
Schuykill Community Action	https://schuykillcommunityaction.com/
Schuykill Women in Crisis	https://www.s-wic.org/
Southwestern Pennsylvania Legal Services, Inc.	http://www.splas.org/index-2.html
Sullivan County Victim Services	http://www.sulcovs.org/
Survivors, Inc.	http://enddvsa.org/
Thistle Hills	http://thistlehills.org/
Transitions of PA	https://www.transitionsofpa.org/
Truth for Women - Truth Home	http://truthforwomen.org/purpose/
Turning Point of Lehigh Valley	http://www.turningpointlv.org/
Valley Against Sex Trafficking (VAST)	thevast.org
Valley Youth House	https://www.valleyyouthhouse.org/locations/bucks-county-shelter/
Victims Intervention Program of Wayne County	http://www.vipempowers.org/
Victim Resource Center of Luzerne County	http://www.vrcnepa.org/index.php
Victim Resource Center of Wyoming County	http://www.vrncepa.org/index.php
Well of Bucks County, The	http://worthwhilewear.org
Western PA Anti-Trafficking Coalition (WPAHTC)	https://www.facebook.com/WPAHTC
Western PA CARES for Kids	http://www.carescac.org/
Women Against Abuse	https://www.womenagainstabuse.org/
Women's Center of Beaver County	https://www.womenscenterbc.org/
Women's Center of Montgomery County	http://www.wcmontco.com
Women in Need	http://winservices.org/
Women Organized Against Rape	https://www.woar.org/
Women's Resource Center, Inc.	https://wrcnepa.org/
Women's Resource Center of Monroe County	http://www.wrmonroe.org/
Women's Services of Crawford County	https://www.womensservicesinc.com/
York County Children's Advocacy Center	http://yorkac.org/default.aspx
Your Safe Haven	http://www.yoursafehaven.org/
YWCA Bradford/McKean County Victims' Resource Center	http://ywcabradford.org/
YWCA Carlisle	http://ywcacarlisle.org/
YWCA Greater Harrisburg	http://ywcahbg.org/programs/violence-intervention-and-prevention-services
YWCA Northcentral PA - Wise Options	https://www.ywcawilliamsport.org/our-programs/wise-options/

8. References

Chapter 3

3.1 Current Law

- [1] 18 PA. STAT. AND CONS. STAT. ANN. § 3011 (West 2021).
- [2] *Id.*
- [3] 18 PA. STAT. AND CONS. STAT. ANN. § 3012(b) (West 2021).
- [4] 18 PA. STAT. AND CONS. STAT. ANN. §§ 3012(a), (b) (West 2021).
- [5] 18 PA. STAT. AND CONS. STAT. ANN. § 3001 (West 2021).
- [6] 18 PA. STAT. AND CONS. STAT. ANN. §§ 3001, 3011(a)-(b) (West 2021).
- [7] 18 PA. STAT. AND CONS. STAT. ANN. § 3013(a)(1) (West 2021).
- [8] See INTERNATIONAL LABOUR OFFICE, PROFITS AND POVERTY: THE ECONOMICS OF FORCED LABOUR 15 (2014), https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_243391/lang-en/index.htm.
- [9] 18 PA. STAT. AND CONS. STAT. ANN. § 3031 (West 2021).
- [10] See Press Release, Pennsylvania House, Lee to Introduce Legislation to Decriminalize Sex Work in Pennsylvania (Oct. 16, 2020), <https://www.pahouse.com/Lee/InTheNews/NewsRelease/?id=117111..>
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Chapter 4

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Sugaring: Not as Sweet as it Sounds.

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9. About the CSE Institute

The Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation (CSE Institute) provides legal research, technical assistance, policy consultation, and training to partners throughout Pennsylvania, the United States, and internationally.

To partner with the CSE Institute or support our work, please contact our Director, Shea M. Rhodes, Esq.

610-519-7183

shea.rhodes@law.villanova.edu

For more information about our work, please visit our website at <https://cseinstitute.org>.

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The CSE Institute Team

We would like to thank the following CSE Institute research assistants, student externs, alumni and volunteers who contributed to research and writing this report:

Research Assistants:

Chlesea Eret, Class of 2021
Mary Haggerty, Class of 2021
Olivia Merritt, Class of 2021

Student Externs:

Cassandra Balascak, Class of 2022
Allyson Fifer, Class of 2022
Shannon Gillooly, Class of 2022
Sister Brigid Mary Meeks, RSM, Class of 2022
Emily O'Leary, Class of 2022
Meghan Rafter, Class of 2021
Anne Ringelestein, Class of 2022
Caroline Rini, Class of 2022
Hannah Rogers, Class of 2021
MariaFernanda SandovalBojorges, Class of 2021
Alexandra Santulli, Class of 2022
Jerome Shaen, Class of 2022
Tasha Stoltzfuz Nankerville, Class of 2022
Rebecca Velez, Class of 2022
Sarah Wing, Class of 2022

Pro Bono:

Dr. Kristina Borham, Geisinger Commonwealth School of Medicine, Class of 2020
Margaret Emamzadeh, VU Class of 2021
Amira Guy, VU Class of 2021

First-year Student Bloggers:

Natalie Anderson, Class of 2023
Alessandra Brainard, Class of 2023
Juliette Mogenson., Class of 2023
Samantha Newman, Class of 2023



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