



**VILLANOVA UNIVERSITY
CHARLES WIDGER SCHOOL OF LAW**

**THE INSTITUTE TO ADDRESS
COMMERCIAL SEXUAL EXPLOITATION**

**REPORT ON COMMERCIAL SEXUAL
EXPLOITATION IN PENNSYLVANIA
SPRING 2019**

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1. Introduction and Overview

Over the past year, commercial sexual exploitation has been front and center in the media. Politicians have emphasized the intersection of human trafficking and immigration policy. Sex buyers, including prominent businessmen, have been arrested as a result of anti-demand law enforcement strategies. During this time, the anti-exploitation advocacy community has experienced important triumphs while also facing many new challenges.

In 2018, we reveled in the passage of SESTA/FOSTA that closed the loophole in section 230 of the Communications Decency Act that permitted websites to escape liability for allowing sex trafficking to occur on the Internet. We have tracked the impact litigation against third party facilitators that is being filed in federal and state courts, taking note of the creative ways attorneys strive to fulfill victims' access to civil remedies. And here, in Pennsylvania, we witnessed the momentous passage of Safe Harbor for Sexually Exploited Children into law.

Later this year, in September, we will celebrate the fifth anniversary of the passage of "Act 105," our state's anti-trafficking statute. Since the law was enacted, we have seen law enforcement and prosecutors increasingly leverage the law's robust provisions to hold perpetrators accountable. In this Report, we provide the data on human trafficking prosecutions originating in counties all across our Commonwealth – including rural, urban, and suburban communities.

Looking ahead, we are championing recently proposed legislation (SB 60 and HB 12) that further strengthens law enforcement's capacity to combat human trafficking. These companion bills emphasize the importance of utilizing anti-demand strategies to end commercial sexual exploitation. In this Report, we make recommendations for additional policy and legislative reforms.

In our ongoing efforts to end commercial sexual exploitation, the CSE Institute will continue to partner with agencies and organizations to achieve our shared vision. Our mission is to educate and provide technical assistance to those who respond to commercial sexual exploitation in Pennsylvania, the United States and beyond, promoting victim-centered, trauma-informed multidisciplinary collaboration. We equip policymakers and the broader community with the knowledge they need to improve the legal system's response to commercial sexual exploitation in order to support survivors and hold perpetrators accountable.

We center the experiences of survivors to inform the development of policies and best practices, and we are committed to consistently engaging the survivor community in shaping our positions. We aim to create a community in which every human being is treated with dignity, compassion, and respect inspired by Villanova Law's Catholic and Augustinian mission.



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

The CSE Institute is proud to provide this Report for our stakeholders and to be a leading resource on issues related to human trafficking and commercial sexual exploitation. We would not be successful in our efforts to combat human trafficking without our partnerships and collaborations with other dedicated advocates and organizations throughout the Commonwealth.

On behalf of the CSE Institute, I invite you to contact us and engage with our work. Thank you for reading our Report, and for giving your time and attention to effectuating change here in Pennsylvania and beyond.

Sincerely,

Shea

Justice for Victims Clinical Fellowship



Sarah Robinson, Esq., Class of 2016
Inaugural Justice for Victims Fellow

Providing holistic legal services to survivors in a trauma-informed manner is at the heart of the CSE Institute's mission. As we continue to grow as an organization, it has been vital that we keep the needs of survivors of commercial sexual exploitation at the forefront. To assist more members of this population with their complex, diverse legal needs we have added a second legal fellow to our team. In September 2018, Jamie L. Pizzi, Esq., a graduate of Charles Widger School of Law and former CSE Institute student extern, was hired to work alongside our inaugural Justice for Victims Fellow, Sarah Robinson, Esq.

The Fellows directly engage with victims and survivors of commercial sexual exploitation and sex trafficking by providing legal representation in the form of post-conviction relief, including vacatur and expungement. In Septem-

ber 2018, we entered into a revised partnership with the Defender Association of Philadelphia under a new memorandum of understanding that enables the Fellows to provide technical assistance to the Project Dawn Court (PDC) attorney and pursue post-conviction relief advocacy for all eligible Defender clients, regardless of their PDC involvement.

Sarah and Jamie also regularly hold office hours at The Salvation Army's New Day Drop-In Center for women in Kensington, where they provide critical *Know Your Rights* information, conduct legal triage, and gather data about the legal needs and challenges that victims of commercial sexual exploitation face. The Fellows also coordinate trauma-informed pro bono representation for victims in civil matters and support victims in navigating the varied legal systems they encounter as a collateral consequence of their exploitation.



Jamie L. Pizzi, Esq., Class of 2018
Justice for Victims Fellow

Finally, the Fellows create and deliver trainings to attorneys, members of law enforcement, and other stakeholders in the Commonwealth and across the country. The addition of a second fellow has increased caseload productivity and has enabled the Fellows to provide more trainings to those on the frontlines of victim identification. In addition, it has expanded the CSE Institute's ability to focus on research projects aimed at better understanding and addressing the ever-shifting nuances of commercial sexual exploitation. Such projects enhance the Fellows' ability to represent clients and informs the resources the CSE Institute publishes. For example, the Fellows researched and drafted a submission on Pennsylvania to the Federal Trafficking in Persons Report. They are also gathering research about police misconduct during prostitution arrests in Philadelphia and spearheading a multi-state collaborative CLE program with lawyers from New York and New Jersey who also represent survivors of commercial sexual exploitation.

The Justice for Victims Fellowship has already made incredible strides. Their on the ground efforts have helped numerous survivors reclaim their lives through the restorative power of post-conviction relief. The work of the Fellows is a central component in the CSE Institute's mission to put the needs of survivors first and foremost in the battle to end commercial sexual exploitation in the Commonwealth.

The Justice for Victims Clinical Fellowship was made possible by donations from dedicated stakeholders including the Uebler/Wall Family Charitable Trust, and the Carole Landis Foundation for Social Change.

Faculty Advisor

Professor of Law and CSE Institute Co-Founder and Faculty Advisor, Michelle Madden Dempsey, has published extensively on commercial sexual exploitation from a perspective that incorporates both criminal law and philosophy. Her scholarship on this topic has appeared in the *American Criminal Law Review*, the *University of Pennsylvania Law Review*, *Criminal Law & Philosophy*, and other peer-reviewed journals and books.

Throughout the 2018-2019 academic year, Professor Dempsey has continued her work on the topic of commercial sexual exploitation through various scholarly projects. First, she published an article, “Processes of Criminalization in Domestic & International Law: Considering Sexual Violence” 12 *Criminal Law & Philosophy* 641 (2018), which explores definitions of rape and sex trafficking in the context of both state/national criminal codes and in the international legal order.

Second, she wrote a chapter on the topic of prostitution for the forthcoming collection, *Palgrave Handbook on Applied Ethics and Criminal Law*. In this chapter, Professor Dempsey surveys the primary frameworks that have been used in criminal law to analyze the legal regulation of commercial sex throughout the last fifty years. In so doing, she emphasizes the important paradigm shift introduced by the Nordic Model and champions this legal scheme as a promising way forward for seeking justice at the intersection of criminal law and commercial sex.

Third, she contributed a chapter to a collection, *Crime at Work* (Oxford University Press, forthcoming), which explores the intersections of labor law and criminal law through a philosophical lens. Professor Dempsey’s chapter, “Sex, Work, and Crime” provides a critical account of so-called “sex work” and examines the reasons why commercial sexual exploitation is not properly understood as work. Finally, she organized a scholarly workshop for legal philosophers to discuss draft papers on the topic of “Coercion & Consent” – which led to fruitful discussion of the structural features that coerce people in the commercial sex industry and degrade the normative force of purported consent in this context.

In addition to her teaching and scholarly activities, Professor Dempsey is an elected member of the American Law Institute (ALI), a fellow of the American Bar Association, and an associated research scholar at the University of Pennsylvania Ortner Center on Violence and Abuse in Relationships. In her work with the ALI, she serves on the membership committees working to revise the Model Penal Code’s sexual assault and related offenses, and to develop a set of model guidelines for campus sexual misconduct procedures. Additionally, she was recently selected as a co-Editor-in-Chief of the premiere international, interdisciplinary journal in her research area, *Criminal Law & Philosophy*, and she continues to serve on the editorial boards of the *Journal of Human Trafficking and Human Exploitation* and *The Journal of Legal Education*.



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

“

Combining the narrow definitions of sex trafficking in domestic criminal legal systems with the abject failure to enforce these laws leads to the conclusion that sex trafficking is, for the most part, not actually criminalized in many domestic legal systems. ”

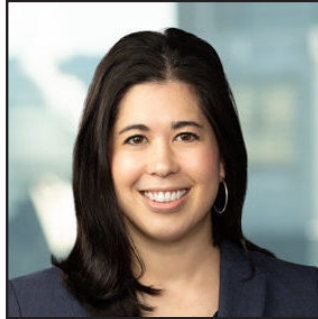
– Michelle M. Dempsey in
“Processes of Criminalization
in Domestic & International
Law: Considering Sexual Violence”

2. Our Board of Advisors

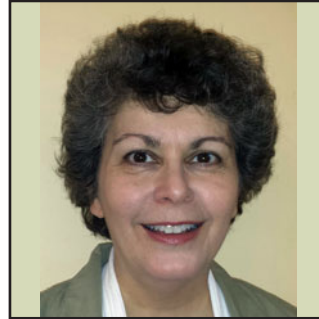
Our Board of Advisors represents a diverse set of backgrounds and work in various legal and non-legal capacities throughout the Commonwealth of Pennsylvania. Their on-the-ground and multi-disciplinary expertise has been instrumental in the success of the CSE Institute. With their guidance, we have been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



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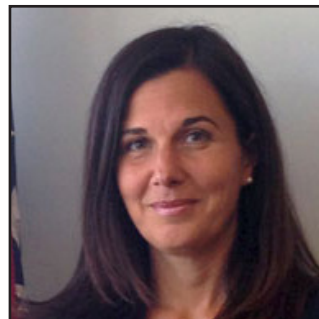
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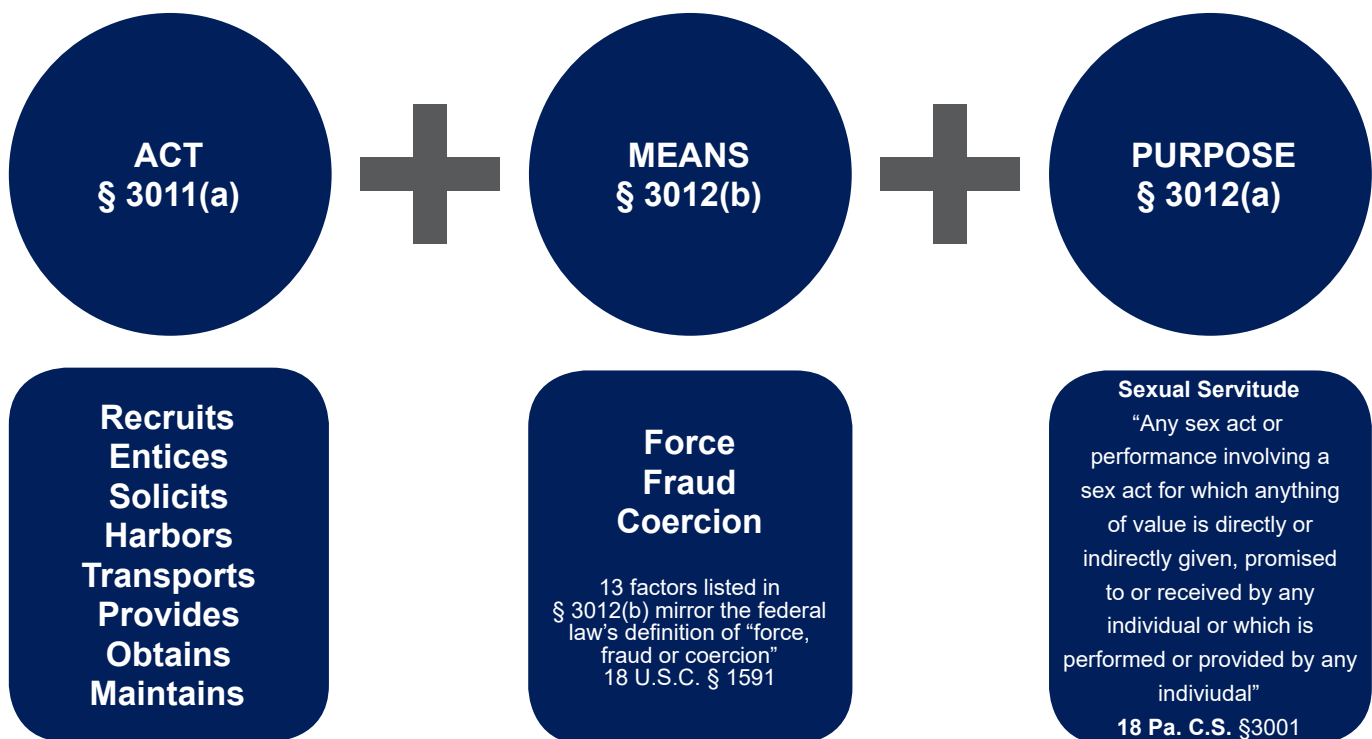
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3. Law on the Books: What We've Learned Since Act 105 (2014)

3.1 Current Law

Pennsylvania's comprehensive anti-trafficking statute, colloquially known to advocates and other stakeholders as "Act 105," was enacted in September 2014. It is codified in Chapter 30 of the Commonwealth's Crimes Code. The law is considered comprehensive because it includes three key components: prosecution, prevention, and protection. [1]

To prosecute the crime of Trafficking in Individuals (18 Pa.C.S. § 3011) under chapter 30, an attorney for the Commonwealth must establish a trafficker committed an **act**, accomplished by a **means**, for the **purpose** of subjecting a victim to sexual servitude. However, if the crime victim is a minor, a prosecutor does not need to prove any of the means set forth in § 3012(b).



1. Prosecuting Sex Trafficking in the Commonwealth of Pennsylvania

Chapter 30 has been in effect for over four years. In that time, prosecutors have used the law to charge 116 cases in 28 counties and have secured 45 convictions. It took nearly a year and half after the law was enacted for the first conviction after a jury trial, which was secured by the Lehigh County District Attorney's Office. Since then, there has been a steady increase in conviction and charging rates in several regions of the Commonwealth. Prosecutors are leveraging the law to combat commercial sexual exploitation. However, widespread acknowledgement, understanding, and implementation of Chapter 30 remains a challenge, as evidenced by the 39 out of 67 Pennsylvania county District Attorneys Offices that have yet to bring a single human trafficking prosecution. Yet, we know that wherever there is a demand for commercial sex, trafficking follows. Therefore, it is unfortunately probable that sex trafficking is taking place in every county - rural, urban, and suburban, across Pennsylvania.

This challenge can be partially attributed to the pervasive fact-resistant assumption that prostituted persons freely and willingly choose to sell sex of their own volition. This assumption is apparent when prostituted persons are arrested for selling sex during so-called "human trafficking" investigations. This common practice, while disappointing, is reflective of societal attitudes toward prostitution. It is unacceptable to claim an anti-trafficking agenda for an investigation while simultaneously arresting the very individuals who are being exploited. Those who have endured sexual violence and exploitation must be treated as victims of a crime, rather

than as perpetrators of one.

The crimes of selling sex and buying sex are policed at an alarming disparity that results in gender-based inequality. In 2018, there were 678 cases for selling sex (79%), while there were only 181 (21%) cases for buying sex. In 2017, there were 1,443 cases for selling sex (76%) and 447 cases for buying sex (24%). To learn more about prostitution arrests in Pennsylvania, turn to page 14.

We hope that in the future more members of law enforcement will dedicate efforts to target the demand that drives the market for commercial sex and sex trafficking. Continuing to focus on criminalizing those who sell sex only makes it more difficult for this already marginalized population to exit prostitution and does little to combat human trafficking.

2. Preventing Human Trafficking Through Public Awareness

One of the goals of Chapter 30 is to raise public awareness about human trafficking. Although the Commonwealth has yet to commit substantial funding to a 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 responsibility. In 2017, PAATH unveiled a website (www.educateandadvocate-paath.com) that educates the public and lists victim service providers.

As part of our public awareness efforts, the CSE Institute engages with communities throughout the Commonwealth to conduct human trafficking trainings in schools and universities, in places of worship, and more. If you would like to

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

This April, the CSE Institute worked with community leaders in Southwest Philadelphia to address the alarming number of recent disappearances of several young people from the area. We partnered with the Richard Allen Preparatory Charter School, the law offices of Conrad O'Brien, The Salvation Army, Redeemed for a Cause, the Philadelphia Police Department, State Representative Joanna McClinton, and former Philadelphia District Attorney Kelley Hodge, to host an evening event for students, parents, and other concerned community members.

The grassroots event gave participants insight into the nuances of commercial sexual exploitation. The conversation centered on the role that social media plays in facilitating a connection between traffickers and children. We recognize that effective education about human trafficking is crucial to protect children and other vulnerable populations. Working at the community level to combat human trafficking is an important part of the CSE Institute's work in Pennsylvania, and we look forward to collaborating in the future with local stakeholders to host additional community based public awareness events.

3. Protecting Victims and Empowering Survivors

Chapter 30 provides victims of human trafficking with protections within the context of the criminal justice system. For instance, the "rape shield" provision in the statute prohibits evidence of specific instances of a victim's past sexual conduct, as well as opinion and reputation evidence of this past sexual conduct of the victim, from entering into

evidence at trial. [2]

Exploiting an individual for a commercial sex act or performance, regardless of that individual's sexual history, is a crime. However, there are instances in which this kind of evidence may help to prove the "purpose" element of 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 that narrow purpose.

Chapter 30 also took the important step of recognizing that, in many cases, individuals arrested and convicted for selling sex 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 who is charged with prostitution or a prostitution-related offense, may assert an affirmative defense at trial, claiming that they engaged in prostitution under duress, compulsion or coercion. [3] The availability of an affirmative defense reinforces the notion that victims are vulnerable to unjust criminalization.

Finally, Chapter 30 empowers survivors of commercial sexual exploitation by creating a civil cause of action remedy. Section 3051 provides survivors with a mechanism to sue individuals who participated, facilitated, or otherwise knowingly benefited financially from their trafficking victimization. We have seen attorneys all across the country leverage civil remedies to pursue relief for their clients. To learn more about impact litigation, please refer to page 17.

4. Vacatur

Vacatur is a form of post-conviction relief that removes a person's criminal history record. Vacatur differs from expungement in that it applies to convictions for certain enumerated crimes and is available only to survivors of sex trafficking. Comparatively, expungement applies to non-convictions for most offenses and is available to anyone. An Order to Vacate will nullify a conviction and expunge all derivative information related to the originating arrest through the criminal trial. In essence, an Order to Vacate is a legal recognition that the victim was factually innocent and undeserving of criminalization.

Pennsylvania's anti-trafficking statute includes a vacatur provision that assists survivors who were wrongfully criminalized for conduct they committed as a direct result of being a victim of human trafficking. [4] A criminal record can be a source of stigma as well as a barrier to employment and housing opportunities, immigration status, and more. Therefore, this remedy is critical to assisting survivors in moving forward with their lives.

Pennsylvania's vacatur law is relatively broad in terms of the enumerated eligible offenses. The statute enables survivors to petition the court to vacate a conviction for the following crimes, if a court determines they were committed as a result of trafficking victimization: prostitution, obstruction of the highway, criminal trespass, disorderly conduct, loitering and prowling at night time, and/or an offense for simple possession of a controlled substance. Neighboring states, such as New Jersey and Maryland, only permit a survivor to petition to vacate prostitution convictions.

While Pennsylvania's vacatur provision is an important step in the right direction, the CSE Institute continues to advocate for legislative corrections to several flaws within the current provision. The primary concern being that the provision requires prosecutorial consent to file any and all vacatur motions. A more just and effective alternative is a routine notice requirement, as required in other post-conviction matters, like expungement. Critically, this alternative would retain the prosecuting authority's opportunity to object to the motion.

Requiring prosecutorial consent can dangerously lead to wholesale prohibition on vacatur motions depending on the jurisdiction. Such diversity of justice is unacceptable; in effect, survivors can be, and have been, denied their day in court. They cannot access the remedy that our lawmakers provided for them. Secondly, the CSE Institute suggests the legislature expand the list of eligible offenses and open the remedy to survivors of labor trafficking in an effort to ensure that the vacatur provision is more survivor-centered.

Finally, the statute should be altered to eliminate the requirement that supporting evidence be described with particularity. Trauma impairs an individual's ability to encode memories properly; therefore, details such as dates and locations may not be recalled by a survivor of sex trafficking.

The expansion and utilization of a robust vacatur practice throughout the Commonwealth continues to be a key objective of the CSE Institute's Justice for Victims Fellowship. To read more about the Fellowship, please refer to page 2.

5. Safe Harbor

On November 13, 2018, CSE Institute Director Shea Rhodes and Justice for Victims Senior Fellow Sarah Robinson joined Governor Tom Wolf, State Representative Joanna McClinton and other integral advocates for the ceremonial signing of Senate Bill 554, Safe Harbor for Sexually Exploited Children (Act 130 of 2018). [5] Safe Harbor is the product of a bipartisan effort and numerous thoughtful conversations between stakeholders, such as the Department of Human Services and the Pennsylvania District Attorney's Association. Safe Harbor, through criminal immunity provisions, codifies a commitment to treating sexually exploited children as victims, not criminals, and ensures that they are given the services needed for their recovery and restoration.

Safe Harbor achieves four important objectives. First, it ensures that child victims are protected rather than prosecuted. Safe Harbor defines a "sexually exploited child," and immunizes such children from prosecution for the crimes

of prostitution and obstruction of a highway (a prostitution masking crime). [6]

Second, Safe Harbor empowers state agencies to support child victims through the development of specialized services for sexually exploited children. [7] These services include, but are not limited to: housing, education, employment, therapy, mental health services, substance dependency treatment, medical care, clothing, case management services, tattoo removal, or any other needs the victims may have as determined by their advocate.

Third, Safe Harbor enhances law enforcement efforts to assist victims by mandating training for police officers on how to identify, interview, and assist a sexually exploited child. [8] These trainings focus on three main objectives, which include: identifying children who have been sexually exploited, appropriate methods of interviewing and engaging with these children, and methods to assist victims in accessing the specialized programs and services available to them.

Finally, Safe Harbor establishes a fund for victim services and a public awareness campaign. [9] The fund is generated through additional fines imposed upon convicted traffickers and sex buyers and will be used to enhance victim services and increase public awareness about human trafficking.

The enactment of Safe Harbor, which went into effect on December 23, 2018, enabled Pennsylvania to join the majority of other states in our country that also legally recognize there is no such thing as a "child prostitute."

In the future, the CSE Institute looks forward to continuing to advocate for uniform and thorough implementation of Safe Harbor, as well as other examples of legislative and policy reform on the issues of human trafficking and commercial sexual exploitation. The spirit of Safe Harbor cannot be fully realized until it is being employed consistently to protect the rights of sexually exploited children throughout Pennsylvania.



Ceremonial signing of Senate Bill 554, Safe Harbor for Sexually Exploited Children with PA Governor Tom Wolf

3.2 Moving Forward: Legislative Recommendations

1. Prohibit Law Enforcement from Engaging in Sex Acts with Those in Custody or Under Investigation

The CSE Institute is alarmed by recent reports in Pennsylvania of on-duty law enforcement officials engaging in sexual activity with individuals during the course of arrests and investigations, particularly when police use these tactics in order to build cases against prostituted and trafficked persons. [1] In general, the practice of undercover prostitution stings, which have been used around the country and in Pennsylvania, are as harmful as they are ineffective. [2] First and foremost, this approach is troublesome because, as the CSE Institute has consistently advocated, the most effective way to investigate and deter commercial sexual exploitation is through demand-driven law enforcement tactics – not by targeting victims of commercial sexual exploitation. [3] Furthermore, the use of these tactics creates an opportunity for on-duty officers to engage in sexual exploitation themselves. Nationally, there have been hundreds of reports of police officers soliciting sex acts from individuals in their custody or under their investigation, and the harmful effects of this problem extend far beyond policing victims of prostitution or trafficking. [4]

It is suspected that police sexual misconduct is one of the most common and pervasive forms of police misconduct; maybe second only to excessive force. [5] In 2016, the *Buffalo News* found “more than 700 credible cases of sexual misconduct from law enforcement personnel over a 10-year period.” [6] In a *New York Times* piece on police rape, it was reported that in New York state,

“at least 158 officers had been charged with unlawful sexual conduct with people under their control.” [7]

Still, although sexual misconduct by police appears to be a pervasive problem, there are almost no statistics on the crime, due in part to the fact that many victims do not come forward to report their assaults. Rape is already the most under-reported crime, but victims are even more unlikely to report their sexual assault when their alleged attackers are the police. This is due to fear of retribution and vulnerable circumstances. [8] Victims of prostitution and sex trafficking, in particular, are preyed upon by police by virtue of their involvement in the sex industry and lack of social standing, all of which undermine their credibility. [9]

The CSE Institute believes that people who are in police custody and under police investigation are unable to consent to sexual activity with police officers due to the inherent coercive nature of police interactions, and thus these types of sexual encounters should be considered sexual assaults under the law and consent should not be a defense. [10] There is a stark imbalance of power during police investigations that does not allow individuals in these circumstances to consent to sexual intercourse with an officer. [11] In traditional cases of sexual assault or rape, it can be difficult to determine if consent was knowing and voluntary, and it can be even more difficult to determine the legitimacy of consent in cases involving an authority figure like a police officer. [12] This is because individuals in police custody often feel compelled for social and legal reasons to comply with

an officer’s orders or requests – especially women in vulnerable situations like prostituted or trafficked persons.

The Pennsylvania Superior Court has addressed the use of confidential informants and police sexual misconduct in prostitution stings in *Commonwealth v. Chon*. [13] In that case, a confidential informant working with police purchased sex on multiple occasions from a prostituted person and used those encounters to build a case against her. [14] The informant, who was compensated by the police, mocked the woman who was under investigation. [15] The Pennsylvania Superior Court dismissed the prostitution charges against the victim after it determined the totality of the circumstances surrounding the investigation amounted to outrageous governmental conduct. [16]

Although the Pennsylvania Superior Court held in *Chon* that it was inappropriate for confidential informants to solicit and actually engage in sex acts, that behavior alone does not constitute outrageous governmental conduct. The Superior Court’s decision in *Chon* was based on the totality of the circumstances, which means that the informant and officers’ conduct was only one of several contributing factors that led them to find the police acted outrageously. There is still no law on the books or in Pennsylvania common law that explicitly criminalizes police sexual misconduct altogether. The CSE Institute asserts that the use of on-duty sexual activity by a police officer in any circumstance – including to build cases against prostituted persons – is outrageous and should be criminalized.

Engaging in sexual relations with an individual in custody or under investigation calls into question the integrity of law enforcement's investigatory practices and the legitimacy of any subsequent prosecution.

Currently, thirty-two states and the District of Columbia legislatures have yet to enact laws that prohibit sexual contact between police officers and individuals in their custody. [17] Pennsylvania is among those thirty-two states; meaning, members of Pennsylvania law enforcement may have sex with individuals they arrest or investigate, so long as the interaction is "consensual." While police officers may be charged with sexual assault or rape under the state's general sexual offense laws, those charges can be challenged with a mere consent defense. This is where the problem lies – persons in police custody (actually or imminently) cannot consent to sex with an officer under such inherently coercive circumstances. [18]

There are, however, currently eighteen states with laws that criminalize sexual conduct between police officers and individuals in their custody. [19] The CSE Institute hopes to see Pennsylvania join them by adopting legislation that criminalizes sexual assault by an on-duty police officer. We recommend such legislation make it a felony for law enforcement to engage in sexual intercourse, deviate sexual intercourse, or indecent contact with a person detained by, in the custody of, or investigated by law enforcement. Additionally, we propose a law that declares that an individual convicted of this offense shall be terminated from their current employment and be barred from seeking other employment in which they would be in a similar position of power.

Furthermore, under our recommended proposal, consent would, of course, be barred from being a defense to prosecution.

In order to effectively protect the community and to maintain the trust of the general public, the CSE Institute implores lawmakers to take action against police sexual misconduct. We are looking forward to working with the Pennsylvania legislature and like minded stakeholders to draft legislation that criminalizes sexual conduct between on-duty police officers and individuals under investigation or in their custody, and also bans the use of consent as a defense to those assaults.

2. Disaggregate Commercial Sexual Exploitation Crimes to Reflect Culpability

As we continue to advocate for the implementation of the Nordic Model in Pennsylvania and beyond, we urge the legislature to take the first step by disaggregating the crimes of buying sex and selling sex. Disaggregation, or separation, is necessary to appropriately reflect the differing levels of culpability inherent in these two crimes. Disaggregation would separate the offenses of "prostitution" or selling sex and "patronizing prostitution" or buying sex into wholly separate statutes, instead of codifying them together in one singular section.

Those who sell sex have minimal culpability, if any at all, given the elements of force, fraud, and coercion that are inherent in the sex trade. Those who purchase sex, on the other hand, are voluntarily choosing to perpetuate the sex trade to satisfy their individual desires. Therefore, those who purchase

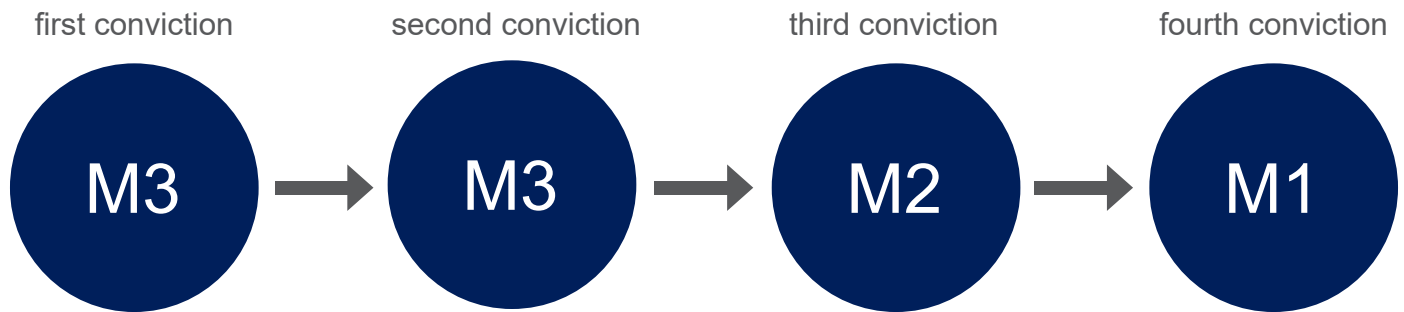
sex are substantially more culpable than those selling sex, and the Commonwealth's criminal code should be disaggregated to appropriately reflect this distinction. Buying sex is a crime against a person; it is commercial sexual exploitation of another. This would account for the significant physical and emotional harm inflicted by sex buyers upon victims of commercial sexual exploitation. Whereas, if criminalization is deemed necessary, selling sex can be defined as a public nuisance, at best, akin to disorderly conduct.

In order to properly acknowledge the horrific nature and the severity of the crime of purchasing another human being for sex, this crime should be classified as an offense against another person rather than an offense against morals. To classify this as an offense against morals ignores the fact that purchasing sex is a crime which involves a victim who is being exploited by a buyer, and possibly even being sold by a trafficker.

In the context of commercial sexual exploitation, we recognize that there is very little practical difference between the crimes of Trafficking in Individuals [20] and Promoting Prostitution. [21] The lack of nuance is even more obvious when you consider the crime of Trafficking in Minors [22] in comparison to Promoting Prostitution of a Minor. [23] Even the name, "Promoting Prostitution of a Minor," is a devastatingly euphemistic way to describe child sex trafficking.

Therefore, we recommend that the legislature enact a law that will classify Promoting Prostitution as a lesser-included offense within Chapter 30 and erase Promoting Prostitution of a Minor

What is Recidivism in Prostitution-Related Offenses? 18 Pa C.S. § 5902



from the Crimes Code.

Trafficking in Minors is a felony of the first degree. It carries a maximum penalty of 20 years incarceration. Promoting Prostitution of a Minor is a felony of the third degree. It carries a maximum penalty of 7 years incarceration.

In 2018, 88 cases were charged using Section 5902(b) or (b.1) – Promoting Prostitution, what we believe is a lesser included offense to trafficking. Of those cases, only four also charged a human trafficking offense. We encourage law enforcement and prosecutors to strategically investigate and pursue Promoting Prostitution cases – especially those involving child victims - through the lens of sex trafficking.

3. Remove Recidivist Penalties for Prostituted People

When a crime contains a recidivist provision, the corresponding punishment for that crime increases with each new conviction. This means that the more times one is convicted of a crime, the more severe the penalty becomes. The purpose of recidivist penalties is to deter future criminal behavior.

In Pennsylvania, the crimes of pros-

titution (18 Pa.C.S. § 5902(a)) and patronizing prostitution (18 Pa.C.S. § 5902(e)) recidivize from a misdemeanor of the third-degree or (the lowest level misdemeanor) to a misdemeanor of the second-degree upon the third offense. After the fourth offense, the crime recidivizes to a misdemeanor of the first-degree.

The problem is, in practice, recidivist penalties are not an effective deterrent for those engaging in commercial sex. It does little to address the systemic issues that cause a person to enter or stay in “the life.” Plus, this scheme exposes prostituted people to unreasonable and severe penalties, including incarceration in state prison for up to five years. When compared to other states, Pennsylvania has the most severe penalty for prostitution, in line with Florida and Idaho. The majority of states do not incarcerate repeat offenders for more than six months to a year, no matter how many convictions the prostituted person has.

Applying recidivist provisions for prostitution result in gender discrimination because, in practice, those being arrested for selling sex are primarily women. Those arrested for buying sex are primarily men. Although the recidivism rates are identical, given the dis-

parities in police practices and resulting arrests, as well as differing plea offers from prosecutors, recidivism predominately impacts prostituted people and has a minimal measurable effect on sex buyers. To learn more about these disparities, turn to page 14.

According to a Vera Institute of Justice report, Pennsylvania spends \$42,727 to incarcerate an individual for one year. [24] Multiply that number by, say 50 individuals who received a one year sentence for the crime of prostitution, and the result is \$2,136,350. If even a portion of that money were to be spent on helping victims to exit “the life,” the financial and societal gains would be significant. Imposing recidivist penalties on non-violent individuals who are likely involuntarily engaging in commercial sex, is a counter-productive use of resources.

We urge our legislators to introduce a bill that would eliminate the recidivist provision for the crime of prostitution. Recidivizing the crime of prostitution is an ineffective deterrent that leads to additional harms for prostituted people. The provision must be leveraged to punish those who actively choose to buy sex.

3.3 Language Matters: Legalization, Decriminalization, and the Nordic Model

This year, the CSE Institute has successfully identified twenty-two countries and their respective laws addressing commercial sex. [1] While this research only scratches the surface of international laws addressing prostitution, it provides a baseline for analyzing statutes, creating proposed legislation, and detailing legal mechanisms.

(1) Legalization

- Legalizes the sale of sex
- Legalizes the purchase of sex
- Creates a legal mechanism to regulate the commercial sex industry

Countries include:

- Senegal (1969) [2]
- Victoria, Australia (1994) [3]
- Queensland, Australia (1999) [4]
- The Netherlands (2000) [5]
- Germany (2002) [6]
- Austria (2014) [7]
- Nevada, U.S. [8]

(2) Decriminalization

- Decriminalizes the sale of sex
- Decriminalizes the purchase of sex
- Does not impose a legal mechanism to regulate the commercial sex industry

Countries include:

- New South Wales, Australia (1995) [9]
- New Zealand (2003) [10]

(4) Partial Nordic Model

Elements

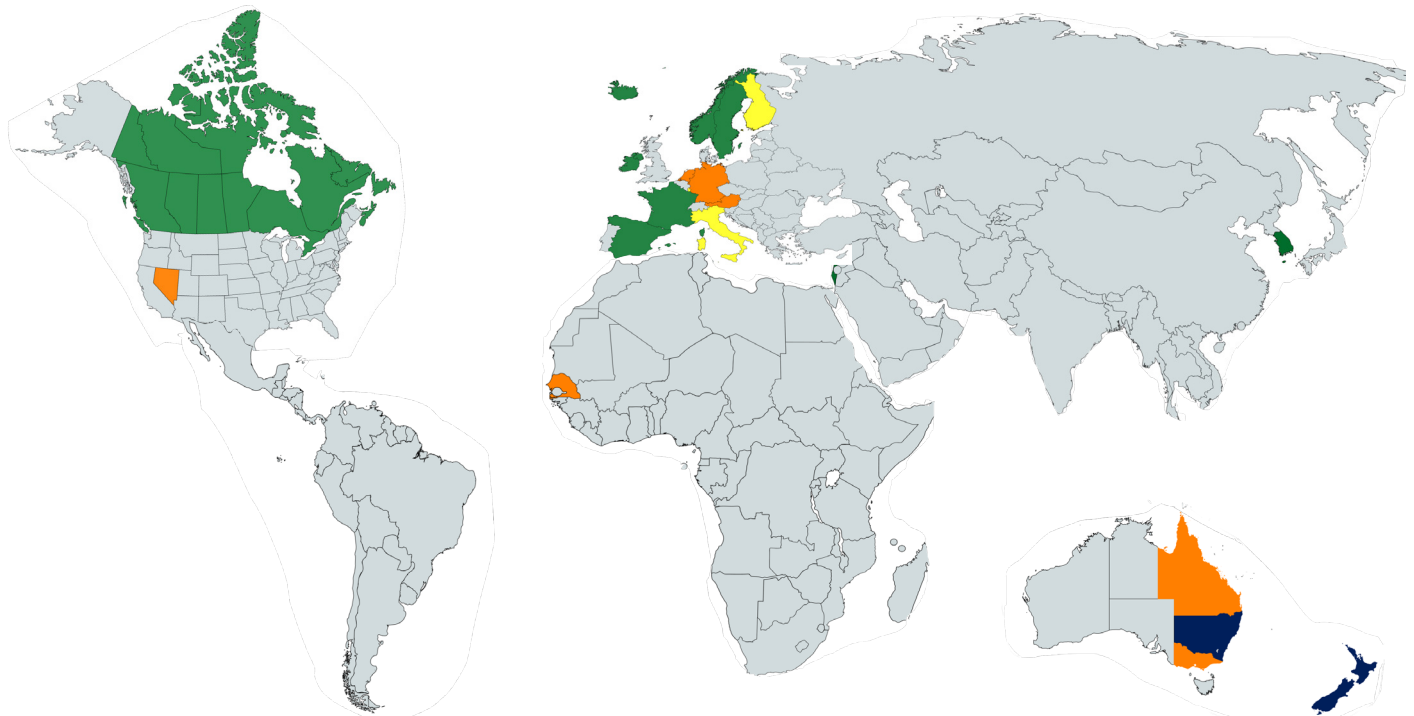
- Finland (2006, 2015) [21]
- Italy (2015) [22]
- Luxembourg (2016, 2018) [23]

(3) The Nordic Model

- Decriminalizes the sale of sex
- Criminalizes the purchase of sex
- Provides resources to exit the commercial sex industry

Countries include:

- Sweden (1999) [11]
- South Korea (2004) [12]
- Norway (2009) [13]
- Iceland (2009) [14]
- Northern Ireland (2012) [15]
- Canada (2014) [16]
- France (2016) [17]
- Republic of Ireland (2017) [18]
- Israel (2019) [19]
- Spain (2019)* [20]



Note. Map is not to scale. It is stylized to reflect the location of identified countries who have implemented legal mechanisms addressing the sale of sex. Created with mapchart.net.

Key. **Legalization**, **Decriminalization**, the **Nordic Model**, and **Partial Nordic Model elements**

4. Law in Action: On the Ground Efforts

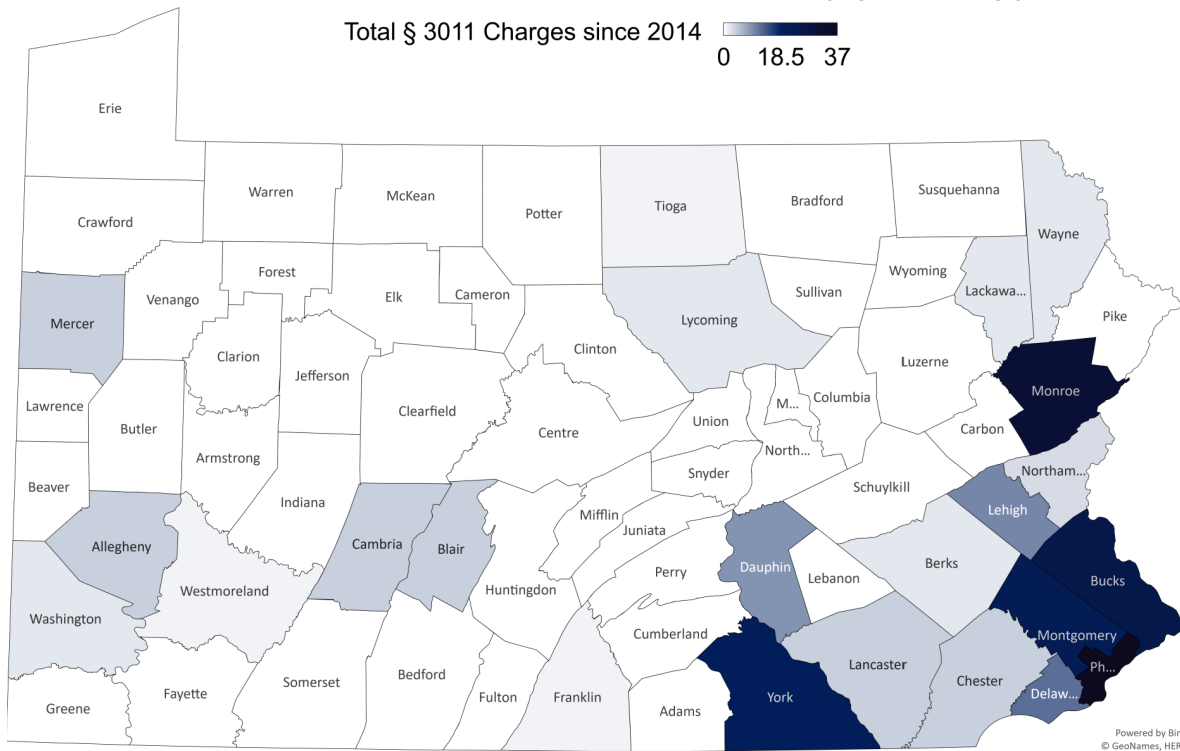
4.1 Criminal Law Overview and Statistics

Since Act 105 (2014) was enacted, 28 counties in Pennsylvania have charged at least one person with either Trafficking in Individuals (18 PA. Cons. Stat. § 3011), Involuntary Servitude (18 PA. Cons. Stat. § 3012), or both. There have been a total of 370 charges brought under Act 105: 206 charges brought against 65 defendants under § 3011, 165 charges brought against 52 defendants under § 3012. 18 counties charged individuals with § 3011 and 17 counties charged individuals with § 3012.

In addition to Act 105, criminal charges involving transactions for commercial sex are often prosecuted under 18 Pa. C.S. § 5902, the provision which criminalizes prostitution and related offenses. In 2018, under the two relevant sub-sections of this statute, § 5902(a) (criminalizing selling

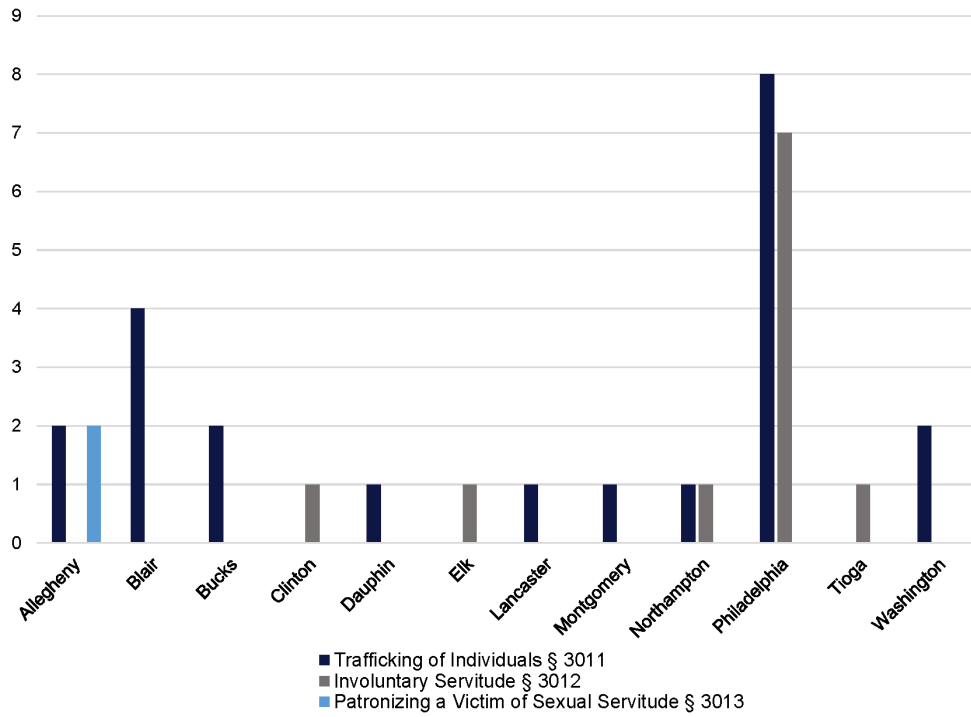
sex) and § 5902(e) (criminalizing buying sex), a total of 859 cases have been brought in the Municipal Court of Philadelphia, Magisterial District Courts, and the county Courts of Common Pleas. Of these cases, 678 were brought under § 5902(a), while 181 were brought under § 5902(e). Thus, this data shows that 79% of the charges brought under this statute are against prostituted persons, not sex buyers. Of the 32 counties in Pennsylvania that reported in 2018, only 7 counties charged violations of § 5902(e) at a higher rate than violations of § 5902(a). These counties are: Adams, Beaver, Columbia, Delaware, Lancaster, Northampton, and Union. As we continue to advocate for an anti-demand approach to ending CSE, we hope to add more counties to this list in future years.

Total Charges for § 3011 Trafficking in Individuals since the law was enacted in 2014 (by county)

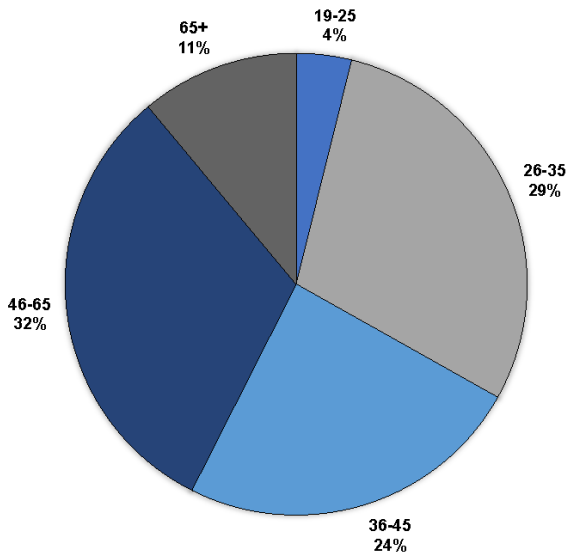


Data from the Administrative Office of Pennsylvania Courts

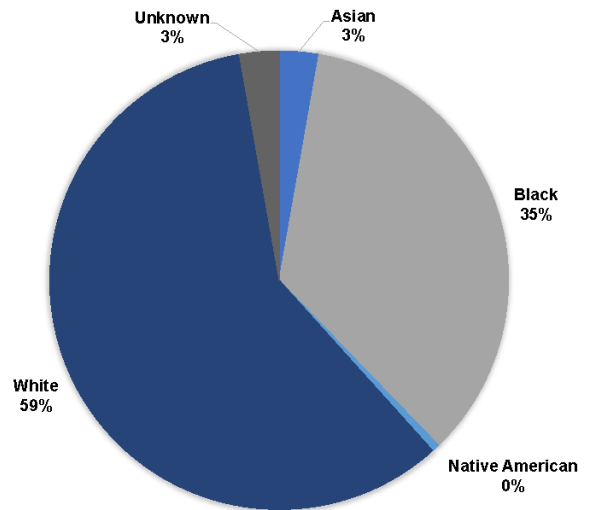
2018 Charges for §§ 3011, 3012, and 3013 (by county)



AGES OF THOSE CHARGED WITH BUYING SEX



RACE OF THOSE CHARGED WITH BUYING SEX



Data from the Administrative Office of Pennsylvania Courts

We have published the arrest data for prostitution and patronizing prostitution offenses throughout Pennsylvania for five continuous years: 2014, 2015, 2016, 2017, and 2018. The data consistently shows a striking imbalance between those arrested and charged with 18 Pa.C.S. § 5902(a) versus 5902(e). On average, prostituted people are arrested at three times the rate as sex buyers are – despite the fact that these two offenses are legally equivalent on their faces. In our last Report, the data suggested that this imbalance was trending downward, indicating that anti-demand approaches were slowly starting to spread across the Commonwealth. However, the 2018 numbers show a slight increase in total number of prostitution arrests.

This is especially interesting in light of shifts toward Nordic Model policies, such as the Philadelphia District Attorney’s Office February 2018 new charging protocol which decriminalizes some individuals who could otherwise be charged with prostitution. Although the CSE Institute applauds this policy in theory and acknowledges that it is a critical step in the right direction, we remain hopeful that the Philadelphia Police Department will discontinue arresting all individuals for selling sex and, instead, collaborate with victim services stakeholders to provide exit strategies.

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

County	Selling	Buying
Adams	0	1
Allegheny	210	32
Beaver *	3	7
Berks	13	3
Bucks	23	1
Butler	1	0
Cambria ^	1	0
Carbon +	0	0
Centre +	0	0
Chester	11	1
Clearfield *	0	1
Clinton +	0	0
Columbia *	0	1
Cumberland	1	0
Dauphin	14	4
Delaware *	1	5
Erie	11	2
Fayette	1	1
Franklin	1	1
Greene ^	1	0
Indiana	0	0
Jefferson	0	0
Lackawanna	25	0
Lancaster *	9	21
Lawrence	1	0
Lebanon +	0	0
Lehigh	17	1
Luzerne	6	0
Lycoming	9	3
McKean +	0	0
Mercer +	0	0
Monroe	1	1
Montgomery	17	1
Montour +	0	0
Northampton *	5	8
Perry +	0	0
Philadelphia	256	74
Union *	1	3
Washington	3	1
Wayne	6	6
Westmoreland	10	1
York	20	1
Total	678	181



Only 7 out of the 32 counties that reported arrests targeted the demand for commercial sexual exploitation, by arresting buyers more frequently than sellers.

Data from the Administrative Office of Pennsylvania Courts

* Counties where reported arrests for buying sex outnumbers arrests for selling sex.
 + Counties which reported arrests in 2017, but did not in 2018
 ^ Counties which reported arrests in 2018, but did not in 2017

4.2 Partnerships and Collaboration with Health and Medical Professionals

Time and time again it has been shown that it is necessary for health and medical professionals to be at the table when addressing commercial sexual exploitation. Up to 88% of trafficking victims interact with healthcare professionals at some point during their victimization, but they are rarely identified [1]. This can be due to many different reasons, but it highlights the incredible need for healthcare professionals to become part of the movement to end sex trafficking and commercial sexual exploitation.

There are many barriers to identification of trafficking victims in healthcare settings. These can include the fact that many mental and physical health providers have yet to be trained to identify victims; or that victims may not wish to be identified due to shame and guilt, fear of retaliation, arrest, or deportation, or simply, a victim may not self identify. Given their exposure to victims, medical professionals are in the best position to identify victims of trafficking and provide much needed care and referrals to social resources as well as exit strategies.

In order to provide holistic care to trafficking survivors, medical professionals should ensure that they are aware of local resources and services for their patients outside of healthcare settings. They should also know their jurisdiction's specific reporting requirements, and how to utilize a trauma-informed approach to treatment.

When victims of trafficking are identified and wish to exit, they will need comprehensive social services. These services include long-term medical and psychological treatment, housing, legal services (such as vacatur [2], expungement, immigration issues, custody issues, and many more), and educational and vocational training. Because many victims will encounter medical professionals during their victimization, it is important that physicians are able to refer patients to appropriate services. [3]

It is also important for healthcare professionals to know how their healthcare setting's internal victim intervention procedures intersect with their jurisdiction's legal reporting requirements. For example, in Pennsylvania, sexually exploited children are victims of child abuse and eligible for services under our newly enacted Safe Harbor law. [4] Mandated reporters are required by law to report suspected sex trafficking of children under the child abuse provisions [5], but they are not required to report suspected trafficking of adults. This means that without an adult victim's consent, medical providers may not disclose identifying information to law enforcement. They can, however, anonymously report suspected trafficking as long as no confidential information is disclosed. One way in which to anonymously report trafficking is through the human trafficking hotline. [6]

Another vital part of identifying and serving trafficking victims is to use a

trauma-informed approach. [7] Medical professionals must understand the prevalence of trauma and how it affects each individual differently. To learn more about trauma-informed care, see page 24.

There are several tenants of trauma-informed care, including: safety, trustworthiness, choice, collaboration, and empowerment. [8] Trafficking victims have been faced with a lack of choice and safety throughout their victimization, so it is crucial to empower them with as much choice as possible. The most important thing is for medical professionals to be compassionate and non-judgmental in their treatment of survivors.

Healthcare providers are on the frontlines to combat human trafficking and commercial sexual exploitation. It is imperative to recognize them as our allies and give them a seat at the table. When given the right tools, healthcare providers can identify potential trafficked persons earlier and more often.

“

Up to 88% of trafficking victims interact with healthcare professionals at some point during their victimization.

”

– Polaris Project

4.3 Impact Litigation Watch

In 2015, the CSE Institute began tracking impact litigation against third-party facilitators of sex trafficking. The first lawsuits of this kind began in 2010 with suits originating against the Internet site, Backpage.com (Backpage). Since then, dozens of lawsuits have been filed across against the hospitality industry, truck stops, and social media and online platforms. [1]

A. Backpage Litigation

After the first wave of civil litigation against Backpage was dismissed due to Court rulings that the Communications Decency Act (CDA) immunized Backpage from liability, the second wave of cases stalled for months [2]. Because Backpage's Chief Officers, namely Carl Ferrer and Michael Lacey, were being prosecuted criminally, Backpage has filed Motions to Stay discovery proceedings pending the outcome of the criminal prosecutions in nearly every case they are named in across the country. While many courts granted Backpage's Motions to Stay, the Illinois Circuit Court denied the Motion in *Ambrose Yvonne v. Backpage, LLC*. [3] Now, that litigation against Backpage is moving forward. For the first time, the Backpage defendants are required to file an answer to plaintiff's complaint. On April 1, 2019, Backpage filed an appeal of the order denying their Motion to Stay Discovery Proceedings and a Motion to Extend their time to file an answer. The other defendants in that

lawsuit, Medalist Holdings and Elizabeth McDougall, have filed Motions to Dismiss. [5]

B. Hospitality Industry Litigation

In March 2019, two lawsuits were filed in the Pennsylvania Court of Common Pleas in Philadelphia County by two minor victims of sex trafficking against the Roosevelt Inn, Days Inn, and North American Motor Inns, subsidiaries of Wyndham Hotels. In these cases, *C.A. v. Wyndham Worldwide Corporation* [6] and *B.H. v. Wyndham Worldwide Corporation*, the plaintiffs allege that they were held captive, drugged, and sold for sex in Philadelphia hotels [7]. The plaintiffs further allege that the hotels knowingly allowed the trafficking to occur in their hotels, did not intervene, and, in fact, profited from it. Both the complaints allege that the hotels had a duty of care to take reasonable steps to protect foreseeable victims of sex trafficking, and negligently failed to do so. Furthermore, the plaintiffs allege that, through their facilitation of the plaintiffs' trafficking, the hotels negligently caused the plaintiffs emotional distress, including fear, depression, humiliation, and mental anguish. The plaintiffs also allege that the hotels were negligent in failing to train their employees to recognize signs of sex trafficking and take adequate precautions to prevent it.

Attorneys Tom Kline and Nadeem Bezar, of Kline & Specter, PC, represent

the plaintiffs in these cases.

Mr. Bezar has a history of fighting against sex trafficking in Philadelphia by representing plaintiffs in suits against third-party facilitators. In 2017, Mr. Bezar filed suit against the Roosevelt Inn and Motel 6 in Philadelphia with similar allegations. [8] Currently, *M.B. v. Roosevelt Inn* is in the midst of discovery [9]. The judge in this case granted M.B.'s motion to compel defendants to produce discovery documents on April 2, 2019. A discovery hearing is set for April 30, 2019. The other case, *E.B. v. Motel 6*, recently revised its case management order to set the trial date for April 6, 2020 [10].

C. Social Media and Other Online Platform Litigation

Across the country, social media platforms, such as Facebook and Instagram, and other online platforms, such as Salesforce, have been sued in the latest form of impact litigation against third-party facilitators of trafficking [12]. In October 2018, the first lawsuit that listed Facebook as a defendant was filed in the Harris County District Court in Houston, Texas. In this case, *Jane Doe v. Facebook Inc.*, the plaintiff alleges that, at age 15, she was recruited for sex trafficking via Facebook's messaging system [13]. The plaintiff further alleges that Facebook negligently failed to warn of the dangers and signs of recruitment, and

that Facebook breached its duty to not knowingly benefit from trafficking. This case is currently set for trial on March 16, 2020.

On March 5, 2019, another lawsuit was filed in the same court by a plaintiff against Instagram (owned by Facebook), along with Backpage and Motel 6. In *Doe, Jane (As Next Friend Of J.D. #19) (A minor sex trafficking) vs. Facebook Inc. (D/B/A Instagram)*, the plaintiff, then age 14, was allegedly sent a message on Instagram by her alleged trafficker who purportedly used the platform to recruit her and, eventually, to coerce her into sex trafficking [14]. The plaintiff alleges that Instagram failed to flag the conversations between Jane Doe and her alleged trafficker, even though the conversations yielded dozens of human trafficking “buzz words” and signs. The complaint alleges that Instagram was negligent in failing to warn Jane Doe of the dangers and signs of sex trafficking and failed to attempt to identify her trafficker on its platform. Furthermore, the plaintiff alleges that Instagram breached its duty by knowingly benefitting from her sex trafficking. The defendants have not yet filed an answer.

Most recently, on March 26, 2019, a lawsuit was filed against Salesforce, a corporation that does customer relationship management for online platforms, by multiple plaintiffs in the California Superior Court in San Francisco. In *Jane Does #1 through #50, sex trafficking survivors v. Salesforce, Inc.*, [15]. The plaintiffs allege that in 2013, when Backpage was losing customers, it hired Salesforce to manage its customer relationships and help it

grow its company. Salesforce allegedly implemented a customized database for Backpage that allowed Backpage to market and remarket to their “users,” meaning traffickers and sex buyers. Each of the fifty plaintiffs claim to have been sold for sex on Backpage during the time that Salesforce was aiding Backpage in its operations. The complaint alleges that Salesforce committed acts with malice, oppression, fraud, and duress that constituted the sex trafficking of the plaintiffs. Additionally, the complaint alleges that Salesforce negligently failed to take reasonable steps to protect the plaintiffs from the foreseeable dangers of its products and entered into a civil conspiracy with Backpage to promote and assist the sex trafficking of minors.

D. What’s Next for the Plaintiffs?

The impact litigation initiated by survivors of sex trafficking has spread far and wide, as victims and survivors of trafficking are searching for a way to be compensated for the harms they have suffered. These plaintiffs deserve to be monetarily compensated through the civil remedies made available to them, for the atrocities they endured at the hands of their traffickers and third-party facilitators. Up to this point, however, all efforts at attaining these financial reparations have failed or remain stalled in the courts.

In response to this, plaintiffs and their attorneys have begun to advocate creatively, thinking outside the box about who may be liable, in part, for the victimization of these plaintiffs. Over the last several years, it has become apparent that there are more actors in-

involved in the scheme of sex trafficking and, therefore, that there are more entities that are potentially responsible for their victimization. This recognition has led to an evolution in the way that plaintiffs and their attorneys bring these cases, and who they bring them against.

Questions still remain, however: how will these plaintiffs be compensated for their losses? will they ever be compensated?

In other types of litigation, entities that have been involved in criminal activity and thus have been the subject of mass civil lawsuits, declaring bankruptcy has been used as a defense mechanism. [16] Declaring bankruptcy stalls any ongoing litigation against the entity and shields defendants from future lawsuits. [17] Recent examples of this practice include the Weinstein Company and, before that, certain dioceses of the Catholic Church. [18] This practice presents a unique and difficult situation for plaintiffs bringing civil lawsuits against the perpetrators of their trafficking. However, we are hopeful that businesses that have acted as third-party facilitators of sex trafficking, such as the hospitality industry, social media and other online platforms, will stand as allies in the fight to end sex trafficking and work to enact and implement ethical business practices that will prevent future instances of sex trafficking from happening. We are encouraged by the use of civil legal remedies and remains hopeful that the law will work to achieve justice for victims and their families. The CSE Institute is hopeful that plaintiffs will eventually win this long-fought battle for the civil remedies that they are due.

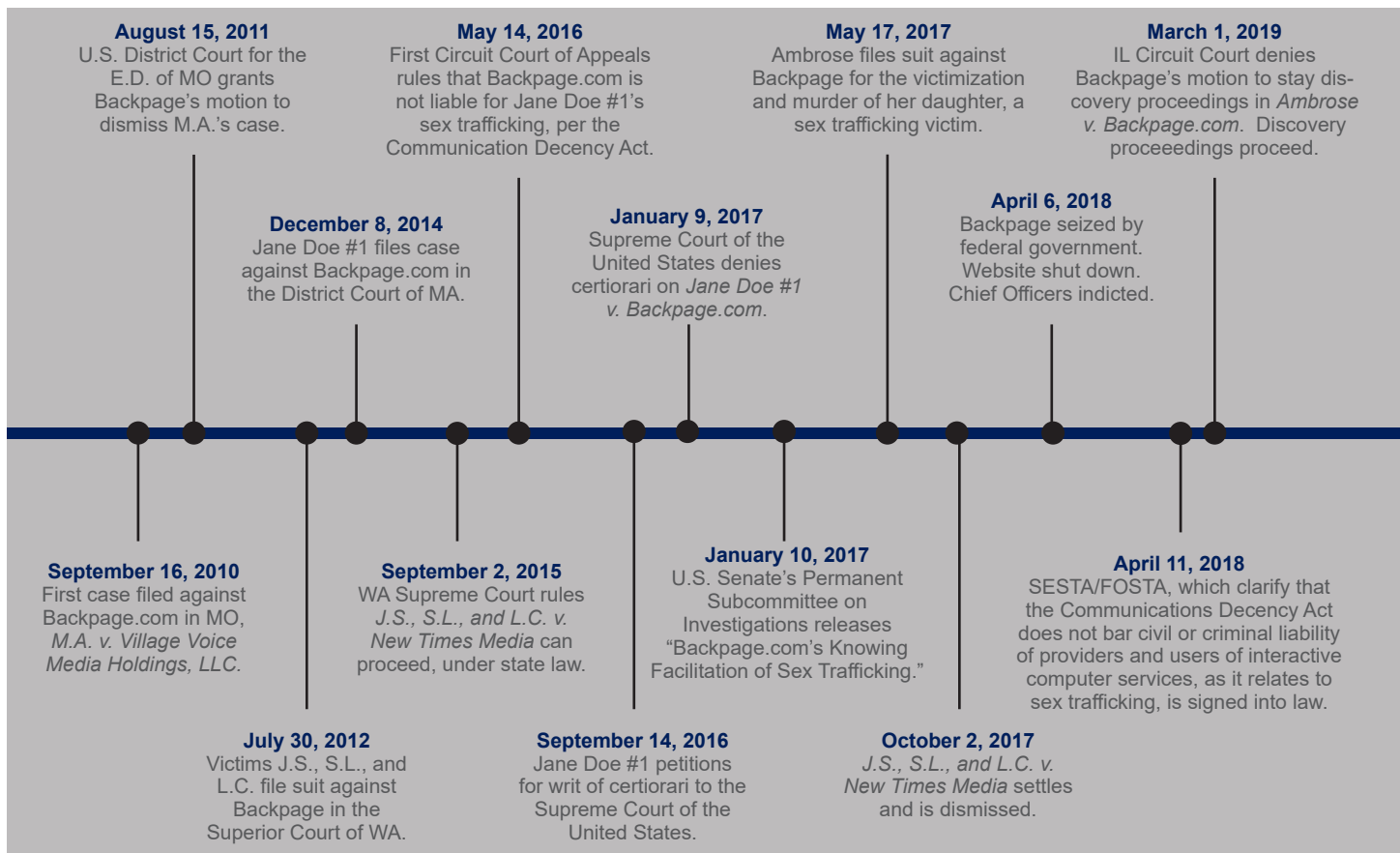
4.4 The Enactment of SESTA/FOSTA

In early 2018, SESTA/FOSTA (Stop Enabling Sex Traffickers Act/Allow States and Victims to Fight Online Sex Trafficking Act) was signed into law. This law closed the loophole that provided blanket immunity to internet service providers who failed to take measures to prevent people from being sold for sex through their websites. Despite the massive hit SESTA/FOSTA presented to the commercial sex industry, which perpetuates human trafficking, the pro-prostitution lobby continues to bemoan the legislation as a step in the wrong direction. The section of the law generating the most controversy states, “Whoever, using a facility or means of interstate or foreign commerce or in or affecting interstate commerce, owns, manages, or operates an interactive computer service, or conspires or attempts to do so, with the intent to promote or facilitate the prostitution of *another person*

shall be fined under this title, imprisoned for not more than 10 years, or both.”

The text of the law clearly demonstrates that **those who post their own commercial sex advertisements are not affected by SESTA/FOSTA**, as it is fundamentally concerned with websites who intend to facilitate “the prostitution of *another person*.” This means that individuals can continue to discuss and advertise commercial sex on various websites, subject to existing state prostitution laws SESTA/FOSTA had no effect on. The fact that websites have begun to shut down in response to fears they may incur liability under SESTA/FOSTA is a testament to the fact that trafficking and commercial sex and are entirely intertwined, demonstrating the new law is working as intended.

Backpage Litigation Timeline



The CSE Institute is aware of several other civil cases against Backpage.com. However, this timeline only reflects litigation against Backpage that is currently moving forward or completed.

5. Law and Social Change: Survivor-Centered Approaches to End Commercial Sexual Exploitation

In April 2019, the CSE Institute hosted the Third Annual Survivor-Led Symposium. The two-day Symposium focused on Engaging Survivors of Commercial Sexual Exploitation to End Gender-Based Violence. Survivor leaders from across the country convened at the Inn at Villanova to lead a series of workshops on topics, including: How Pimps and Sex Buyers Use Social Media and Porn to Exploit, Sex Trafficking of Indigenous Women, Lateral Oppression, Black Women and Sex Trafficking, Demand Driven Investigations, Vacating Convictions for Survivors, Survivor-Research Partnerships, and Law Enforcement’s Approach to Psychological Intervention. Lawyers, law students, professors, law enforcement officers, social workers, and victim services

professionals were among the engaged participants who attended. The Third Annual symposium expanded attendees’ perspectives on the complexities of human trafficking and the importance of focusing on survivor-centered services.

Our experiences engaging the survivor community have reinforced our understanding of how important it is to remain survivor-centered in our efforts to effectuate legal and social change. As we continue to engage with other organizations and the law enforcement community, we remain steadfast in our dedication to listen to survivors and keep them at the center of our efforts.

5.1 A Local Survivor Voice: Tammy McDonnell

Meet Tammy McDonnell, the newest member of the CSE Institute’s Board of Advisors. Tammy works as a Street Outreach Coordinator at Covenant House Pennsylvania. She has a passion for animals, crossfit, and recently ran two half marathons. Tammy is also a Survivor of commercial sexual exploitation. [1]

Tammy’s life is characterized by strength, positivity, and resilience. She not only survived being trafficked for commercial sex, but also beat an addiction that resulted from that trafficking. She is now over four years sober. She overcame her children’s father’s death, who passed away on the day that she got clean. She continues to surpass the trauma associated with surviving sex trafficking. Now, every day, she works to outshine the stigma associated with being a survivor of commercial sexual exploitation and wants the world to know that she is stronger than addiction and trauma.

When asked how she conquered her addiction, Tammy responded that her “desire to change was greater than the desire to stay the same.” She pulled strength from within herself and let others in to help her. She took the recovery process step by step, first overcoming her addiction and then tackling her complex trauma. Even though her relationship with her family was fractured, she learned that “family does not have to be blood” and that she could lean on her “tribe of like minds,” a group of empowered women who also have overcome addiction.

As a result of getting sober, Tammy’s relationship with her family has improved. She bonds with her mother, who has also recovered from addiction. She has grown close with her sister, who adopted her two children when she was struggling with addiction. Tammy is also close with her children, who are now 13 and 7 years old. She went from not being allowed to write her son a letter or know his address to now



“ I choose to be fearless, never allowing fear to hold me back again. ”

– Tammy McDonnell

“ I wish I could give everyone just an ounce of inspiration. Regardless of what it is in life, just know that there is life, a beautiful life, beyond addiction and trauma. ”

– Tammy McDonnell

being able to see her children frequently. She is very proud of them, especially because the two just successfully completed a 5K run.

The final step of the twelve-step program for addiction recovery is giving back to others, which is exactly how Tammy has spent her life. She remembers sitting at Dawn’s Place, on Fridays with the night shift volunteers [2]. While sitting there, she wondered why anyone would want to willingly spend their Friday night with her in a safe home. Now, she understands why, as she volunteers in a at Dawn’s Place and experiences how gratifying it is to help others that are going through the same struggle that she went through.

Tammy also gives back by working as a Street Outreach Coordinator at Covenant House, which entails driving a van throughout Philadelphia and walking a four-mile strip of Kensington Avenue to look for youth in need. She offers services to homeless youth and gives presentations at the Juvenile Justice Center. In addition to helping people, Tammy is a Philly Bully Team ambassador and volunteers her time working with animals.

Tammy’s accomplishments are countless. Because of her strong work ethic and personal experience in the field, she was promoted to a higher position at Covenant House, which typically requires a bachelor’s degree. Tammy is a member of three Survivor Advisory Boards: The Salvation Army’s New Day to Stop Trafficking, the CSE Institute, and Mission Kids. She is also a recovery specialist at Villanova. Tammy advocated in Harrisburg to help pass Pennsylvania’s Safe Harbor for Sexually Exploited Children legislation. To read more about Safe Harbor, see page 8. She also speaks publicly at local press conferences, training events, and even nationally in Washington, D.C. Additionally, Tammy is being featured in a documentary by The Salvation Army.

Tammy was also able to use the vacatur remedy to clear her criminal record in Philadelphia. She is no longer on probation, and no longer has the conviction associated with that probation sentence, yet still has a great relationship with her probation officer.

Tammy just rented her first apartment and adopted a black cat named Skunk. She has also expanded her social network. She remembers attending the CSE Institute’s Survivor Symposium for the first time a year ago and only knowing one person. This year, she knew at least one person at every single table.

Tammy’s confidence in herself has grown exponentially. She is realizing things that she now loves, but at one point never knew existed. She is anxious to be able to do more and to find more things that she loves, all while still helping others as a survivor leader. Tammy never thought she could achieve all that she has, but she knows it is the path that God intends for her.

Tammy’s future shines bright. Her goal is to attend college and get a degree in biology so that she can help animals. Success to her means being able to live a peaceful, stable, and sober life and continuing to make her family proud. She desires to strike the delicate balance of being able to pursue her own dreams while still being a part of the Survivor Movement. The Survivor Leader Movement in Pennsylvania gives Tammy hope for the future. She has been through so much cruelty in her life, but seeing the Movement’s success restores her faith in humanity. She continues to be blown away by others’ support. The CSE Institute is beyond honored to have Tammy on our Board of Advisors and is inspired by her courageous journey filled with unwavering strength.

5.2 How to Be an Ally

The term ally is used in nearly every social justice movement. It defines a person who is dedicated to addressing an injustice despite not having experienced the injustice directly. Allies practice empathy. They take on another person or population's struggle as if it were their own. However, effective allies are always cognizant that the movement does not center around them.

Anyone can be an ally. Now, more than ever, the anti-exploitation movement needs effective allies, because they play an integral role in ending commercial sexual exploitation. Allies can help connect the survivor community to decision makers, stakeholders, and the general public. What it means to be effective can differ depending on the particular ally's strengths and background. However, when serving as an ally in the anti-exploitation space, there are some general guidelines that should be respected.

Allyship means more than providing support. Allyship is what you do, not necessarily what you say. It is not an identity, title, or a status. Allies are accountable to the survivor community and the movement at large. Therefore, at its core, effective allyship requires one important action: listening.

Working in solidarity with survivors of commercial sexual exploitation requires ongoing education about the issues and solutions. That being said, it is not the responsibility of the survivor to train the ally.

At the CSE Institute, we believe in centering the perspective and wisdom of survivors. We are committed to engaging the survivor community in the shaping of all of our positions and projects. Three years ago we launched our annual Survivor Symposium – a two day event featuring workshops designed and led exclusively by survivors of commercial sexual exploitation. We were inspired to create this unique event by our belief that allies should not monopolize platforms. In short, we do not give the spotlight to survivors; instead, we recognize that it is not ours to give in the first place.

We discourage others from tokenizing survivors and encourage them to see the undeniable value survivors contribute to the movement above and beyond telling their "story." Allies must acknowledge that those with lived experience are the experts on what victims and survivors need. Lastly, allies should always compensate survivors for their time and expertise, like any other professional consultant or speaker.

Allyship is an active, ongoing endeavor, and we all make mistakes. Above all, practicing humility and humanity will shape you into a great ally. And the movement needs you! Only when working together, allies alongside survivors, can we achieve systemic change and, ultimately, bring about the end of sexual exploitation.



THIRD ANNUAL SURVIVOR-LED SYMPOSIUM
ENGAGING SURVIVORS OF COMMERCIAL SEXUAL
EXPLOITATION TO END GENDER-BASED VIOLENCE

April 11-12, 2019
 Inn at Villanova
 601 County Line Road
 Radnor, PA 19087

#ListenToSurvivors

5.3 The Nuances of “Decriminalization”

Prostitution has become an increasingly polarizing political issue in the United States over the past several years. The conflict even divides schools of mainstream feminists—some holding the belief that selling sex is liberating, while others regard prostitution as gender-based violence. The CSE Institute is a proponent of the latter ideology, abolitionism. We believe commercial sex is inherently violent and exploitative and that it has no place in a just society. Although the discourse between these two philosophies is often muddled from the outset, there is one point we can agree on: *that prostituted people should not be criminalized for selling sex*. As abolitionists, we advocate for the Nordic or Equality Model, which is a legal structure that emphasizes the decriminalization of prostituted people while maintaining the criminalization of the true perpetrators. In comparison, those who consider commercial sex an empowering form of work, seek to decriminalize the entire industry – from the buyers to the brothel owners – not just the person being purchased for sex.

Abolitionists acknowledge that victims of commercial sexual exploitation experience severe violence and vast stigma. *This has to stop*. We simply cannot endorse the pro-prostitution optimist who conceives that being bought for sex can be a “good thing” for a woman. Decriminalizing the entire industry does little to address these outcomes. To enact sustainable change, our society must first recognize that prostitution is innately harmful and realize that the demand for *commercial sex drives the industry*.

Trafficking victims and those engaging in survival sex (the exchange of a sex act for a basic need) are forced or coerced to engage in prostitution. For others, the “choice” to engage in prostitution stems from a series of institutionalized oppressions. Those who are purchased for sex often face economic, housing, and healthcare instability. Therefore, we believe it is unjust to criminalize those who sell sex. Unfortunately, historically, in jurisdictions across the United States, prostituted people have been treated as criminals, not victims of exploitation. [1] Police and prosecutors have focused resources targeting prostituted people. Comparatively, very little resources have been dedicated to targeting the demand for commercial sex.

Increasingly, however, law enforcement recognizes that an anti-demand approach is a far more effective way to address commercial sexual exploitation. In fact, empirical data reveals that anti-demand initiatives are an effective method for reducing commercial sexual exploitation altogether. [2] The Nordic Model recognizes that the demand for commercial sex is what drives the industry. If demand flourishes, so will prostitution and sex trafficking. Either way, we cannot police our way out of this problem. However, law enforcement can deter people from buying sex by increasing the likelihood of criminalization.

The Nordic Model is a law that first passed in Sweden in 1999, following extensive research. It is a demand-driven structure of policing prostitution and is widely-considered to be the most effective, efficient, and humane

way to respond to commercial sexual exploitation in a community. After the Nordic Model was enacted, Sweden experienced a 50% to 70% reduction in the amount of prostitution [3].

There are four pillars of the Nordic Model:

1. Decriminalization of the prostituted person,
2. Criminalization of sex buyers with a commitment to treating buying sex as a serious crime,
3. A public education campaign about the inherent harms of prostitution, and
4. Funded robust, holistic exit services for victims of commercial sexual exploitation.

For more information about the Nordic Model, see page 12.

Alternatively, full decriminalization would eliminate criminal liability for all individuals involved in the commercial sex industry: those selling sex, those buying sex, and those facilitating or promoting the sale of sex. Note that, decriminalization is distinct from legalization. Legalization requires regulation and taxation, whereas decriminalization is unregulated.

We believe the Nordic Model is a necessary systemic shift in both attitude and police policy. We cannot bring about an end to sex trafficking without a radical approach that eliminates demand for commercial sex and educates the public about the harms of prostitution. It is time to hold the buyers accountable, who drive the market for commercial sexual exploitation.

6. How Trauma-Informed Lawyering Skills Can Empower Survivors

The legal process should be empowering for all those who engage it, especially for survivors of commercial sexual exploitation. Survivors of commercial sexual exploitation engage the legal process uniquely, though, due to the trauma they experienced during their victimization. Complex trauma impedes the empowering result the legal process can provide. To ensure that the legal process is empowering for survivors, attorneys must be trauma-informed.

1. What is Trauma?

Trauma is the unique individual experience of an event or enduring condition in which either the individual's ability to integrate his or her emotions are overwhelmed or the individual experiences a threat to his or her life, bodily integrity, or sanity. [1] The definition of trauma is purposefully broad to be applicable to singular traumatic events, such as natural disasters, as well as chronic traumatic events, like human trafficking. [2] Additionally, the definition intentionally highlights the individual's perception, as it is up to each individual survivor to determine whether a particular event is traumatic.

There are two key components of a traumatic experience: the objective and the subjective. The more an individual believes they are endangered, the more traumatized they are. [4] Thus, two individuals may undergo the same experience and only one may be

traumatized while the other may not be. There can be no blanket generalizations when it comes to what is traumatic – trauma is defined by the unique experience of an individual survivor.

2. What are the Effects of Trauma?

Like trauma itself, the effects are unique to the survivor. Some survivors may become substance dependent, some may develop eating disorders, and some may meet the criteria for a diagnosis of depression or anxiety. [5] Additionally, some survivors may form maladaptive behaviors to cope and shield themselves from the trauma they experienced and may, at times, re-experience. [6] Some of those maladaptive behaviors include disassociation, numbing, and hypervigilance. [7] Maladaptive behaviors are hard to overcome in the recovery process, because the survivor relies on these behaviors to alter their reality. Pain, trauma, and other negative experiences simply begin to feel “normal.” And, understandably, they resist changing what has come to feel “normal” to them.

Trauma also has the ability to alter a survivor's memory. A survivor may not remember details about their victimization. That is because, in times of danger, all bodily systems not crucial to survival are switched off, including the hippocampus or “thinking brain,” the region of the brain that is primarily associated with memory. [8] When switched off, the

hippocampus stops filing memories chronologically. [9] Instead, the body encodes memories via the senses. Therefore, it is completely normal and scientifically true for survivors to be unable to recall events chronologically or to be inconsistent. Survivors should never be judged for this and other seemingly atypical reactions.

3. What is Trauma-Informed Care?

The concept of trauma-informed care first emerged in the 1970s and has been evolving ever since. Today, trauma-informed care is defined as a strengths-based service delivery approach grounded in an understanding of and responsiveness to the impact of trauma on individuals. [10] It emphasizes physical, psychological, and emotional safety for providers and survivors, while also creating opportunities for survivors to rebuild a sense of control and empowerment. [11]

A trauma-informed care approach is built on five core values: (1) physical and emotional safety; (2) trustworthiness, which relates to the clarity of expectations, providing consistent service delivery, and maintaining boundaries; (3) choice; (4) collaboration; and (5) empowerment. The most important value of those five is safety because, without a sense of safety, a survivor will not progress and the anxiety and stress that feeling unsafe will create will add new trauma, amplify old trauma, and impact their behavior. [12]

4. What are Best Practices for Trauma-Informed Lawyering?

At the CSE Institute, we are constantly looking to improve the ways that we incorporate trauma-informed care into our direct legal services for our clients. We believe that one of the best tips for working with trauma survivors is to first change your perspective as a lawyer. Each client is their own person and they may or may not exhibit symptoms; and the symptoms that they may exhibit may vary. Another great tip for working with trauma survivors is to avoid directly asking them to trust you – instead, allow for genuine and honest communication to guide the relationship process naturally. A lawyer should also avoid triggers and re-victimization by having the survivor re-tell his or her story as few times as possible; being aware of symptoms of psychological distress; never blaming or making statements that imply judgment; and not asking “why” questions.

Other tips include:

- Maintain boundaries by defining your role as a lawyer;
- Identify other barriers to stability such as lack of income or homelessness;
- Monitor client expectations with clear, consistent communication;
- Implement a concrete plan of next steps and timeline; and
- Listen actively, validate and acknowledge survivors’ experiences.

We believe that by following these tips and taking a trauma-informed approach, lawyers will best serve survivors, ensuring that the legal process is empowering for them.

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.achildsplacepa.org/
A Safe Place, Inc.	https://www.facebook.com/preventprotectempower/?rf=159089710788302
A Way Out	http://www.myawayout.org/
A Woman’s Place	https://awomansplace.org/
Abuse & Rape Crisis Center	https://www.arccbc.org/?fbclid=IwAR2LrIhsmK3nIUaleDFSyUblmbt1tjg-PXn5WydORNBkBBi2b9yoDg7RofA8
ACCESS York, YWCA York	http://ywca.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	http://www.safeberks.org/
Blackburn Center	http://www.blackburncenter.org/
Bloom Bangor	http://www.bloombangor.com
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/

Organization	Web Address
Cambria County Child Advocacy Center	http://www.cambriacac.org/
C.A.P.S.E.A., Inc.	http://capsea.org/
Care Center of Indiana County, The	http://carecenterofindianaco.org/
Centre County Women's Resource Center	ttp://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 Centre County, Mount Nittany Health	https://www.mountnittany.org/childadvocacycenter
Children's Advocacy Center of Lawrence County	https://upmcjameson.com/upmc-jameson-2/childrens-advocacy-center-of-lawrence-county/
Children's Advocacy Center of Lehigh County	https://www.lvhn.org/facilities_directions/hospital_locations/community_clinics/john_van_brakle_child_advocacy_center
Children's Advocacy Center of NEPA	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.	https://opphouse.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.	https://opphouse.org/
Children's Center fo 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/
Children's House of Philadelphia, The	http://www.phillychildrenshouse.com/
Compassionate Humans Against Trafficking	http://fightwithchat717.wix.com/chat - !more-about-us/c1sxh
Congreso	http://www.congreso.net/
Covenant House	http://www.covenanthousepa.org/
Crisis Shelter of Lawrence County	http://crisishelter.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/
Faith Alliance Against Slavery & Trafficking	https://faastinternational.org/
Geisinger Child Advocacy Center	https://www.geisinger.org/patient-care/conditions-treatments-specialty/2018/12/03/17/04/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/

Organization	Web Address
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
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	https://www.healingwordmin.org/
Mission Kids Child Advocacy Center	http://missionkidscac.org/
Montgomery County Anti-Trafficking Coalition (MCAT)	https://www.mcatpa.org/
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 (formerly Lancaster Initiative Against Human Trafficking)	https://northstarinitiative.org/
Oasis of Hope	https://www.oasisofhopeusa.org/
Over the Rainbow Children's Advocacy Center	https://overtherainbowcac.org/
Partners for Justice	https://www.partnersforjustice.org/
Partnership to End Human Trafficking	https://peht.org/
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://www.pinnaclehealth.org/locations/office/6685-pinnaclehealth-children-s-resource-center
PinnacleHealth Children's Resource Center	https://www.pinnaclehealth.org/locations/office/6685-pinnaclehealth-children-s-resource-center
Pittsburgh Action Against Rape	https://paar.net/
PPC Violence Free Network & Shelter	http://www.fscas.org/ppc-vfn.htm
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/
Southwestern Pennsylvania Legal Services, Inc.	https://spla.org/
Sullivan County Victim Services	http://www.sulcovs.org/
Survivors, Inc.	http://enddvsa.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)	http://vast.ngo/
Valley Youth House	https://www.valleyyouthhouse.org/
Victims Intervention Program of Wayne & Pike Counties	http://www.vipempowers.org/
Victim Outreach Intervention Center of Butler County	https://www.voiceforvictims.com/
Victim Resource Center of Carbon County	https://vrcnepa.org/

Organization	Web Address
Victim Resource Center of Luzerne County	https://vrcnepa.org/
Victim Resource Center of Wyoming County	https://vrcnepa.org/
Well of Bucks County, The	https://worthwhilewear.org/blogs/programs/the-well
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.org/
Women in Need, Inc.	http://winservices.org/
Women Organized Against Rape - Philadelphia Center Against Sexual Violence	https://www.woar.org/
Women's Resource Center, Inc.	https://vrcnepa.org/
Women's Resource Center of Monroe County	http://www.wrmonroe.org/
Women's Services, Inc. (formerly Women's Services of Crawford County)	https://www.womensservicesinc.com/
York County Children's Advocacy Center	https://www.yorkcac.org/
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://ywcabg.org/programs/violence-intervention-and-prevention-services
YWCA Northcentral PA - Wise Options	https://www.ywcawilliamsport.org/our-programs/wise-options/

8. References

3.1 Current Law

- [1] 18 Pa. Cons. Stat. §§ 3011, 3012(a), 3013 (2014).
- [2] 18 Pa. Cons. Stat. § 3018(d) (2014).
- [3] 18 Pa. Cons. Stat. § 3019(b) (2014).
- [4] 18 Pa. Cons. Stat. § 3019(d) (2014).
- [5] 18 Pa. Cons. Stat. §§ 3061-5 (2018).
- [6] 18 Pa. Cons. Stat. § 3065 (2018).
- [7] 18 Pa. Cons. Stat. § 3062 (2018).
- [8] 18 Pa. Cons. Stat. § 3063 (2018).
- [9] 18 Pa. Cons. Stat. § 3064 (2018).

3.2 Moving Forward

- [1] See Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation, *Law Enforcement Uses "Outrageous" Tactics to Police Prostitution in Luzerne County*, (Feb. 16, 2017), <https://cseinstitute.org/law-enforcement-uses-outrageous-tactics-police-prostitution-luzerne-county/>; see also Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation, *Three Arrested for Prostitution at a Montgomery County Massage Parlor*, (March 11,

2019), <https://cseinstitute.org/three-arrested-for-prostitution-at-a-montgomery-county-massage-parlor/>.

[2] See Daniel Patrick Sheehan and Arlene Martinez, *Must sex be a part of sex stings? ** It's legal in this state, but some experts say it's unethical -- and unnecessary*, (Sept. 23, 2007), <https://www.mcall.com/news/mc-xpm-2007-09-23-3776616-story.html>.

[3] See Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation, *Why Focusing on Demand for Commercial Sex is an Effective Means to Deter Commercial Sexual Exploitation*, <http://cseinstitute.org/wp-content/uploads/2015/06/Why-Focusing-on-Demand-for-Commercial-Sex-is-an-Effective-Means-to-Deter-Commercial-Sexual-Exploitation.pdf> (last visited May 8, 2018).

[4] See Elliot C. McLaughlin, *Police officers in the US were charged with more than 400 rapes over a 9-year period*, CNN (Oct. 19, 2018), <https://www.cnn.com/2018/10/19/us/police-sexual-assaults-maryland-scope/index.html>.

[5] See Cara E. Trombadore, *Police Officer Sexual Misconduct: An Urgent Call to Action in a Context Dispropor-*

tionately Threatening Women of Color, 32 HARV. J. RACIAL & ETHNIC JUST. 153, 153-55 (2016)(focusing on fact that police disproportionately threaten women of color in sexual misconduct incidents); see also Lincoln Anthony Blades, *Police and Sexual Assault: When Officers Are Perpetrators*, TEEN VOGUE (Nov. 22, 2017, 8:00 AM), <https://www.teen-vogue.com/story/sexual-assault-police-officers>; Zoe Carpenter, *The Police Violence We Aren't Talking About*, THE NATION (Aug. 27, 2014), <https://www.thenation.com/article/police-violence-we-arent-talking-about/>.

[6] See *Abusing the Law*, BUFFALO NEWS, <http://projects.buffalonews.com/abusing-the-law/data.html> (last updated Dec. 2016) (providing cases and allegations of sexual misconduct by law enforcement personnel and accompanying data).

[7] See *id.*

[8] See *id.*; See also *Statistics About Sexual Violence*, National Sexual Violence Resource Center (2015), https://www.nsvrc.org/sites/default/files/publications_nsvrc_fact-sheet_media_packet_statistics-about-sexual-violence_0.pdf (reporting that 63% of sexual assaults are not reported to police); Roger Goldman, *Why Has Police Sexual Misconduct Escaped the #MeToo Movement?*, NEWSWEEK (Dec. 22, 2017, 12:20 PM), <http://www.newsweek.com/metoo-ignore-police-sexual-misconduct-757033>.

[9] See Kimberly Price, *Eliminating the Loophole and Holding Police Accountable: Making It a Crime for Police to Engage in Sexual Contact and Acts with Persons in their Custody*, Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation, 6 (2018).

[10] *Id.* at 4.

[11] *Id.*

[12] *Id.* at 15.

[13] See *Commonwealth v. Sun Cha Chon*, 983 A.2d 784 (Pa. Super. Ct. 2009).

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] See Price, *supra* note 9 at 10-11.

[18] *Id.* at 19.

[19] *Id.* at 12.

[20] 18 Pa. Cons. Stat. §3011 (2014).

[21] 18 Pa. Cons. Stat. § 5902 (b) (2012).

[22] 18 Pa. Cons. Stat. § 3011 (b.1) (2014).

[23] Pa C.S. § 5902 (b.1) (2012).

[24] See Vera Institute for Justice, *The Price of Prisons*, (May 2017), <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends>.

3.3 Language Matters: Legalization, Decriminalization, and the Nordic Model

[1] See *Does Legalizing Prostitution Protect Women and Girls?*, Equality Now: A Just World for Women and Girls (May 23, 2018), https://assets.nationbuilder.com/equalitynow/pages/219/attachments/original/1527091037/Legalizing_Prostitution_Fact_Sheet.pdf?1527091037; Admin, *Prostitution Police and Law: What are the Options*, Nordic Model Now! (July 4, 2017), <https://nordicmodelnow.org/2017/07/04/prostitution-policy-and-law-what-are-the-options/>.

[2] Loi no. 66-20 of Feb. 1, 1966, Journal Officiel de la République du Sénégal [Official Gazette of Senegal], Feb. 5, 1966, government website available at: <http://www.justice.gouv.sn/>.

[3] *Sex Worker Act 1994* (Vict.) pt I-VII (Austl.), available at: [http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTOobject_Store/LTOobjSt5.nsf/DDE300B846EED9C-7CA257616000A3571/998B3217B6D8FFEF-CA257810001351B3/\\$FILE/94102aa070%20authorised.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTOobject_Store/LTOobjSt5.nsf/DDE300B846EED9C-7CA257616000A3571/998B3217B6D8FFEF-CA257810001351B3/$FILE/94102aa070%20authorised.pdf).

[4] *Prostitution Act 1999* (Queensl.) pt 1 dv 4 (Austl.), unofficial English translation available at: <https://www.legislation.qld.gov.au/view/pdf/2017-06-30/act-1999-073>.

[5] Artikel 1:18 lid 273f Sr (oud), unofficial English translation available at: http://www.ejtn.eu/Page-Files/6533/2014%20seminars/Omsenie/WetboekvanStrafrecht_ENG_PV.pdf.

[6] Strafgesetzbuch [STOP] [Penal Code], §§ 180, 180a, 181a, 182, 183, 183a, 184e, 184f (Ger.), English translation available at: https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html.

[7] According to Nevada state law, “it is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.” Nev. Rev. Stat. Ann. § 201.345(1) (2013). Note that brothels are not permitted in a county whose population is greater than 700,000 is legal in Nevada counties. Nev. Rev. Stat. Ann. § 244.345(1)(b) (2011); Churchill Cty., Nev., Code tit. 5, ch. 5.20; Elko Cty., Nev., Code tit. 7, ch. 1.6; Esmeralda Cty., Nev., Code Ordi-

nance 154; Humboldt Cty., Nev., Code tit. 5, ch. 5.08; Lander Cty., Nev., Code tit. 5, ch. 5.16; Lyon Cty., Nev., Code tit. 5, ch. 3; Mineral Cty., Nev., Code Tit. 5, ch. 5; Nye Cty., Nev., Code tit. 9, ch. 9.20; Storey Cty., Nev., Code tit. 5, ch. 5.16; and, White Pine Cty., Nev., Code tit. 10, ch. 10.36.

[8] *Summary Offences Act 1988, Restricted Premises Act 1943* (N.S.W.) pt I-IV (Austl.), available at: <https://legislation.nsw.gov.au/#/view/act/1943/6/full>.

[9] *Prostitution Reform Act 2003*, s 1-51 (N.Z.), available at: <http://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197815.html>.

[10] 6 ch. 1-15 § Brottsbalken [Brb] [Penal Code] (Svensk Författnings-sampling [SFS] 2018:1005) (Swed.), unofficial English translation available at: <https://www.government.se/4a95e7/contentassets/602a1b5a8d-65426496402d99e19325d5/chapter-6-of-the-swedish-penal-code-unofficial-translation-20181005>.

[11] The two laws are referred together as “성매매방지법,” which can be translated to “Anti-Prostitution Legislation.” Ji Hye Kim, Korea’s New Prostitution Policy: Overcoming Challenges to Effectuate the Legislature’s Intent to Protect Prostitutes from Abuse, 16 *pacific rim l. & pol’y J.* 493 (2007), available at: <https://digital.law.washington.edu/dspace/bitstream/handle/1773.1/597/16PacRimLPolyJ493.pdf?sequence=1>

[12] Lov om endringer i straffeloven 20. Mai 2005 [Act on amendments to the Criminal Code, 20 May 2005 No. 28 mv.] nr. 26, § 316 (Nor.), English translation available at: https://www.regjeringen.no/globalassets/upload/jd/vedlegg/norsk-engelsk_lovvedtak.pdf, and https://lovdata.no/dokument/NLE/lov/2005-05-20-28/KAPITTEL_2-11#%C2%A-7section314.

[13] Iceland General Penal Code [Sexual Offences] Ch. XXII. Act 40/1992, Art. 1-15, unofficial English translation available at: <https://wipolex.wipo.int/en/text/190914>.

[14] Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 c. 2, available at: <http://www.legislation.gov.uk/nia/2015/2/contents/enacted>.

[15] *Protection of Communities and Exploited Persons Act*, S.C. 2014, c 25 (Can.), available at: https://laws-lois.justice.gc.ca/PDF/2014_25.pdf.

[16] Loi 2016-444 du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées [Law no. 2016-444 of Apr. 13, 2016 to Strengthen the Fight Against the Prostitution System and

to Support Prostituted Persons], Journal Officiel de la République Française [J.O.] [Official Gazette of France], Aug. 14, 2016 (Fr.), French version available at: <https://www.legifrance.gouv.fr/eli/loi/2016/4/13/FDFX1331971L/jo/texte>.

[17] Criminal Law (Sexual Offences) Act 2017 (Act. No. 2/2017) (Ir.), available at: <http://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/pdf>.

[18] The bill was proposed in June 2018 by Shuli Moalem-Refaeli (Bayit Yehudi Knesset Member), Zehava Gal-On (Meretz Chairwoman), and Aliza Lavie (Yesh Atid Knesset Member). Lahav Harkov, *Hiring Prostitutes in Israel Heads Toward Criminal Offense*, JERUSALEM POST (July 16, 2018), <https://www.jpost.com/Israel-News/Hiring-prostitutes-in-Israel-heads-toward-criminal-offense-499862>. The bill passed in late December 2018. Lahav Harkov, *Israel Becomes 10th Country to Criminalize Hiring Prostitutes*, JERUSALEM POST (Dec. 31, 2018), <https://www.jpost.com/Breaking-News/Knesset-passes-law-criminalizing-the-hiring-of-prostitutes-575918>. The new law will take in effect in 18 months from date of passage. Lahav Harkov, *Israel to become 10th Country to Criminalize Hiring Prostitutes*, JERUSALEM POST (Dec. 25, 2018), <https://www.jpost.com/Israel-News/Israel-to-become-10th-country-to-criminalize-hiring-prostitutes-575393>.

[19] Unable to retrieve bill language from government website. Senado De España, <http://www.senado.es/web/index.html> (last visited Mar. 6, 2019). See Isabel Valdés & Pilar Álvarez, *Spain Tries ‘Swedish Model’ to Address Prostitution’s Legal Limbo*, EL PAÍS (Susana Urrea trans., Dec. 7, 2018), https://elpais.com/elpais/2018/12/07/inenglish/1544171107_204329.html.

* Spain’s Nordic Model legislation is currently pending.

[20] 384/2015 Seksuaalisen aupan uhrin väärinkäyttö [Abuse of a Victim of Sex Trade, Ch. 20 § 8 of the Finnish Penal Code], unofficial English translation available at: <https://www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf>. For more information on human trafficking in Finland, see Minna Viuhko & Anniia Jokien, *Human Trafficking and Organised Crime: Trafficking for Sexual Exploitation and Organises Procuring in Finland*, EUROPEAN INSTITUTE FOR CRIME PREVENTION AND CONTROL, 87-92 (2009), available at: <https://issafrica.org/acpst/uploads/Human%20trafficking%20and%20organised%20crime.pdf>.

[21] The Spilabotte Bill attempted to overturn the Merlin Law. “Spilabotte Bill,” *Regolamentazione del fenomeno della prostituzione* [Regulation of the phenomenon of pros-

titution] Disegno di Legge 11 dicembre 2013, n. 1201, Italian version available at: <http://www.senato.it/service/PDF/PDFServer/DF/299276.pdf>; “Merlin Law,” Abolizione della regolamentazione della prostituzione e lotta contro lo sfruttamento della prostituzione altrui [Abolition of the regulation of prostitution and the fight against the exploitation of others’ prostitution] Legge 20 settembre 1958, n. 75, in G.U. Sept. 21, 1958, n. 55 (It.)

[22] Plan d’action national Prostitution [National Action Plan for Prostitution] (2016) Le Gouvernement du grand-duché de Luxembourg, French translation available at: <http://mega.public.lu/fr/publications/publications-ministere/2016/plan-daction-national-prostitution/PAN-Prostitution.pdf>; Renforçant la lutte contre l’exploitation de la prostitution, le proxénétisme et la traite des êtres humains à des fins sexuelles et modifiant [Law enforcing the fight against the exploitation of prostitution, procuring and the trafficking in human beings for sexual purposes amendments] Loi du 28 février 2018 (Lux.), French translation available at: [https://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=3BD90EE73D-408DA5A868731697670D538E9F92FFA4E311BCD-F249A950A8E34F91EDEE2708D623CAD43BDB6B-D1E240317\\$3BE39D5A559B4416F4B91CABA89751A0](https://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=3BD90EE73D-408DA5A868731697670D538E9F92FFA4E311BCD-F249A950A8E34F91EDEE2708D623CAD43BDB6B-D1E240317$3BE39D5A559B4416F4B91CABA89751A0).

4.2 Partnerships and Collaboration with Health and Medical Professionals

[1] See Polaris Project, *Healthcare Professionals on the Frontline of Helping Trafficking Victims*, <https://polarisproject.org/blog/2016/04/14/healthcare-professionals-frontline-helping-trafficking-victims> (last visited May 8, 2019).

[2] For more information regarding vacatur, see the “Fellowship Updates” section of this report.

[3] Some resources include: the CSE Institute; Polaris Project; Shared Hope International; World Without Exploitation; the Department of Human Services; Friends of Farmworkers; Pennsylvania Alliance Against Trafficking in Humans; Pennsylvania Coalition Against Domestic Violence; Pennsylvania Coalition Against Rape; Pennsylvania Commission on Crime and Delinquency.

[4] 18 Pa. Cons. Stat. Ann. § 3065 (2018). For more details, see the “Law on the Books” section of this report.

[5] See 63 Pa. Cons. Stat. Ann. § 6303(b.1) (2018).

[6] 1 (888) 373-7888 The Hotline is available 24/7, by call or text.

[7] For more information on trauma-informed lawyering,

see the “How Trauma Informed Lawyering Skills Empower Survivors” section of this report; see NHS Lanarkshire, *Trauma and the Brain*, YouTube (Sep. 21, 2015), <https://www.youtube.com/watch?v=4-tcKYx24aA&t=20s>.

[8] See M. Harris and M. R. Fallot, *Using a Trauma Informed Approach*, OVCTTAC, (2001) <https://www.ovcttac.gov/taskforceguide/eguide/4-supporting-victims/41-using-a-trauma-informed-approach/>.

4.3 Impact Litigation Watch

[1] See, e.g., *Doe v. Backpack.com, LLC*, 817 F.3d 12 (1st Cir. Mass. March 14, 2016); *E.B. v. Motel 6 Operating L.P.*, Docket No. 170500487 (Pa. Comm. Pleas Ct. May 02, 2017); Jane Doe’s First Amended Petition, *Doe, Jane v. Facebook Inc.*, Docket No. 201869816-7, (Tex. Dist. Ct. Oct. 01, 2018); Plaintiffs’ Original Complaint for Damages, *Jane Does #1 through #50 v. Salesforce, Inc.*, Docket No. CGC19574770, (Cal. Super. March 25, 2019).

[2] See, *Doe v. Backpack.com, LLC*, 137 S. Ct. 622 (2017).

[3] See, Stay of Proceedings Order Denied, *Ambrose Yvonne v. Backpack, LLC*, Docket No. 2017-L-004979, (Ill. Cir. Ct. May 17, 2017).

[4] See, Appeal on Order Denying Motion to Stay, *Ambrose Yvonne v. Backpack, LLC*, Docket No. 2017-L-004979, (Ill. Cir. Ct. May 17, 2017).

[5] See, Motion to Dismiss, *Ambrose Yvonne v. Backpack, LLC*, Docket No. 2017-L-004979, (Ill. Cir. Ct. May 17, 2017).

[6] See, Complaint, *C. A. v. Wyndham Worldwide Corporation*, Docket No. 190303355, (Pa. Comm. Pleas Ct., March 26, 2019).

[7] See, Complaint, *B.H. v. Wyndham Worldwide Corporation*, Docket No. 190303356, (Pa. Comm. Pleas Ct., March 26, 2019).

[8] See Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation, *Report on Commercial Sexual Exploitation in Pennsylvania Spring 2018* at 16-17, <https://cseinstitute.org/wp-content/uploads/2018/05/2018-report-final-B-2.pdf> (2018).

[9] See, *M.B. v. Roosevelt Inn*, Docket No. 170300712 (Pa. Comm. Pleas Ct. March 10, 2017).

[10] See, *E.B. v. Motel 6*, Docket No. 170500487 (Pa. Comm. Pleas Ct. May 2, 2017).

[11] See, Order 152, *M.B. v. Roosevelt Inn*, Docket No. 170300712 (Pa. Comm. Pleas Ct. March 10, 2017).

[12] See, Salesforce, *Products*, <https://www.salesforce.com/products/> (last visited April 19, 2019). Salesforce does customer relationship management for online platforms. *Id.* It claims to “win customers more easily,” “keep your customers happy,” “find new potential customers,” “get insight into your customers.” *Id.*

[13] See, Jane Doe’s First Amended Petition, *Jane Doe v. Facebook, Inc.*, Docket No. 201869816-7, (Tex. Dist. Ct. Oct. 01, 2018).

[14] See, *Jane Doe (as next friend of J D #19) (A minor sex trafficking victim) v. Facebook, Inc. (D/B/A Instagram)*, Docket No. 201916262-7, (Tex. Dist. Ct. March 5, 2019).

[15] See, Plaintiffs’ Original Complaint for Damages, *Jane Does #1 through #50 v. Salesforce, Inc.*, Docket No. CGC19574770, (Cal. Super. March 25, 2019).

[16] See, e.g., Chapter 11 Voluntary Petition, *In re: The Weinstein Company Holdings, LLC*, Case No. 18-10601, (Bankr. D. Del. March 19, 2018) (displaying Weinstein Company’s declaration of bankruptcy earlier this year). See also Elahe Izadi, *The Weinstein Co. Declares Bankruptcy. Here’s What That Means and What Could Be Next*, THE WASHINGTON POST, <https://www.washingtonpost.com/news/arts-and-entertainment/wp/2018/03/20/the-weinstein-company-declares-bankruptcy-heres-what-that-means-and-what-could-be-next/> (March 20, 2018); Bishop Accountability, *Bankruptcy Protection in the Abuse Crisis*, <http://www.bishop-accountability.org/bankruptcy.htm#Portland> (2018).

[17] See Izadi, *supra* note 16.

[18] See Chapter 11 Voluntary Petition, Case No. 18-10601; *Bankruptcy Protection in the Abuse Crisis*, *supra* note 16.

[19] Stop Enabling Sex Traffickers Act of 2017, 115 S. 1693 (2017-2018).

Allow States and Victims to Fight Online Sex Trafficking Act of 2017, 115 H.R. 1865 (2017-2018).

5.1 A Local Survivor Voice: Tammy McDonnell

[1] In-person Interview with Tammy McDonnell (Apr. 11, 2019).

[2] Dawn’s Place works to improve the lives of women trapped by, or at risk for CSE, by providing housing, trauma recovery services, vocational trainings and other services, www.ahomefordawn.org.

5.3 The Nuances of “Decriminalization”

[1] See Michelle Madden Dempsey, *Decriminalizing Victims of Sex Trafficking*, 52 AM. CRIM. L. REV. 207 (Spring, 2015).

Available at SSRN: <https://ssrn.com/abstract=2510916> or <http://dx.doi.org/10.2139/ssrn.2510916>.

[2] See Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation, *Why Focusing on Demand for Commercial Sex is an Effective Means to Deter Commercial Sexual Exploitation*, <http://cseinstitute.org/wp-content/uploads/2015/06/Why-Focusing-on-Demand-for-Commercial-Sex-is-an-Effective-Means-to-Deter-Commercial-Sexual-Exploitation.pdf> (last visited May 8, 2018).

[3] See Michael Shively, et. al, *A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts, Final Report*, THE NATIONAL INSTITUTE FOR JUSTICE, (June, 2012), <https://www.ncjrs.gov/pdffiles1/nij/grants/238796.pdf>.

6. How Trauma-Informed Lawyering Skills Can Empower Survivors

[1] See Laurie Anne Pearlman and Karen W. Saakvitne, *Trauma and the Therapist*, (1995).

[2] See Esther Giller, *What is Psychological Trauma?*, SIDRAN INSTITUTE, <https://www.sidran.org/resources/for-survivors-and-loved-ones/what-is-psychological-trauma/> (May 1999).

[3] See Jon G. Allen, *Coping with Trauma: A Guide to Self-Understanding* (1995).

[4] *Id.*

[5] See *supra* note 3.

[6] See *supra* note 2.

[7] See *supra* note 2.

[8] See *supra* note 2.

[9] See NHS Lanarkshire, *Trauma and the Brain*, YouTube (Sep. 21, 2015), <https://www.youtube.com/watch?v=4-tcKYx24aA&t=20s>.

[10] *Id.*

[11] See Lisa Conradi, et. al, *Trauma-Informed Care*, ENCYCLOPEDIA OF SOCIAL WORK (2013) <http://oxfordre.com/social-work/view/10.1093/acrefore/9780199975839.001.0001/Acrefore-9780199975839-e-1063>.

[12] *Id.*

[13] See Roger D. Fallot and Maxine Harris, *Creating Cultures of Trauma-Informed Care (CCTIC): A Self-Assessment and Planning Protocol Community Connections*, COMMUNITYCONNECTIONS(2009)<https://www.theannainstitute.org/CCTICSELFASSPP.pdf>.

[14] *Id.*

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.

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Thank you to LBDesign for the design and development of our website.



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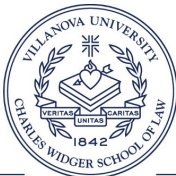
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