

**Looking Back,
Looking Forward:
Examining 20 Years
of Minnesota's
Response to Sex
Trafficking**



The Advocates

FOR HUMAN RIGHTS

Looking Back, Looking Forward: Examining 20 Years of Minnesota's Response to Sex Trafficking



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This report is dedicated to the strength and wisdom of people with lived experience in Minnesota and to the struggle to secure their human rights.

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TABLE OF ACRONYMS

4P Model	Prosecution, Protection, Prevention, and Partnerships
BCA	Bureau of Criminal Apprehension
BIPOC	Black, Indigenous, and other People of Color
COVID-19	Coronavirus disease 2019 (SARS-CoV-2)
DPS	Department of Public Safety
FOSTA-SESTA	Fight Online Sex Trafficking Act and the Stop Enabling Sex Traffickers Act
HITF	Human Trafficking Investigators Task Force
LEAD	Law Enforcement Assisted Division/Let Everyone Advance with Dignity
LGBTIQ+	Lesbian, gay, bisexual, transgender (or “trans”), intersex, and queer plus
MDH	Minnesota Department of Health
MMAAW	Minnesota Missing and Murdered African American Women Office
MMIR	Minnesota Missing and Murdered Indigenous Relatives Office
MMIW	Missing and Murdered Indigenous Women
NCMEC	National Center for Missing and Exploited Children
NGO	Non-governmental organization
OJP	Office of Justice Programs
SHYIP	Safe Harbors Youth Intervention Project
TFGBV	Technology-facilitated gender-based violence
TRUST	Tribes United Against Sex Trafficking
TVPA	U.S. Trafficking Victims Protection Act (2000)
TVPRA	U.S. Trafficking Victims Protection Reauthorization Act (2003, 2005, 2008, 2013, 2017, 2018)

EXECUTIVE SUMMARY

Sexual exploitation and sex trafficking are complex human rights issues involving the violation of a range of fundamental human rights, including the right to liberty, security, and movement. An effective response should recognize that all people, regardless of race, sex, language, national or social origin, or other status, are entitled to justice, protection, and accountability. In the context of sexual exploitation and trafficking, every person should be guaranteed basic human rights, including, among others: life, liberty, and security of person; freedom from slavery or servitude; freedom from torture; and an effective remedy before the courts. All victims and/or survivors of sex trafficking are entitled to human rights, regardless of whether they are seeking to escape exploitation, facing prosecution for acts of forced criminality, or testifying against a trafficker. It is certainly important to redress violations, but states must also work to end sexual exploitation and trafficking through prevention efforts that address people's physical, mental, social, and economic needs.

In the last 20 years, the State of Minnesota has made significant progress in its response to sex trafficking through its enactment of the Safe Harbor laws and use of the No Wrong Door service model. These initiatives prompted changes in policy and practice that reoriented Minnesota's anti-sex trafficking protection and prosecution systems toward more victim-centered, trauma-informed approaches. By using this new approach, service providers have improved how they work together to the benefit of people with lived experience in sex trafficking. Overall, Minnesota's strategy for responding to sex trafficking has produced commendable results. The state, however, must continue to improve its efforts. Many people in need of services are still not accessing them, while others remain ineligible for help under the current statutory framework.

In addition, Minnesota's sex trafficking prevention efforts require substantial investments to remove structural inequalities that foster vulnerabilities and push people into sex trafficking. The root causes of vulnerability to sex trafficking are embedded in social and cultural norms, as well as institutional systems that perpetuate discrimination and inequality. Historically marginalized groups remain underserved and under-represented during planning and implementing sex trafficking laws, policies, and services. An intersectional approach that prioritizes lived experiences, needs, and different perspectives is essential to succeed in preventing sex trafficking. A zero-tolerance policy toward exploitation will help shift cultural norms and hold traffickers accountable for the harm they have caused.

This report presents to different stakeholders a self-reflection from systems actors on the state's response to sex trafficking, highlighting successes and opportunities. This evaluation aims to provide firsthand insights on the key trends that emerged from our fact-finding, to inform the work of system actors, policymakers, community advocates,

and people with lived experience. We hope that these findings will be useful in enhancing prosecution efforts, protecting victims, improving current initiatives, and ultimately preventing sex trafficking. The findings will also provide key insights for The Advocates' Framework for Action outlining future recommendations to prevent and respond to sex trafficking.

METHODS AND STAKEHOLDER PARTICIPATION

In preparing this report, The Advocates for Human Rights and Faegre Drinker conducted more than 130 interviews with a range of stakeholders in sex trafficking prevention and response from across Minnesota.¹ The authors selected interviewees based on knowledge of, and existing connections with, the community built over years of The Advocates' work on sex trafficking in Minnesota, as well as recommendations from other stakeholders. These interviews included law enforcement agents, prosecutors, service providers, advocates, nonprofit personnel, educators, people with tribal affiliation, and experts on historically marginalized communities.

The Advocates held several group consultation sessions with sex trafficking subject matter experts and representatives from the sex work community. These sessions provided input from subject matter experts to ensure that the approach, terminology, and recommendations of the report are inclusive and respectful of those affected by sex trafficking and exploitation. The sessions also identified gaps in information as well as overlooked issues. Each group session involved up to six people comprising sex workers, people with lived experience in sex trafficking and exploitation, or people who otherwise do or have engaged in transactional sex.²

FINDINGS

Conversations with a range of stakeholders, consultations with persons with lived experience, and secondary research revealed the following trends and core issues requiring attention in Minnesota's anti-sex trafficking strategy.

Prevention requires eliminating systemic inequalities and institutionalized discrimination. Stakeholders consistently emphasize that the root causes of exploitation must be addressed through social change that goes beyond responding on an individual-by-individual basis. Public perception and policy must reflect a renewed understanding of the connections between exploitation and the denial or

¹ Primary data collection for this report largely took place during the COVID-19 pandemic. To respect public health mandates, support documentation of perspectives, and eliminate transportation barriers to participation, many individual interviews and group consultation sessions were conducted through online platforms such as Zoom and Microsoft Teams. In all cases, data recording and subsequent analysis prioritized confidentiality of contributors.

² For a discussion of the terminology used in this report to describe individuals and actions related to sex trafficking, sexual exploitation, and transactional sex, see page 18.

violation of human rights caused by historic marginalization and racism. For example, wraparound services that meet multiple needs can be a means to both acknowledge and address the interconnection of different risk factors. Nevertheless, commitments to change will be meaningful only if they are developed with inclusive representation and if they are adequately funded.

The multidimensional nature of poverty is not reflected in Minnesota's law, policy, or social security programs. A person whose basic needs, such as food, housing, or health care, are unmet, lives in a constant state of insecurity. Often communities and actors attribute total responsibility for these insecurities to the person and their choices. Instead, the system must look beyond the person and examine the laws and policy choices that produce weak or non-existent social safety nets. For example, the disproportionate geographic distribution of services creates gaps in support for people in rural areas. Another example is how the criminal justice system creates barriers for people with a criminal history to obtain public support or services. In turn, these barriers make it challenging for people to reintegrate back into society, forcing them to rely on more precarious approaches to meet their basic needs. A multi-sectoral analysis should guide law and policy change across civil, economic, and social arenas to reduce the likelihood of people being exploited or trafficked as the means of satisfying their most basic needs.

Poor mental health and limited psychosocial support are prominent risk factors for trafficking. A person's prior experience with abuse, neglect, isolation, and unhealthy relationships puts them at greater risk of exploitation from a trafficker's manipulation. Also, there are insufficient specialized services for people with mental health conditions and not enough service providers who are well-versed in the mental health effects of trafficking. The stigma around mental health causes additional barriers to people seeking the help they need. If a person's trauma and substance use disorders remain untreated, their vulnerability increases their risk of being recruited into trafficking. Mental health and psychosocial support must become more available, accessible, and acceptable to prevent this susceptibility to trafficking and to more effectively respond when a person experiences exploitation.

Trafficking remains a taboo subject in many communities, limiting the prospects of prevention and response programming. Minnesota's Safe Harbor law increased public awareness and changed public perceptions of people with lived experience in sex trafficking. The Safe Harbor initiatives fostered a shift away from victim-blaming, while creating a sense of communal solidarity to combat sex trafficking. With increased awareness of the prevalence of sex trafficking in their communities, people began to take action to support prevention, education, and resource allocation. Much work remains to normalize discussions and to work towards eliminating the stigma related to the experience of being trafficked among certain communities. The state can

leverage its Safe Harbor achievements and highlight communities where sex trafficking is no longer a taboo subject.

Legal reform is necessary to guarantee access to justice for everyone affected by trafficking and exploitation. Minnesota's Safe Harbor law currently limits its legal protections and trafficking services to victims and survivors aged 24 or younger. The total population of trafficked people includes many outside of this age range. Removing the exclusionary age limit will promote access to justice and essential resources for all trafficked people. In addition, male and LGBTIQ+ victims of trafficking fall outside of the conventional conception of trafficking victims and are under-recognized, underserved, or required to rely on services that are not tailored to meet their specific needs.

Increased training has catalyzed partnerships but should increase their focus on cultural awareness and the specific needs of different marginalized communities. Safe Harbor increased the quality and breadth of information in anti-sex trafficking training. More actors within the criminal justice and social services systems are better prepared to identify potential victims, to make cross-stakeholder referrals, and to cooperate across jurisdictions. Training is still needed to address actors' internal biases and privileges and victims' cultural differences and needs. In addition, training is not consistently available statewide, meaning educational outreach can be limited or challenging, depending on location.

Trafficking is pervasive, and support must be available to all people with lived experience of being exploited. Safe Harbor and No Wrong Door made immense improvements to the availability of support and stakeholders' perceptions of people who have been trafficked. Minnesota can build on this success by abolishing age barriers to support, reaching marginalized communities, and improving training of service providers and authorities to eliminate biases and stereotypes. In Minnesota's current systems, institutional biases reinforce the burden of criminal liability, making it challenging for people with lived experience to access services. On the other hand, even if a person's record is free from criminal charges, they may still face obstacles in receiving services for various reasons. In these cases, many service providers require people to prove their lived trafficking experience. As a result, those seeking support must conform to service providers' visions of how sex trafficking victims present and behave to qualify for providers' services. Instead of helping these victims, these requirements exacerbate victims' trauma and may discourage them from seeking resources that may benefit them. All service providers in Minnesota should renew and enhance their commitment to a victim-centered, trauma-informed approach to break the cycle of rejection and become supportive resources, rather than more obstacles for victims.

Fear often deters victims from reporting their sex trafficker and exiting a trafficking situation. Sex traffickers prey on the vulnerabilities of people to recruit and control them for sexual exploitation purposes. Exiting from trafficking is a challenge for victims because traffickers usually retain a degree of power over them. As a result, victims often refrain from reporting their traffickers or cooperating with authorities for fear that their trafficker will cause them harm. Other victims may be unable to exit because for fear that they will not find other economic opportunities, especially if they were charged for other crimes as a result of their sex trafficking. The absence of authorization to work in the United States increases the susceptibility of undocumented foreign nationals to become sex trafficking victims. Sex traffickers are aware that immigrants often face economic hardships upon their arrival in the United States, which serves as a window to identify and recruit vulnerable people. Victims' fears of deportation, possible loss of child custody, and community stigma, along with language barriers and other obstacles, serve as levers for traffickers to control and exploit their victims.

The key to protection and prosecution is trust and acceptance. Partnerships between law enforcement and social services must be built on mutual commitment to a trauma-informed approach driven by people with lived experience. Victims must be seen as partners in protection and prosecution efforts and not as passive recipients of aid. Building trust so that victims share information when they are ready not only helps promote their autonomy but also builds a relationship between the person and systems actors. Law enforcement and service providers should meet basic needs on unconditional terms in order to convey concern and to build trust with individual victims.

Trauma-informed practices and resourceful strategies must be used to promote justice in the prosecution of sex traffickers. Victims are often reluctant to testify against their traffickers. Many victims fear facing their traffickers again, while others do not want their trauma to resurface by sharing their story in exchange for a verdict. Moreover, there is little incentive to take these risks when securing restitution is onerous and unlikely. In response to these concerns, some prosecutors and law enforcement officers expect and plan for victim-absent prosecutions that do not rely on victim cooperation. These actors have developed multi-jurisdictional and multi-sectoral partnerships to facilitate the investigation and prosecution processes for trafficking cases.

Minnesota needs to increase its support of law enforcement officers, prosecutors, and service providers involved with sex trafficking prevention, protection, and prosecution. Teams across all areas of anti-sex trafficking work are understaffed and their programs do not have the resources that victims and survivors need. Overstretched staff face vicarious trauma and burnout, fueling turnover that causes loss of institutional memory and loss of connections among stakeholders. This turnover also diverts limited resources to staff recruitment and development. The strain on staff and resources sometimes causes de-prioritization of sex trafficking cases and undermines the

progress made by the Safe Harbor law and No Wrong Door policy. As a result, the state should provide additional support and investment in the systems that support law enforcement officers, prosecutors, and service providers to improve the coordination, investigation, and prosecution of sex trafficking.

RECOMMENDATIONS OVERVIEW

The Advocates for Human Rights analyzed interviews and subject matter expert consultations to identify initial recommendations and values regarding Minnesota's sex trafficking prevention efforts and to improve on approaches to protection and prosecution. Oftentimes, The Advocates included insights of stakeholders in the report's recommendations. Recommendations may also be understood as applying across systems, implicating sectors and stakeholders on many levels of authority who play different and often concurrent roles in prevention, prosecution, and protection efforts.

These recommendations are intended to guide the upcoming Framework for Action process, when The Advocates will engage groups that are affected by, and particularly vulnerable to, sex trafficking in order to plan next steps in prevention work. Many of the recommendations will take long-term efforts to realize the social, policy, and legal changes required to address the underlying factors that drive sex trafficking. This commitment requires substantial investment in social services, attitudinal change, and an enduring commitment from the local to the statewide level. Because root causes of sex trafficking relate to social order, cultural norms, trust, transparency, and accountability, they touch on various arenas of public life. Success in sex trafficking prevention, protection, and prosecution will continue to hinge on how partnerships are developed and leveraged to bring this form of exploitation to an end.

INTRODUCTION

Sex trafficking is a human rights violation whereby a trafficker gains profit in exchange for the sexual exploitation of another. A trafficker exerts control over a person by continuously violating their fundamental human rights, especially their rights: to life, liberty, and security of person; to be free of slavery or servitude; to freedom from torture, and to freedom of movement. Through these violations, perpetrators increase both their control over, and the level of harm inflicted on, their victims.

As sex trafficking and exploitation are interrelated with many human rights violations, an effective approach will prioritize a progressive response to sex trafficking that focuses on prevention, protection, and prosecution. The common thread throughout these three responses is partnerships. Partnerships will unite all processes when all stakeholders collaborate to maximize the quality and effectiveness of prevention, protection, and prosecution work. Therefore, a holistic and robust response to sex trafficking will involve four interwoven components: prevention, protection, prosecution, and partnerships.

In terms of protection, the objective is to provide resources for people who identify as victims in seeking support, reparations, and justice. The principal focus for these protection efforts is to provide tools for victims to move forward from their abusive experiences while ensuring their safety from their perpetrators and other relevant parties. For protection efforts to be successful in the long term, the commitment to maintaining trauma-informed, victim-centered interactions must remain at the center of this work.

For sex trafficking prosecution, the objective is to hold perpetrators accountable for their role in sex trafficking. Prosecution efforts must also ensure that reparations and restitution are available and accessible to victims. The criminal justice system also must address their legal needs, such as expunging a criminal record resulting from sex trafficking.

The goal of prevention is to eradicate sex trafficking in the long run and stop the human rights violations from happening in the first place. Prevention efforts focus on eliminating conditions that restrict individual agency and freedom by analyzing, creating, and putting into practice solutions that overcome structural inequalities and discrimination. For prevention efforts to be successful, the commitment to address these root causes of vulnerability that fuel exploitation must remain at the center of this work.

Inequalities embedded in society related to discrimination exacerbate vulnerability for particular social groups such as Native Americans, Black people, non-citizens, LGBTIQ+ people, people with substance use disorders, and people with a history of trauma, abuse, isolation, or sexual assault. Traffickers understand these vulnerabilities and risk

factors and seek to exploit these people whose rights have been violated or denied. In addition, traffickers often force people they are exploiting to commit illegal acts, further ensnaring them within their control. Vulnerability to trafficking can be greatly reduced by ensuring the human rights of all through means that recognize each person's unique social position and experience. A rights-based approach to working with victims or survivors of trafficking supports restoration of their sense of dignity and wellbeing.

In 2005, Minnesota took a stance against sex trafficking when it passed its first sex trafficking law. Since that historic moment, the state has recognized that sex trafficking is a complex phenomenon that requires a series of robust strategies to protect the victims and to discourage the perpetrators. Over the last 20 years, Minnesota has demonstrated its commitment to reducing sex trafficking by proposing initiatives, such as the Safe Harbor laws, that focus on reforming existing legislation and creating systematic responses to sex trafficking. Use of the Safe Harbor laws brought positive changes for Minnesota as it increased the state's power to address sexual exploitation and provided greater protective measures for victims of sex trafficking. Furthermore, the introduction of the No Wrong Door model and the increase in the scope of the Safe Harbor law to include access to relief services and support for victims 24 years of age and younger have proved to be very helpful to victims.

Current funding for Safe Harbor services is distributed through grants provided to Regional Navigators serving twelve regions throughout the state.³ The Regional Navigators are responsible for developing region-specific plans for how to utilize those funds to provide resources to sexually exploited youth in the region.⁴ Many interviewees identified the state's Regional Navigator program as a positive development from Safe Harbor.⁵ Regional Navigators have enhanced access to, and the delivery of, services. For example, they have improved victims' access to services in rural areas by their presence in Greater Minnesota.⁶ Others have commended them for their swift response to kids in crisis.⁷ For law enforcement officers, Regional Navigators' connections with persons

³ Minn. Stat. § 145.4717 (2023). Funding is sourced, in part, from penalty assessments under Minn. Stat. § 609.3241 (2023), which provides that 40 percent of the penalties assessed against an adult convicted of violating a law related to criminal sexual conduct must be deposited into a Safe Harbor for Youth account for distribution to organizations that provide services to sexually exploited youth. Minn. Stat. § 609.3241 (2023). This statute dictates fines, and the manner of distribution of those fines, for adults convicted of violating Minn. Stat. §§ 609.27, 609.282, 609.283, 609.322, 609.324, 609.33, 609.354, 617.246, 617.247, 617.293 (2023), "while acting other than as a prostitute." Funding is also provided in part by Minn. Stat. § 609.5315 (2023), subd. 5c, which requires that 40 percent of the funds forfeited from a conviction related to sex trafficking or prostitution be distributed to the Safe Harbor for Youth account.

⁴ Minn. Stat. § 145.4717 (2023).

⁵ See, e.g., Interview 14; Interview 39; Interview 78.

⁶ See Interview 25. *But see*: Section on Rural Services on page 81.

⁷ Interview 44.

with lived experience have opened up more lines of communication.⁸ Navigators' messaging has contributed toward an overall shift toward a more victim-centered tone.⁹ Others observed how the Regional Navigator program has increased training for both stakeholders and the general public.¹⁰

Overall, the consensus is that the state has demonstrated its commitment to combatting sex trafficking not only through adopting Safe Harbor but also by creating thorough networks to address sex trafficking.¹¹

As a result of these changes in policy and practice, Minnesota has reoriented its anti-sex trafficking response and prevention to become more focused on victim-centered, trauma-informed, cultural appropriate approaches, as well as increased multisectoral cooperation and coordination. Although Minnesota's sex trafficking response remains on a positive trajectory, the state must continue making improvements to provide more sustainable access to protection, support, services, and justice for all those affected by sex trafficking throughout the state.

In this report, The Advocates for Human Rights and its partners focus on understanding root causes that drive sex trafficking and identifying primary prevention actions to reduce and eliminate systemic vulnerability. At the same time, a review of ongoing protection and prosecution approaches reveal areas where additional improvements will fortify the entire sex trafficking response system in the state.

This report presents to different stakeholders a self-reflection from systems actors on the state's response to sex trafficking, highlighting successes and opportunities. This evaluation aims to provide first-hand insights on the key trends that emerged from our fact-finding, to inform the work of system actors, policymakers, community advocates, and people with lived experience. We hope that these findings will be useful in enhancing prosecution efforts, protecting victims, improving current initiatives, and ultimately preventing sex trafficking. The findings will also provide key insights for The Advocates' Framework for Action outlining future recommendations to prevent and respond to sex trafficking.

SUMMARY OF PROCESS

In 2008, The Advocates released the Sex Trafficking Needs Assessment report ("2008 Report"). This current report evaluates Minnesota's progress in implementing recommendations from the 2008 Report. It also discusses how Minnesota has addressed the new challenges that have arisen in the course of combatting sex trafficking since 2008, taking into account how the collective understanding of sex

⁸ Interview 14.

⁹ See Interview 56; Interview 81.

¹⁰ Interview 78.

¹¹ Interview 14.

trafficking has evolved. This report is the first step in creating a blueprint with recommendations on how Minnesota can further prevent sex trafficking and honor the value of all who have been trafficked or are at risk of being trafficked or exploited.

Methodology

The Advocates for Human Rights, in partnership with the law firm of Faegre Drinker, carried out fact-finding to examine the state's response to preventing and addressing sex trafficking. The team interviewed more than 130 stakeholders, including representatives of civil society, government employees, law enforcement, attorneys, advocates, prosecutors, judges, and others with roles in the criminal justice system. Interviewees were based throughout the Metro Area and Greater Minnesota. The Advocates carried out desk research to supplement the first-hand information. Finally, The Advocates consulted with persons with lived experience and subject matter experts to seek their expertise and insights on the report, as described below in Report Engagement.

Report Engagement

Recognizing that an assessment is incomplete without substantial inclusion of the voices of those directly affected, The Advocates contracted with experts with lived experience to enrich and inform the investigation process and resulting report. Their expert input primarily concerned: (i) framing and language, with the goal of ensuring that the report is respectful, inclusive, and accurate in its representation of people affected by Minnesota's legal response to sex trafficking; (ii) context, aiming to ensure that the data from systems actors is accurately understood and contextualized, and (iii) identification of potential data gaps—both identifying where additional data is needed and acknowledging data limitations. Finally, this engagement of subject matter experts reinforces the importance of centering the voices of those with lived experience at the heart of any response to sex trafficking.

Post-report Engagement

Based on the report's findings and recommendations, The Advocates will work with individuals with lived experience in the sale or trading of sex and system actors to develop a Framework for Action. This framework will propose guidance for Minnesota's next steps to effectively prevent and respond to sex trafficking. As the Safe Harbor 2011 process demonstrated, a stakeholder engagement process to envision and plan the implementing model helps promote the effective application of laws, identify and develop the necessary infrastructures, and recognize and minimize unintended consequences. This Framework for Action process will be guided by the perspectives of people who have subject matter expertise or who have been affected by sex trafficking or systems that fuel sex trafficking and exploitation. Their insights will enable us as a community to evaluate concrete steps to strengthen and expand prevention

actions within a human rights framework to ensure that people can meet their basic needs, fulfill their aspirations, and live free from discrimination and violence.

Language and Perspectives

This report is grounded in The Advocates' past experience with, and its commitment to, this issue, including our time-tested monitoring methodology, our advocacy for the Safe Harbor Law, and our continued work on trafficking in Minnesota. The Advocates remains committed to respecting the self-identification and agency of those impacted by trafficking and exploitation. The Advocates acknowledges that, as stated by the United Nations' Office of the High Commissioner for Human Rights "[v]iolations of human rights are both a cause and a consequence of trafficking in persons."¹² Consequently, those who have suffered harm related to trafficking are victims of human rights violations. We recognize individuals' autonomy and agency in self-identifying as they desire and respect how they choose to identify, whether as a victim, sex worker, subject matter expert, or other identity.

Sex trafficking is rooted in oppression and occurs when someone's vulnerabilities intersect with a demand for sex.¹³ In this report, The Advocates presents different reflections about communities at higher risk of sex trafficking victimization and how systemic factors affect vulnerability to sex trafficking and exploitation.¹⁴ The terminology is complex and reflects the difficulty in drawing clear lines between different kinds of experiences. Many interviewees use sex trafficking and sexual exploitation interchangeably and also use both terms to refer to the entire spectrum of experiences of trading or selling sex. Some of this conflation stems from the state's protective services, which are designed for youth experiencing sex trafficking or commercial sexual exploitation. The criminal justice system, in contrast, focuses on sex trafficking as defined under Minnesota's criminal statute and offers a much narrower definition.¹⁵ Where relevant, The Advocates tries to distinguish between sex trafficking and sexual exploitation, but prevention and protective services address dynamics common to both. Accordingly, the distinction is not always preserved.

This report frequently uses the term "victim" to refer to people involved in the sale or trading of sex, but our reflections and recommendations may apply to those who do not identify as being victims of sex trafficking or exploitation. In doing so, we recognize systemic failures and harmful practices and policies often overlap, are not mutually

¹² Recommended Principles on Human Rights and Human Trafficking on United Nations Office of the High Commissioner for Human Rights, "Human Rights and Human Trafficking," Fact Sheet No. 36, VI (2014), https://www.ohchr.org/sites/default/files/Documents/Publications/FS36_en.pdf.

¹³ See, e.g., Interview 73.

¹⁴ See *infra*, sections under 'Root Causes of Sex Trafficking.'

¹⁵ See Minnesota Statute 609.321, sub. 7a.

exclusive to one situation, and that many circumstances can intersect for individuals.¹⁶ All human beings have basic needs, and when the state denies or is unable to fulfill those needs, people may decide to sell or trade sex in order to meet those needs themselves. When that decision lacks freedom of choice, autonomy, and safety, it is a violation of their basic human rights and fundamental freedoms.

Terminology

Age categories used throughout this report are influenced by Minnesota's sex trafficking legislation. Since amendments to Safe Harbor Act in 2016 raised the eligible age limit from 18 to 24 years old, most interviewees have not differentiated between adults and children in their discussion of sex trafficking issues. Whenever an interviewee spoke about Safe Harbor services, it was understood that the service users in question were under the age of 25. Throughout the report, the term "children" refers to those up to 14 years old; "youth" comprises ages from 15 to 24 years old; and 'adults' are those 25 years old and over. Some of the challenges and opportunities that the report raises may affect all age groups.

Extensive consultation with partners and experts with lived experience revealed nuanced differences in the language they used to identify people involved in sex trafficking; the terms differed depending on the level, perspective, and focus of those interviewed. Two key approaches to language emerged: (1) the use of terms derived from law to investigate its potential as a tool for change and to identify where laws need to evolve, and (2) the use of terms reflecting the experience and perspective of persons with lived experience as a way to respect and empower them. The Advocates recognizes the power of language in reflecting and affecting social order and conditions and has adopted terminology that supports the dignity and captures the experiences of people involved with sex trafficking. This difference in language, as set out in this subsection, appears throughout the report, and it should be considered within the context of sex trafficking in Minnesota. Accordingly, what we deemed the most appropriate or accepted terminology in Minnesota may not apply in other contexts.

Although the explanation below sets out a general sense of how terminology is used throughout this report, there is always a degree of subjectivity in determining the most appropriate way to refer to a person or act. The section below presents conclusions from focus group discussions with subject matter experts, and The Advocates validates

¹⁶ Rainbow Research, University of Minnesota Urban Research and Outreach-Engagement Center, The Advocates for Human Rights, *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, by Lauren Martin, Christina Melander, Katie Fritz Fogel, Beki Saito, Michele Garnett McKenzie, Rosalyn Park, (October 2018), 114, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>.

and respects all differing preferences of people with lived experience concerning how people and acts are discussed.

The Person

A person who experienced sexual exploitation is referred to as a “person with lived experience.” The term recognizes the autonomy of the person—who may or may not choose to identify themselves as a survivor or victim—and avoids unintentional judgment or assumption about such experiences. The terms “survivor” and “victim” are used with caution and only when quoting interviewees or in the context of trauma-informed services and legal procedures. According to subject matter experts, each comes with a particular association:

- “survivor” is seen as a restrictive label that places one’s value solely on their experience with exploitation and minimizes their full identity;
- “victim” is not aligned to how all people with lived experience with sex trafficking identify and therefore is not the preferred term in most cases due to its disempowering tone.

This report diverges at times from this guideline depending on context. When examining issues in relation to the law, “victim” will be used as it appears in policies and statutes. In other areas where a person is likely to identify as having suffered a harm (whether they self-identify or are related to a program intended to reach people who have suffered a harm), they are likewise referred to as a “victim.” “Sex worker” is used only when a person applies that term to themselves or when quoted directly. A person with lived experience who is involved as an expert in prevention and response actions is a “subject matter expert.” As in our consultations, the vast majority of people with lived experience are women and girls; the pronouns of “she” and “her” primarily, and “they” and “them” secondarily, are used as default, unless a person or case specifies otherwise.

The Act

“Sex trafficking” refers to the law and how the law defines it, typically in the context of its illegality and in relation to its exploitative nature. Likewise, “prostitution” and “patron” are used only when referencing the law or interviewees’ direct descriptions. This report does not use “transactional sex,” and it uses “sale or trading of sex” or “commercial sex trade” only at a macro level when focused on changes in the police and legal systems’ recognition of victims’ involvement. The phrase “trading sex out of necessity” is used to highlight the links to survival and basic needs and is preferred by subject matter experts over “survival sex.” Particularly when discussing someone who identifies as a victim, the analysis is framed within the term “sexual exploitation.” This term highlights the inherent impact on all persons with lived experience and is broader in scope than the legal definition of sex trafficking. To be inclusive of people who do not view their

engagement in transactional or commercial sex work as exploitative, "experience with sex work" is used instead of more economic terms.

The Buyer

Discussion of the person paying for sex must be understood in relation to how different terms reflect power and the implications that different labels create about acceptability and exploitation. For instance, "patron" is used only as it appears in legislation, because the term fails to recognize directly or implicitly the predation involved in sex trafficking. This report primarily uses the term "buyer" as it highlights the role of this person in the systems and processes of sexual exploitation. As explained by subject matter experts, neither "patron" nor "buyer" should be used in a way that sanitizes the role that this person plays in perpetuating cycles of exploitation.¹⁷ Outside of a legal frame, other labels in this category are maintained in the context of quotations, such as "predator," creating a juxtaposition against the vulnerability of the person with lived experience with sex trafficking, and "John," a colloquial manner of referring to a buyer.

Intersectionality

Understanding how to craft an effective response to sex trafficking requires an appreciation of the intersectional identities of people who have lived experience with this form of exploitation. "Communities of color" is used as a macro-level label that is preferred over the collective "Black, Indigenous, and other People of Color (BIPOC)," an acronym applied only if quoting an interviewee. Black (capitalization intentional), African, Latine, Asian, Indigenous, and white (lowercase intentional) communities are discussed when making broader conclusions. Sub-regional general ethnic terms may be applied as appropriate (East Asian, South Asian, Southeast Asian). Specific ethnic communities facing unique or different barriers are mentioned explicitly in relation to the country of their ethnic origin throughout the report, regardless of when or how immigration occurred and regardless of their current immigration status in the United States. Hmong people are referenced as a particular group. Indigenous tribes are similarly identified by name when it is relevant to the analysis of their experience and position. People who are not formally recognized by systems or legal processes and who do not have citizenship in the country being discussed are referred to as "non-citizens." Furthermore, lesbian, gay, bisexual, transgender (or "trans"), intersex, queer, and other sexual and gender minority individuals are discussed on a higher level under the collective acronym "LGBTIQ+."

¹⁷ See *infra*, Public Awareness section on page 59.

4 Ps: Prosecution, Protection, Prevention, and Partnerships

The cornerstone to an effective response to sex trafficking rests on four pillars: prosecution, protection, prevention, and partnerships. These standards are enshrined in international, federal, and, in part, state law.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000), entered into force on December 25, 2003.¹⁸ The United States ratified the treaty in 2005, legally binding itself to complying with and implementing its provisions.¹⁹ The United Nations Office on Drugs and Crime elaborated an International Framework for Action to Implement the Trafficking in Persons Protocol in 2009.²⁰ It outlines the four Ps in a slightly different format: the 3Ps of protection, prosecution, and prevention; plus, what it refers to as “national and international cooperation and coordination” (i.e., partnerships).²¹

The U.S. Trafficking Victims Protection Act (TVPA, 2000) follows this framework and pillars.²² The original TVPA reauthorized as the Trafficking Victims Protection Reauthorization Act (TVPRA) in 2003, 2005, 2008, 2013, 2017, and 2018, sought “to ensure just and effective punishment of traffickers, and to protect their victims,” as well as provide for prevention measures.²³ The federal law focuses its anti-trafficking activity largely on holding traffickers accountable for their crimes, and much of the Act’s language addresses identification, investigation, and prosecution of traffickers.²⁴ In terms of protection, the Act established new immigration remedies and protective

¹⁸ See UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, https://treaties.un.org/Pages/ViewDetails.aspx?src=ind&mtdsg_no=XVIII-12-a&chapter=18&clang=_en.

¹⁹ See U.S. Senate, Executive Report 109-4: UN Convention against Transnational Organized Crime (Treaty Doc. 108-16), by Richard Lugar (Washington D.C.: US Government Publishing Office, August 2005), <https://www.govinfo.gov/content/pkg/CRPT-109erpt4/html/CRPT-109erpt4.htm>.

²⁰ United Nations Office on Drugs and Crime, International Framework for Action to Implement the Trafficking in Persons Protocol, 2009, https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf.

²¹ The Framework for Action refers to partnerships as national and international cooperation and coordination.

²² U.S. Department of State, “3Ps: Prosecution, Protection, and Prevention,” accessed Aug. 4, 2023, <https://www.state.gov/3ps-prosecution-protection-and-prevention/>.

²³ Trafficking Victims Protection Act of 2000, 22 U.S.C., § 7101.102(a) (2000).

²⁴ Congress found that “[e]xisting legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.” Trafficking Victims Protection Act of 2000, 22 U.S. Code § 7101.102(b)(14) (2000).

measures for “victims of severe forms of trafficking.”²⁵ To be eligible for these protections, trafficked adults must have experienced force, fraud, or coercion.²⁶ In terms of prevention, the Act calls for international initiatives to enhance economic opportunities for potential trafficking victims as a deterrence mechanism.²⁷ It also requires the President to establish and facilitate programs directed at increasing public awareness, particularly among potential sex trafficking victims, of the dangers of trafficking and the protections that are available to victims.²⁸ These measures include programs to educate people who are applying for nonimmigrant visas regarding the illegality of slavery and the legal rights of immigrant victims of human trafficking, information on counseling, hotline resources, housing resources, legal assistance, and other services for trafficking victims.²⁹

Minnesota law centers on the prosecution of sex trafficking, the creation of partnerships, and the protection of victims under age 24. A 2006 law established an independent state-level Human Trafficking Task Force staffed by people from various disciplines to formulate the state response on human trafficking. The successor to the Task Force, the Minnesota Human Trafficking Prevention and Response Network, is currently housed in the Minnesota Department of Health’s Sexual Violence Program.³⁰ The law also established a statewide hotline for trafficked victims and tips about trafficking.³¹ Although the law contains a provision for the Commissioner of Public Safety to assess services available to trafficked persons,³² funding was appropriated only

²⁵ Trafficking Victims Protection Act of 2000, 22 U.S. Code §§ 7101.102(b)(19), 7105.107(b)(1)(B) (2000).

²⁶ Trafficking Victims Protection Act of 2000, 22 U.S. Code § 7105.107(b)(1)(C)(i) (2000).

²⁷ Trafficking Victims Protection Act of 2000, 22 U.S. Code § 7104.106(a) (2000).

²⁸ Trafficking Victims Protection Act of 2000, 22 U.S. Code § 7104.106(b) (2000).

²⁹ The Justice for Victims of Trafficking Act dictates that the Attorney General make available on the website of the Office of Juvenile Justice and Delinquency Prevention a database that provides information on counseling, hotline resources, housing resources, legal assistance, and other services for trafficking survivors. Justice for Victims of Trafficking Act of 2015, 42 U.S. Code § 5611.119 (2015). The TVPRA of 2008 called for the Secretary of State to develop an information pamphlet on legal rights and resources for non-citizens who are applying for employment- or education-based nonimmigrant visas. Among other pieces of information, the pamphlet must discuss the illegality of slavery and the legal rights of immigrant victims of human trafficking, including their right to seek redress in the United States courts and to report abuse without retaliation, and information about nongovernmental organizations that provide services for victims of trafficking. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 8 U.S. Code § 1375b.202(a)(1),(b)(3)(4)(B-C)(5) (2008).

³⁰ Minn. Sess. Law 2006, H.F. No. 4162. This law expired in 2011. See *id.* at § 11, subd. 4. The goals of the task force were to advise the commissioner of the Department of Public Safety on statistics related to sex trafficking arrests and prosecutions, the number of trafficking victims, trafficking routes, methods of transportation, and social factors that contribute to and foster trafficking. *Id.* at subd. 1; Minn. Stat. § 299A.785 (2020). The task force also assisted the commissioner by advising him regarding developing a plan to coordinate services for sex trafficking victims, including medical assistance, housing, education, job training, English as a second language, interpreting services, legal services, and compensation. Minn. Sess. Law 2006, H.F. No. 4162, <https://www.revisor.mn.gov/laws/2006/0/282/>; Minn. Stat. § 299A.795 (2020).

³¹ *Id.* § 299A.7957.

³² *Id.* § 299A.795.

for establishment of Ramsey County's Safe Harbors Youth Intervention Project ("SHYIP"),³³ the state task force, the trafficking hotline, and direct legal services to trafficked people by a nonprofit organization.³⁴

The Advocates released its first sex trafficking needs assessment in 2008, evaluating the new law and recommending changes needed to make it more effective.³⁵ The Advocates, as part of a broad coalition of organizations, worked for the passage of a statewide Safe Harbor law in 2011, which was later amended in 2013 to cover all children under age 18.³⁶ The law established a working group to design Minnesota's response to sexually exploited youth before all the provisions of the law took effect in 2014. The result of that working group process was the creation of the "No Wrong Door" model – "no matter where a sexually exploited youth or a youth at risk of sexual exploitation seeks help – no matter which door she knocks on – she will be met with an effective victim-centered response."³⁷ The network of Safe Harbor services established under the No Wrong Door model includes housing, supportive services, and regional navigators who coordinate the response in their geographic region, as well as dedicated funding for tribal efforts. Since 2014, the Legislature has provided steady increases in the funding for Safe Harbor services through the Minnesota Department of Health, which now totals \$11.5 million each biennium.³⁸

Despite the state's significant investment in prosecution, protection, and partnerships, Safe Harbor and other legislation have not, historically, directly addressed long-term prevention that targets the root causes beyond awareness-raising. Long-term prevention measures would address the root causes that make a person vulnerable to sexual exploitation and trafficking in the first place. Although the Minnesota Department of Health head of Safe Harbor services is the "director of child sex

³³ See Ramsey County, "Safe Harbors Youth Intervention Project," accessed June 10, 2024, [https://www.ramseycounty.us/residents/health-medical/clinics-services/sos-sexual-violence-services/safe-harbors-youth-interventionproject#:~:text=Safe%20Harbors%20Youth%20Intervention%20Project%20\(SHYIP\)%20granted%20by%20the%20State,focuses%20on%20intervention%20and%20prevention.](https://www.ramseycounty.us/residents/health-medical/clinics-services/sos-sexual-violence-services/safe-harbors-youth-interventionproject#:~:text=Safe%20Harbors%20Youth%20Intervention%20Project%20(SHYIP)%20granted%20by%20the%20State,focuses%20on%20intervention%20and%20prevention.)

³⁴ Toll-Free Hotline for Trafficking Victims, 299A Minn. Stat. §7957(b) (2006).

³⁵ See The Advocates for Human Rights, Sex Trafficking Needs Assessment for the State of Minnesota, by Angela Bortel, Mary Ellingen, Mary C. Ellison, Robin Phillips and Cheryl Thomas, (Minneapolis: The Advocates for Human Rights, October 2008), https://www.theadvocatesforhumanrights.org/Res/report_final_10_13_08.pdf.

³⁶ Minnesota Department of Health, "Safe Harbor Legislative Timeline," accessed August 16, 2023, <https://www.health.state.mn.us/communities/humantrafficking/safeharbor/legislativetimeline.html>.

³⁷ The Advocates of Human Rights, Safe Harbor: Fulfilling Minnesota's Promise to Protect Sexually Exploited Youth, by Beatriz Menanteau, Michele Garnett McKenzie, Rosalyn Park, (Minneapolis: The Advocates for Human Rights, February 2013).

³⁸ Personal Communication from Caroline Palmer to Madeline Lohman, on file with The Advocates for Human Rights, October 13, 2023.

trafficking prevention,” none of that director’s listed statutory duties explicitly includes prevention.³⁹

Despite stakeholder efforts, prevention was not included in the Safe Harbor statutory language.⁴⁰ One official noted that “so much of the policy could have included more prevention.”⁴¹ Once implementation began, those stakeholders who developed protocols and built out the Safe Harbor Navigator network “had to follow the legislation language”⁴² to ensure that young people who are sexually exploited receive trauma-informed care instead of being criminalized.⁴³ To be sure, this approach improved victim experiences in the state, but its focus did not prioritize primary prevention.

Nevertheless, since adopting the Safe Harbor Law in 2011, Minnesota has made substantial progress combatting sex trafficking. Over the last decade, Minnesota improved its response to trafficking by allocating significant state and local resources to the issue. Through this investment, Minnesota has become both a national and global leader in responding to sex trafficking.⁴⁴ With policy changes and commitment of resources, Minnesota has raised awareness of sex trafficking and increased understanding among stakeholders and the public about vulnerabilities and power imbalances that lead to sex trafficking. These actions created a positive shift in social norms around trafficking – including a decrease in victim blaming and shaming.⁴⁵ Minnesota has also elevated its coordination and collaboration across sectors and jurisdictions.

The state’s efforts to build and sustain partnerships in prevention, prosecution, and protection activities are reflected in all sections of this report. Under Safe Harbor, Minnesota has improved services available to youth victims, including shifting services to a victim-centered approach – one that listens to them, avoids their re-traumatization, and focuses on their safety, rights, well-being, and expressed needs. Ultimately, these changes have led to more resources devoted to intervention on behalf of victims of sex trafficking.

³⁹ Minn. Stat. §145.4716 (2021).

⁴⁰ The official noted that at the time Safe Harbor was developed, “few were thinking about prevention... and so much of the policy could have included more prevention.” Interview 36; see also *The Advocates for Human Rights, Sex Trafficking Needs Assessment for the State of Minnesota*, by Angela Bortel, Mary Ellingen, Mary C. Ellison, Robin Phillips and Cheryl Thomas (Minneapolis: The Advocates for Human Rights, October 2008), 50, https://www.theadvocatesforhumanrights.org/Res/report_final_10_13_08.pdf.

⁴¹ Interview 36.

⁴² Interview 36.

⁴³ Minnesota Department of Human Services, “Safe Harbor/No Wrong Door,” accessed June 10, 2024, <https://mn.gov/dhs/partners-and-providers/program-overviews/child-protection-foster-care-adoption/safe-harbor/>.

⁴⁴ Interview 25; Interview 39.

⁴⁵ Interview 21; Interview 22; Interview 56; Interview 68; Interview 86; Interview 93.

The following sections first explore new opportunities to expand Minnesota’s work to prevent sex trafficking, before examining the state’s post-Safe Harbor response and the successes and challenges in protecting victims of trafficking and prosecuting traffickers.

PREVENTION

The state must increase its efforts to prevent sex trafficking and exploitation. Effective prevention strategies require improvements in the underlying conditions that cause vulnerabilities. Sexual exploitation is both a consequence and cause of human rights violations. Systemic and incidental denial of peoples' rights by authorities and those acting in their stead create conditions of vulnerability. When government actions or omissions result in rights involving basic needs such as food, shelter, health, and work being violated, people living in poverty and other hardships may be compelled to secure these necessities by selling or trading sex. Moreover, they generally lack the legal and material resources to protect themselves from exploitation and other violations associated with the sex trade.

Everyone is entitled to human rights that ensure their dignity, respect, and well-being. Specifically, people have the right to adequate food, clothing, and housing; the highest attainable standard of physical and mental health; just and favorable conditions of work, including safe and healthy working conditions; protection of their family; and, freedom from discrimination.⁴⁶ Meeting these fundamental needs can mitigate the very factors that place people at risk of sexual exploitation in the first place. To effectively prevent sex trafficking, Minnesota must ensure that people's physical, mental, social, and economic needs are met. The state must respect, protect, and fulfill people's human rights, not just to redress past harms that have occurred, but also to prevent abuses before they happen.

Prevention, as defined in international standards, requires states to undertake measures to address the factors that contribute to, or increase, vulnerability to sexual exploitation.⁴⁷ For example, laws and actors should address both the demand and the other socioeconomic factors that increase risk of trafficking, such as inequality, poverty, and discrimination.⁴⁸ National, state, and local governments should ensure that public

⁴⁶ UN General Assembly, International Covenant on Economic, Social, and Cultural Rights, 1966.

⁴⁷ Working Group on Trafficking in Persons, *Report on the Meeting of the Working Group on Trafficking in Persons held in Vienna from 10 to 12 October 2011*, (Nov. 15, 2011), U.N. Doc. CTOC/COP/WG.4/2011/8, ¶¶ 10, 15; Working Group on Trafficking in Persons, *Report on the Meeting of the Working Group on Trafficking in Persons held in Vienna from 6 to 8 November 2013*, (Nov. 26, 2013), U.N. Doc. CTOC/COP/WG.4/2013/5, ¶¶ 16, 34; Working Group on Trafficking in Persons, *Report on the Meeting of the Working Group on Trafficking in Persons held in Vienna from 9 to 11 September 2019*, (Sep. 25, 2019), U.N. Doc. CTOC/COP/WG.4/2019/6, Recommendation 12; Conference of the Parties to the United Nations Convention against Transnational Organized Crime, *Report of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime on its fourth session, held in Vienna from 8 to 17 October 2008*, (December 1, 2008), U.N. Doc. CTOC/COP/2008/19, Decision 4/4 ¶ j; United Nations Economic and Social Council, *Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council: Recommended Principles and Guidelines on Human Rights and Human Trafficking*, (May 20, 2002), U.N. Doc. E/2002/68/Add.1, ¶¶ 4-5 and Guideline 7.

⁴⁸ Report of the Special Rapporteur on trafficking in persons, especially women and children, U.N. Doc. A/HRC/44/45, § 65(a-b).

policies are consistent with preventing trafficking, including policies on, *inter alia*, migration, safety, education, employment, health, economic development, and child protection.⁴⁹ Effective prevention also calls for the meaningful involvement of people who sell or trade sex and those at risk of sexual exploitation in decision-making and in the creation of policies to prevent trafficking.⁵⁰ Legal assistance must be available and accessible to people involved in the criminal justice system.⁵¹

Over the past 15 years, Minnesota has made tremendous strides in addressing the harms of sex trafficking and exploitation and enhancing justice and accountability. It reformed legislation to give prosecutors stronger tools to pursue trafficking cases. It adopted the Safe Harbor Act to ensure victims under 18 years of age would receive services, later expanding those protections to those 24 and under. Systems actors have completed training on sex trafficking and found ways to strengthen cross-sectoral collaboration.

Overall, Safe Harbor transformed Minnesota's approach to sex trafficking. The state's efforts to date have prioritized the twin goals of improving the law enforcement response and connecting victims with services.⁵² Although these approaches are essential, they respond to individuals' needs after they have become victims, rather than preventing the human rights violation before it happens.

Many systems actors recognized the need to expand efforts for prevention.⁵³ As one police officer summarized, "Many people are trapped in trafficking because they lack basic necessities, such as safety, shelter, food, housing, education, etc., that are not available to them. I think it is an issue that none of these underlying systemic issues are part of the discussion right now."⁵⁴ A child protection agent emphasized, "the county needs to be more proactive dealing with sex trafficking, with better prevention tactics in place. They are spending too much time being reactive to cases that could have been prevented."⁵⁵

⁴⁹ United Nations Office on Drugs and Crime, International Framework for Action to Implement the Trafficking in Persons Protocol, 2009, § 11.

⁵⁰ Committee on the Elimination of Discrimination against Women, General Recommendation No. 38, (November 20, 2020), CEDAW/C/GC/38, ¶ 48; *Safe Harbor for All* recommendation 10, § 125.

⁵¹ UN General Assembly, International Covenant on Civil and Political Rights, 1966, Article 14(3)(d); Committee on the Elimination of Discrimination against Women, General Recommendation No. 33 on Access to Justice, (August 3, 2015), CEDAW/C/GC/33.

⁵² Interview 100; Interview 6; Interview 17; Interview 28; Interview 66.

⁵³ Interview 81.

⁵⁴ Interview 73.

⁵⁵ Interview 107.

Focusing on prevention can also address resource constraints. The state has invested significant funds in prosecution and supportive services since 2008,⁵⁶ but the needs remain high. Without an investment in prevention, those needs, and levels of funding required, will continue to increase as the system becomes better at identifying people experiencing sexual exploitation or trafficking and recognizing the complex, multi-sector support they need to recover from the harm they have experienced. A study commissioned by the Minnesota Indian Women Resource Center found that that state investment in prevention returns about \$34 in avoided harm for each dollar of investment.”⁵⁷

Effective prevention demands collaboration and cooperation between government agencies, service providers, private partners, communities, and people with lived experience. As with a protective services response, prevention must be cross-sectoral, multi-jurisdictional, and coordinated.⁵⁸ In Minnesota, according to one official, “prevention work has been siloed from service work, and it’s hard to bring them together.”⁵⁹ The interviewee encouraged the state to “engag[e] law enforcement, prosecutors, mental health providers, educators, judges, public defenders” to collaborate on prevention.⁶⁰ This cooperation must reach across city, county, and state jurisdictional boundaries, and among the various government agencies. A lack of consistent funding and the territorial nature of some stakeholder roles, however, has made a multi-jurisdictional, multi-disciplinary approach to prevention difficult.

ADDRESSING SYSTEMIC CHALLENGES

Interviewees widely agree that effective prevention must address the systemic social failures that are the root causes of trafficking. When systems do not guarantee human rights, traffickers will readily move in to fill those needs to exploit vulnerabilities. Several interviewees highlighted traffickers’ ability to identify potential victims who are susceptible to grooming and manipulation.⁶¹ As one advocate explained, “exploiters figure out what you need and then offer it to you.”⁶² Traffickers fill physical and emotional voids by offering items such as drugs, food, shelter, clothing, affection, or

⁵⁶ A total of \$12.7 million for 2022-2023 and \$18.5 million for 2024-2025. Martin, Lauren; Lotspeich, Richard H.; Voller, Vanessa K.; Rider, G. Nic. (2024). Estimating the Fiscal Burden of Expanding Minnesota’s Response to Sex Trafficking and Exploitation: Report to the Minnesota Department of Public Health. Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/269155>.

⁵⁷ Minnesota Indian Women’s Resource Center, Early Intervention to Avoid Sex Trading and Trafficking of Minnesota’s Female Youth: A Benefit-Cost Analysis, by Lauren Martin, Richard Lotspeich, and Lauren Stark (Minneapolis: Minnesota Indian Women’s Resource Center, 2021), <https://hdl.handle.net/11299/226522>.

⁵⁸ Interview 24.

⁵⁹ Interview 36.

⁶⁰ Interview 24.

⁶¹ Interview 27; Interview 28; Interview 30.

⁶² Interview 98.

attention.⁶³ Their exploitation can be as straightforward as targeting someone who is hungry.⁶⁴ Traffickers also exploit immigration status or hold victims in debt bondage to repay money “owed” to the trafficker for food, shelter, and travel.⁶⁵ The following section describes those vulnerabilities that make a person susceptible to trafficking in the first place.

ROOT CAUSES OF SEX TRAFFICKING

Various compounding factors contribute to the risk of sexual exploitation, and anti-trafficking organizations recognize that “efforts must shift to tackling the issues that make populations vulnerable to abuse and exploitation in the first place.”⁶⁶ As a health official stated, a response to trafficking “needs to consider the social conditions and environment” as opposed to a siloed issue of “just service and response.”⁶⁷ These risk factors reflect a person’s basic needs, and they can stem from violence or marginalization someone has endured. Common risk factors include insecurity in food and housing; lack of access to health care; substance use disorder; mental health issues; a history of physical, sexual, or emotional abuse; neglect; lack of legal immigration status or dependence on others for immigration status; vulnerable age; and isolation.⁶⁸ As a nonprofit worker summarized:

Sex trafficking and prostitution all tend to be a symptom of other things, such as sexual abuse as a child, homelessness, drug abuse, racism, bad relationships, and lack of resources in marginalized communities. These risk factors of sex trafficking have been consistent for the past 200 years.⁶⁹

Knowing these risk factors, systems actors can reach at-risk populations through appropriate short-term and long-term prevention interventions designed to directly address the root causes of vulnerability.

⁶³ Interview 37; Interview 28; Interview 52; Interview 85; Interview 89.

⁶⁴ Interview 28; see also Interview 27 (stating “traffickers can easily identify victims”).

⁶⁵ Interview 23; Interview 27; Interview 14; Interview 38. See also *United States v. Ruttanamongkongul*, 2019 WL 719203, § 3 (2019) (discussing evidence presented in the case, which involved a trafficking organization that, for a large fee, brought victims to the United States and then forced the victims to engage in commercial sex acts until they paid their debt off).

⁶⁶ Freedom Network USA, Freedom Network USA’s Input for the 2023 Trafficking in Persons Report, February 1, 2023, <https://freedomnetworkusa.org/app/uploads/2023/02/FNUSA-2023-TIP-Report-Input.pdf>.

⁶⁷ Interview 36.

⁶⁸ Interview 81; Interview 29 (noting that poverty, mental health, chemical health concerns, and physical or sexual abuse are factors that increase vulnerability to trafficking); Interview 69 (noting childhood abuse and neglect, addiction, substance abuse, and poverty contribute to victimization).

⁶⁹ Interview 52.

Vulnerabilities that Arise out of Historical Marginalization and Racism

Many people have difficulty securing their basic needs, making them vulnerable to trafficking. This susceptibility is caused and compounded by institutionalized discrimination and policies that perpetuate historical and continuing marginalization and uphold longstanding systemic inequities in Minnesota. Racism, sexism, xenophobia, isolation, and transphobia contribute to the disproportionate harms experienced by communities of color,⁷⁰ LGBTIQ+ people,⁷¹ noncitizens,⁷² and persons with disabilities.⁷³

One of the many harms these communities face is the disproportionate risk of sex trafficking. The Safe Harbor for All strategic planning report, issued in 2018, as well as the Minnesota Department of Health, note that structural disparities and discrimination allow trafficking to continue and worsen.⁷⁴ As one nonprofit director explained, although African American women and girls in Minnesota are sexually exploited and trafficked at extremely high rates, Minnesota “missed the opportunity to look at this issue in the Black community and apply resources for prevention and intervention.”⁷⁵ The Missing and Murdered African American Women and Girls Task Force noted that Black girls are disproportionately likely to have factors that make them vulnerable to trafficking: “Black women are five times more likely to be incarcerated than white women; 23 percent of youth in foster care are Black.”⁷⁶ Despite this disproportionate risk, “Black women and girls often go unnoticed as victims of sex trafficking. Instead, the focus on the sex trafficking victim is a young, white woman.”⁷⁷ One government official noted that funding has tended to flow to “mainstream”

⁷⁰ Interview 30; Interview 98; Interview 25.

⁷¹ Interview 98; Interview 30.

⁷² Interview 89.

⁷³ Interview 33; Interview 36; Interview 69; Interview 85.

⁷⁴ Rainbow Research, University of Minnesota Urban Research and Outreach-Engagement Center, The Advocates for Human Rights, *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, by Lauren Martin, Christina Melander, Katie Fritz Fogel, Beki Saito, Michele Garnett McKenzie, Rosalyn Park, (October 2018), 11, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>; Minnesota Department of Health, *Safe Harbor for All: Statewide Sex Trafficking Victim/Survivors Strategic Plan*, by Caroline Palmer and Beatriz Menanteau (Saint Paul: Minnesota Department of Health, January 2019), 5, <https://www.health.state.mn.us/communities/safeharbor/documents/mdhSH4ALLreport.pdf>.

⁷⁵ Interview 24.

⁷⁶ Research in Action, *Missing and Murdered African American Women Task Force: Final Report*, by Dr. Catherine Squires, Dr. Brittany Lewis, Dr. Lauren Martin, Ariana Kopycinski, Ayize James (Saint Paul: Office of Justice Programs, December 2022), 30, <https://dps.mn.gov/divisions/ojp/offices-missing-murdered/mmbwg/missing-and-murdered-african-american-women-task-force>.

⁷⁷ Research in Action, *Missing and Murdered African American Women Task Force: Final Report*, by Dr. Catherine Squires, Dr. Brittany Lewis, Dr. Lauren Martin, Ariana Kopycinski, Ayize James (Saint Paul: Office of Justice Programs, December 2022), 30, <https://dps.mn.gov/divisions/ojp/offices-missing-murdered/mmbwg/missing-and-murdered-african-american-women-task-force>.

organizations and not those serving the most vulnerable, such as communities of color.⁷⁸

Others noted the unique vulnerability of Native Americans to trafficking due to the community's history of marginalization.⁷⁹ Indeed, as one source noted, the trauma associated with trafficking in the Native community has a lengthy past, tracing its roots to the colonial era, white expansion, forced relocation and sterilization, and the Indian Adoption Project.⁸⁰ Another report observed that:

Native women are particularly vulnerable to sexual exploitation because of homelessness, poverty, medical problems, a lack of basic services and resulting emotional distress and mental disorders. These vulnerabilities are exacerbated by the longstanding efforts by the United States government to extinguish and/or assimilate Native people.⁸¹

The effects of historical trauma are magnified when coupled with childhood sexual abuse of Native girls. A study that interviewed Native women selling sex found that 79 percent had been sexually abused as children by an average of four perpetrators.⁸² In turn, such sexual abuse escalates the risk of sexual exploitation and trafficking. One nonprofit worker estimated that Native American women are 1 percent of the state's population but comprise 25 percent of those repeatedly arrested for selling sex.⁸³ One Native stakeholder pointed out that addressing Native vulnerability to trafficking requires more than cultural support: "[o]ur conclusion was that culture plays a role in protecting and intervening; using culture can't be the only thing to improve the lives of Native Americans. Recognizing that with systemic oppression, so many different things come into play."⁸⁴ Truly combating sex trafficking, according to this interviewee,

⁷⁸ Interview 36. See also Consultation with Experts with Lived Experience, Session IV.

⁷⁹ Interview 15; Interview 25; Interview 31.

⁸⁰ See Minnesota Indian Women's Resource Center, *Shattered Hearts: The Commercial Exploitation of American Indian Women and Girls in Minnesota*, by Alexandra (Sandi) Pierce (Minneapolis: MIWRC, November 2009), 5-13, <https://www.niwrc.org/sites/default/files/images/resource/Shattered-Hearts-Full.pdf>.

⁸¹ See Minnesota Indian Women's Resource Center, *Garden of Truth: The Prostitution and Trafficking of Native Women in Minnesota*, by Melissa Farley, Nicole Matthews, Sarah Deer, Guadalupe Lopez, Christine Stark, and Eileen Hudon, (Minneapolis: MIWRC, October 2011), 10, <https://www.niwrc.org/resources/report/garden-truth-prostitution-and-trafficking-native-women-minnesota>.

⁸² Interview 47; Minnesota Indian Women's Resource Center, *Garden of Truth: The Prostitution and Trafficking of Native Women in Minnesota*, by Melissa Farley, Nicole Matthews, Sarah Deer, Guadalupe Lopez, Christine Stark, and Eileen Hudon, (Minneapolis: MIWRC, October 2011), 3 and 28, <https://www.niwrc.org/resources/report/garden-truth-prostitution-and-trafficking-native-women-minnesota>.

⁸³ Interview 47.

⁸⁴ Interview 69.

requires going beyond using cultural practices and requires investing in services and resources that address the material harms caused by this history of colonization.

Recognizing the historic and systemic violence and marginalization that Indigenous women, girls, and African American women have experienced within the state, and following crucial efforts by activists, the Minnesota State Legislature and Governor Walz's office established the Minnesota Missing and Murdered Indigenous Women Task Force (MMIW) in 2019,⁸⁵ and later, the Missing and Murdered African American Women Task Force (MMAAW) in 2021.⁸⁶ These task forces were mandated to investigate the root causes of violence affecting Indigenous women, girls, two-spirit (LGBTQQIA) people, and African American women, respectively, and to provide recommendations as a road map for policy changes, practices, and institutional reforms aimed at reducing and addressing such violence and marginalization. Both task forces issued groundbreaking reports to the state.⁸⁷

Some of the crucial recommendations made by the MMIW task force include:

- *“Focus on eliminating poverty and meeting basic needs of Indigenous women, girls, and two spirit people, and their communities, both in greater Minnesota and urban areas.”⁸⁸*
- *“Strengthen the trauma-informed and victim-centered response of law enforcement, courts, and the health care system to Indigenous survivors of sexual assault, trafficking, and violence.”⁸⁹*

⁸⁵ 2019 Minn. Laws 1st Sp. Sess. Chap. 5, Art. 2, Sec. 28.

⁸⁶ 2021 Minn. Laws, 1st Sp. Sess., Chap. 11, Art. 2, Sec. 50.

⁸⁷ See Department of Public Safety, Missing and Murdered Indigenous Women Task Force: A Report to the Minnesota Legislature, by Nicole MartinRogers and Virginia Pendleton (Saint Paul: Wilder Research, December 2020), 129, https://www.wilder.org/sites/default/files/imports/MMIW_TaskForceReport_12-20.pdf and Research in Action, Missing and Murdered African American Women Task Force: Final Report, by Dr. Catherine Squires, Dr. Brittany Lewis, Dr. Lauren Martin, Ariana Kopycinski, and Ayize James (Saint Paul: Minnesota Department of Public Safety Office of Justice Programs and Research in Action, December 2022), 56, <https://dps.mn.gov/divisions/ojp/forms-documents/Documents/MMAAW%20full%20report%20final.pdf>.

⁸⁸ Department of Public Safety, Missing and Murdered Indigenous Women Task Force: A Report to the Minnesota Legislature, by Nicole MartinRogers and Virginia Pendleton (Saint Paul: Wilder Research, December 2020), Mandate 4 , https://www.wilder.org/sites/default/files/imports/MMIW_TaskForceReport_12-20.pdf

⁸⁹ Department of Public Safety, Missing and Murdered Indigenous Women Task Force: A Report to the Minnesota Legislature, by Nicole MartinRogers and Virginia Pendleton (Saint Paul: Wilder Research, December 2020), Mandate 13 , https://www.wilder.org/sites/default/files/imports/MMIW_TaskForceReport_12-20.pdf.

The MMAAW task force provided key recommendations, such as:

- *“Create and fund specific spaces and resources to serve Black women and girls.”⁹⁰*
- *“Develop effective, culturally appropriate, antiracist trainings and professional education for systems professionals.”⁹¹*

As a first step to carry out the recommendations made by these two task forces, the state Legislature created the Office of Missing and Murdered Indigenous Relatives and the Office of Missing and Murdered Black Women and Girls. Each office has a dedicated team and budget to address the root causes and risks faced by their respective communities.⁹² The task force on African-American women and the resulting Office was a first-in-the-nation initiative.⁹³

Isolation and elevated levels of sexism, racism, and violence against the queer and transgender communities contribute to the LGBTIQ+ community's disproportionate experience of sex trafficking.⁹⁴ Familial rejection leading to homelessness leaves LGBTIQ+ youth at heightened risk of trading sex for shelter out of necessity. A 2018 report found that 11 percent of surveyed people experiencing homelessness in Minnesota identified as LGBTIQ+.⁹⁵ Once LGBTIQ+ Minnesotans are homeless, they may be forced into trading sex out of necessity, or they may experience sexual exploitation.⁹⁶ One sexual assault nurse examiner noted how LGBTIQ+ youth are at greater risk of sexual exploitation than other youth. Although a third party may not be trafficking them, she affirmed “the onus is still on the person taking advantage of the

⁹⁰ Research in Action, *Missing and Murdered African American Women Task Force: Final Report*, by Dr. Catherine Squires, Dr. Brittany Lewis, Dr. Lauren Martin, Ariana Kopycinski, and Ayize James (Saint Paul: Minnesota Department of Public Safety Office of Justice Programs and Research in Action, December 2022), 51, <https://dps.mn.gov/divisions/ojp/forms-documents/Documents/MMAAW%20full%20report%20final.pdf>.

⁹¹ Research in Action, *Missing and Murdered African American Women Task Force: Final Report*, by Dr. Catherine Squires, Dr. Brittany Lewis, Dr. Lauren Martin, Ariana Kopycinski, and Ayize James (Saint Paul: Minnesota Department of Public Safety Office of Justice Programs and Research in Action, December 2022), 51, <https://dps.mn.gov/divisions/ojp/forms-documents/Documents/MMAAW%20full%20report%20final.pdf>.

⁹² 2021 Minn. Laws 1st Sp. Sess. Chap. 11 Art. 2 Sec. 15 Minn. Stat. 299A.85 and 2023 Minn. Laws Chap. 52 Art. 5 Sec. 26 Minn. Stat. 299A.90.

⁹³ Minnesota Coalition Against Sexual Assault, “*Media Statement: Minnesota Becomes First in the Nation to Establish an Office of Missing and Murdered Black Women and Girls*,” accessed May 1, 2024, <https://mncasa.org/news/minnesota-becomes-first-in-the-nation-to-establish-an-office-of-missing-and-murdered-black-women-and-girls/>.

⁹⁴ Interview 21; Interview 31.

⁹⁵ Wilder Foundation, *Characteristics of People Who Identify as LGBTQ Experiencing Homelessness*, by Virginia Pendleton, Walker Bosch, Margaret Vohs, Stephanie Nelson-Dusek, and Michelle Decker Gerrard, (Minneapolis: Wilder Foundation, September 2020), <https://www.wilder.org/mnhomeless/results/lgbtq>.

⁹⁶ Interview 16; Interview 48.

youth” when the youth are simply trying to meet their basic needs.⁹⁷ One interviewee explained how familial rejection escalates the risk of sexual exploitation:

When a kid has been pushed outside of the traditional community or family, they become especially connected or close to unrelated adults or other teenagers. So it is especially hard for the kid to identify they are being groomed through chat groups or SnapChat etc. These kids are especially vulnerable.⁹⁸

Even when people are not experiencing homelessness, prejudice from within their home or family of origin can create additional vulnerabilities.⁹⁹ These vulnerabilities include financial pressure, such as the need to fund gender-affirming care without parental support; parental and peer alienation that leaves LGBTIQ+ youth vulnerable to grooming; and stigma that discourages LGBTIQ+ people who sell sex out of necessity or who are being sexually exploited to seek help.¹⁰⁰

Traffickers’ manipulative tactics may target a person’s identities when social stigma and isolation are present. Transgender people in particular experience high levels of isolation.¹⁰¹ One interviewee lamented the “heartbreaking and difficult statistics around what’s happening in the lives of young people who identify as transgender or gender nonconforming.”¹⁰² In addition to the isolation transgender people face, they also may have unique wants and needs, such as hormone treatments, surgeries, and clothing their parents will not buy for them.¹⁰³

One advocate highlighted the stigma transgender people face when seeking employment: “there are a ton of real barriers regarding options for employment of trans people. I think trans survivors have similar experiences to women, where, unless they’re passing, their vulnerability is going to remain throughout their life.”¹⁰⁴ One interviewee observed that trans people can be “disproportionately vulnerable” when they seek safe information about their gender and healthcare; in doing so, they may encounter people looking to exploit them.¹⁰⁵ Another stakeholder recounted a case where a trafficker coerced a transgender immigrant woman by controlling her hormonal treatments.¹⁰⁶

⁹⁷ Interview 112.

⁹⁸ Interview 30. See also *infra*: Services for LGBTIQ+ Identifying Victims.

⁹⁹ Interview 21; Interview 31; Interview 30.

¹⁰⁰ Interview 48; Interview 29; Interview 30; Interview 16; Interview 23; Consultation with Experts with Lived Experience, Session IV.

¹⁰¹ Consultation with Experts with Lived Experience, Session IV; Interview 80.

¹⁰² Interview 117.

¹⁰³ Consultation with Experts with Lived Experience, Session IV.

¹⁰⁴ Interview 85.

¹⁰⁵ Interview 79.

¹⁰⁶ Interview 23.

People with disabilities also face barriers that increase their vulnerability to sexual exploitation and trafficking.¹⁰⁷ Such people may live in isolation, have difficulties with communicating or speech, face disbelief if they report abuse, or harbor fears of losing their independence if they report violence.¹⁰⁸ People with disabilities also tend to be less visible, prompting one interviewee to observe that they are “a hidden population where we don’t have much data.”¹⁰⁹ This factor makes it difficult to understand and monitor their involvement in sex trafficking.

For noncitizens, isolation and communication barriers are compounded by concerns over immigration status. One interviewee explained the reluctance of the undocumented Latine community to report trafficking: “[t]his is the same for any type of violence in this community. They are afraid they will be deported, or their children will be taken away.”¹¹⁰ One stakeholder discussed how immigration issues reduce the willingness of noncitizens to seek help: “[they are] nervous about the government right now—not willing to come out with changes to immigration policies and such, afraid to get services.”¹¹¹ Another discussed how that fear makes noncitizens vulnerable to traffickers, who use it to manipulate their victims, explaining how “[t]raffickers will tell victims, no one will believe you, but they will believe me.”¹¹² These fears arise from government policies and resources that disproportionately focus on the deportation and criminalization of immigrants, directly impacting their ability to seek assistance. According to one service provider, “the aggressive behavior of ICE agents has led to a decrease in victims seeking services.”¹¹³

Another barrier for noncitizens is that many services are not available in languages other than English. This gap is related to underrepresentation of historically marginalized groups in the staff of service providers.¹¹⁴ One interviewee believed that there are not enough people or resources to know the actual extent of sex trafficking in communities where English is not the first language.¹¹⁵ The lack of diverse language skills among authorities and service providers makes support inaccessible and, along

¹⁰⁷ See generally Interview 33; Interview 36; Interview 69; Interview 85.

¹⁰⁸ End Abuse of People with Disabilities Organization; Office of Justice Programs, “Victims with Physical, Cognitive, or Emotional Disabilities,” accessed June 10, 2024, <https://www.ovcttac.gov/taskforceguide/eguide/4-supporting-victims/45-victim-populations/victims-with-physical-cognitive-or-emotional-disabilities/>; National Disabilities Rights Network, “Introduction to Human Trafficking: What It Is and How it Impacts the Disability Community,” accessed June 11, 2024, <https://www.ndrn.org/wp-content/uploads/2021/01/FINAL-HT-and-Disabilities-101-Ericka-and-Jody.pdf>.

¹⁰⁹ Interview 36.

¹¹⁰ Interview 23.

¹¹¹ Interview 35.

¹¹² Interview 23.

¹¹³ Interview 21.

¹¹⁴ Interview 9.

¹¹⁵ Interview 15.

with services that are not adapted to different cultures, deters people from seeking help.¹¹⁶

RECOMMENDATIONS

- Collaborate with people and communities that have been subjected to racism, colonialism, and historic discrimination to identify ways that institutionalized discrimination and structural violence increase risks of trafficking and create concerted plans to address root causes of vulnerability.
- Work with organizations and mechanisms such as MMAAW and MMIR task forces to address systemic issues that they identify as affecting their communities.
- Undertake trust-building and network-strengthening initiatives that bring Minnesota state programs for trafficking prevention, mitigation, and response closer together with tribal leadership, traditional structures, and community-based organizations.

Poverty

Poverty is more than a simple measure of a household's fiscal capacity to meet basic needs. Understanding poverty means recognizing it as a consequence of deliberate societal and policy choices that deprive people of human rights.¹¹⁷ Poverty, as both a cause and consequence of human rights violations,¹¹⁸ overlaps with many of the structural conditions that create an enabling environment for trafficking and exploitation.

Interviewees widely recognized poverty as the biggest risk factor for sexual exploitation and trafficking.¹¹⁹ Susceptibility escalates when a person lacks the most basic necessities to survive, including safety, shelter,¹²⁰ food,¹²¹ health care,¹²² and childcare.¹²³ Other socio-economic limitations, including unequal or non-livable wages, as well as the lack of economic, educational, employment opportunities, and financial assistance,

¹¹⁶ Interview 44; Interview 49; Interview 77; Interview 80.

¹¹⁷ Human Rights Council, *The parlous state of poverty eradication: Report of the Special Rapporteur on extreme poverty and human rights* (November 19, 2020), U.N. Doc. A/HRC/44/40; Olivier de Schutter, "A human rights-based approach to measuring poverty," in *Research Handbook on Human Rights and Poverty* (Cheltenham: Edward Elgar Publishing, 2021), 2-20.

¹¹⁸ UN Office of the High Commissioner for Human Rights, *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, (2006), U.N. Doc. HR/PUB/06/12, ¶ 22. UN Secretary General, *Legal Empowerment of the Poor and Eradication of Poverty*, UN.Doc. A/64/133, ¶ 7.

¹¹⁹ See Interview 36; Interview 76; Interview 87; Interview 117. One community organization member stated simply that "generational poverty increases vulnerability." Interview 87; see also Interview 89 ("for those over 24, [the] most common risk factor is economic poverty/not being able to secure wages to survive").

¹²⁰ Interview 44; Interview 73; Interview 81; Interview 98.

¹²¹ Interview 73.

¹²² Interview 45; Interview 44; Interview 25.

¹²³ Consultation with Experts with Lived Experience, Group 2.

further increase vulnerability.¹²⁴ Disproportional social service and resource distribution based on geographical factors and the dichotomy between rural and urban settings can also narrow opportunities for people. Those living in rural communities may have limited employment options and may be even more susceptible to trafficking.¹²⁵ To meet their own basic needs, people may trade sex out of necessity.¹²⁶ One interviewee explained, “[w]hen you cannot get the things you need, [and] you don’t have the resources you need at all, trafficking becomes the norm.”¹²⁷ Government programs are not sufficient to raise Minnesotan families above the poverty line.¹²⁸ A 2022 report found:

Minnesota’s SNAP [Supplemental Nutrition and Assistance Program] eligibility was just recently (in Fall 2022) raised to 200% of the federal poverty level, joining 19 other states that had that threshold. Similarly, welfare benefits had not increased in over three decades until an increase of \$100 was approved in 2020.¹²⁹

Another stakeholder pointed out that the lack of funding impacts government-provided services as well as cash assistance: “[s]ince 1999, when I began working in social work, the state was much more service driven and had resources for the public and vulnerable youth. Due to budget cuts many of those voluntary services were eliminated.”¹³⁰ Government programs also exclude people who require support from social safety nets in part due to eligibility criteria that serve to reinforce structural discrimination and inequality. As one advocate explained, “being poor is a full-time job. And that’s if you can even get benefits. If you don’t have any charges that disqualify you from housing assistance.”¹³¹ In that instance, long-standing racial inequalities in the criminal justice system mean that tying benefits eligibility to having no criminal record results in those racial inequalities transferring to poverty alleviation efforts.

For youth, the interplay of their age with factors like poverty, homelessness, or familial instability increases their vulnerability. These intersecting challenges compound their risk of negative outcomes, highlighting the need for targeted support and intervention.¹³² The most common gateway to sex trafficking is “kids who need their needs met.”¹³³ One interviewee cited a student survey (referring to the Minnesota

¹²⁴ Interview 22; Interview 69; Interview 89.

¹²⁵ Interview 64.

¹²⁶ Interview 38; Interview 73; Interview 81; Interview 98.

¹²⁷ Interview 21.

¹²⁸ Humphrey School of Public Affairs, *Minnesota Poverty Report 2009-2019*, by Angela R. Fertig (Minneapolis: MinnCAP, September 2022), 12, https://minncap.org/files/galleries/MinnesotaPovertyExpandedReport2019_final20220907.pdf.

¹²⁹ Humphrey School of Public Affairs, *Minnesota Poverty Report 2009-2019*, by Angela R. Fertig (Minneapolis: MinnCAP, September 2022), 11, https://minncap.org/files/galleries/MinnesotaPovertyExpandedReport2019_final20220907.pdf.

¹³⁰ Interview 107.

¹³¹ Interview 88.

¹³² See, e.g., Interview 93.

¹³³ Interview 44.

Student Survey) to determine if the students ever traded sex for housing or food.¹³⁴ The poll found “about [5000] Minnesota youth . . . answered yes, equal [rates] across males and females, higher for trans and LGBTQ youth, higher outside of cities.”¹³⁵ Several interviewees corroborated this finding, observing how youth often must resort to trading sex for basic needs, noting “[m]any of the victims are kids and for many of them their only concern is food and a roof.”¹³⁶

Adding an additional barrier to move out of poverty is discrimination by financial institutions and payment processors against people who sell or trade sex but do not experience exploitation. According to those with lived experience, such discrimination enhances their marginalization and risk of experiencing violence and trafficking.¹³⁷ According to research, financial discrimination increases when lived experience in selling and trading sex intersects with other factors and identities such as race, class, immigration status, and sexual orientation.¹³⁸

Financial institutions can also play an unwitting role in facilitating recruitment in sex trafficking, as traffickers may use financial debt or factor in potential victims' credit history.¹³⁹ In its research, Polaris, which operates the National Human Trafficking Hotline, also presented testimony that exemplifies a control scenario between trafficker and victim. It states “[e]verything was put in my name with [my trafficker] as

¹³⁴ Interview 44.

¹³⁵ Interview 44. See Martin, Lauren; McMorris, Barbara; Johnston-Goodstar, Katie; Rider, G. Nic. (2020), *Trading Sex and Sexual Exploitation among High School Students: Data from the 2019 Minnesota Student Survey*. Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226837>.

¹³⁶ Interview 96; see also Interview 17 (noting that “teenagers are very vulnerable; selling sex for rides, drugs and housing”). According to a Minnesota student survey, 1.4% of youth who responded reported trading sex or sexual activity for a place to stay, food, or something else. This number is likely under representative, since only students enrolled in school participate in the survey. Minnesota Departments of Education, Health, Human Services, and Public Safety, *Trading Sex and Sexual Exploitation among High School Students: Data from the 2019 Minnesota Student Survey* (Minneapolis: Minnesota Department of Education, Health, Human Services, and Public Safety, January 2020), <https://drive.google.com/file/d/1qHWI8MNY5cTvCsWWcgulo2brzZbHDg6Z/view>. The interviewee perceived that number was probably a “conservative” one. Interview 44. See also Interview 53 (highlighting the juvenile justice system is set up to change risky, bad behavior, but that such behaviors are actually survival behaviors).

¹³⁷ See Stardust Z, Blunt D, Garcia G & Others, *High Risk Hustling: Payment Processors Sexual Proxies and Discrimination by Design*, 26 City University of New York Law Review, (2023).

¹³⁸ Stardust Z, Blunt D, Garcia G & Others, *High Risk Hustling: Payment Processors Sexual Proxies and Discrimination by Design*, 26 City University of New York Law Review, (2023).

¹³⁹ Polaris, *On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking*, by Brittany Anthony (Washington D.C.: Financial Services Industry, 2018), 23, <https://polarisproject.org/resources/on-ramps-intersections-and-exit-routes-a-roadmap-for-systems-and-industries-to-prevent-and-disrupt-human-trafficking/>.

a co-signer, since [my trafficker] used a fake name, when I escaped, everything faulted back on me.”¹⁴⁰

RECOMMENDATIONS

- Redesign social safety net programs to prioritize inclusion, accessibility, and equity across categories such as age, gender, race, citizenship, ability, and geography.
- Remove eligibility criteria designed to arbitrarily limit the scope of safety net programs and instead build a system that focuses on meeting the specific needs of people and families seeking support.

Housing

Interviewees identified a lack of safe and affordable housing as another primary driver of sex trafficking. Homelessness and housing insecurity are “fuel” for sex trafficking because people are more vulnerable when they do not have a safe and secure place to live.¹⁴¹ A subject matter expert clarified that housing insecurity can still be present even when a person has a roof over their head: “[y]ou can be about to be homeless. You can be late on your rent. You can be late on [your] mortgage. You can be behind on your light bill.”¹⁴² An interviewed researcher stated simply, “If people have access to stable and safe housing, they are less likely to be exploited or trafficked.”¹⁴³

Findings suggest the housing problem has only worsened in recent years. In the past five to ten years, a nonprofit staff person has observed homelessness “escalate” and “compound” as a root cause of sex trafficking.¹⁴⁴ According to Minnesota’s Homeless Management Information (HMIS), the annual Point-in-Time count for 2022 found that 7,917 people experienced homelessness on a single night.¹⁴⁵ According to the 2023 State Housing Profile Minnesota report, 76% of low-income Minnesotans are income burdened as they are spending more than 30% of their income on housing, at risk of

¹⁴⁰ Polaris, *On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking*, by Brittany Anthony, (Washington D.C.: Financial Services Industry, 2018), 23, <https://polarisproject.org/resources/on-ramps-intersections-and-exit-routes-a-roadmap-for-systems-and-industries-to-prevent-and-disrupt-human-trafficking/>.

¹⁴¹ Interview 25; Interview 44; Interview 45; Interview 76; Interview 81.

¹⁴² Consultation with Experts with Lived Experience, Session I.

¹⁴³ Interview 117; see also Interview 21 (“housing insecurity and economic insecurity” are the biggest risk factors for trafficking).

¹⁴⁴ Interview 56.

¹⁴⁵ Minnesota’s HMIS, “Point-in-Time Count Information,” accessed August 15, 2023, <https://www.hmismn.org/point-in-time-count-information>; See ICA Minnesota, “Minnesota 2022: PIT County-level Data Dashboard,” accessed 15 Aug. 2023, <https://public.tableau.com/app/profile/ica.minnesota/viz/Minnesota2022PITCounty-levelDataDashboard/MainDashboard>.

choosing between a home and other basic needs like food and medicine.¹⁴⁶ Overall, a gap exists between the incomes of people experiencing homelessness and the affordability and availability of rental units.¹⁴⁷ In short, the cost of rent is so high that even stable incomes are not always protective factors against homelessness. When assessing the drivers and fueling factors of homelessness in Minnesota, reports have identified the lack of affordable and subsidized housing as one of the primary barriers.¹⁴⁸ For rental assistance programs like Emergency Assistance and Emergency General Assistance, research has found that, in the case of Minnesota, eligibility for such programs is overly restrictive for applicants from Greater Minnesota and single adults.¹⁴⁹ Likewise, the same research noted that service providers expressed concern about the clarity and efficacy of the eligibility criteria.¹⁵⁰

One interviewee explained her frustration over the ongoing housing crisis: “[H]ousing insecurity can result in [...] trafficking and exploitation. Housing is essential. It is frustrating when clients come in and cannot afford to feed themselves and their children, and all I have is \$10 gift cards to give them.”¹⁵¹ Housing for youth was described as the “biggest issue” and this issue is highly prevalent “with runaway youth.”¹⁵² A 2018 report found an estimated 13,300 Minnesota youth experienced homelessness at some point throughout the year.¹⁵³

¹⁴⁶ Minnesota Housing Partnership, “2023 State Housing Profile: Minnesota,” accessed June 11, 2024, https://mhponline.org/wp-content/uploads/2023_StateProfile.pdf.

¹⁴⁷ Wilder Research, *Homelessness in Minnesota: Detailed Findings from the 2018 Minnesota Homeless Study*, by Brian Pittman, Stephanie Nelson-Dusek, Michelle Decker Gerrard, and Ellen Shelton (Saint Paul: Wilder Research, March 2020), 3, <https://www.headinghomeramsey.org/sites/default/files/2018%20Wilder%20Report%20Homelessness%20In%20Minnesota.pdf>.

¹⁴⁸ Wilder Research, *Homelessness in Minnesota: Detailed Findings from the 2018 Minnesota Homeless Study*, by Brian Pittman, Stephanie Nelson-Dusek, Michelle Decker Gerrard, and Ellen Shelton (Saint Paul: Wilder Research, March 2020), 3, <https://www.headinghomeramsey.org/sites/default/files/2018%20Wilder%20Report%20Homelessness%20In%20Minnesota.pdf>.

¹⁴⁹ Research in Action, *Creating an Expedited Emergency Rental Assistance System with Community Input*, by Emma Wu, Tsion Tulu, Dr. Brittany Lewis, and Cecely Hoyt (Minneapolis: Pohlada Family Foundation, December 2023), 10, <https://static1.squarespace.com/static/619da6fcd79aa2566431b873/t/65cbc45c66d98151b62518c3/1707852894432/WERA+report.pdf%20Records%20-%20June%2010%202022.pdf>.

¹⁵⁰ Research in Action, *Creating an Expedited Emergency Rental Assistance System with Community Input*, by Emma Wu, Tsion Tulu, Dr. Brittany Lewis, and Cecely Hoyt (Minneapolis: Pohlada Family Foundation, December 2023), 10, <https://static1.squarespace.com/static/619da6fcd79aa2566431b873/t/65cbc45c66d98151b62518c3/1707852894432/WERA+report.pdf%20Records%20-%20June%2010%202022.pdf>.

¹⁵¹ Interview 76.

¹⁵² Interview 17.

¹⁵³ Minnesota Homeless Youth, “Youth on their Own. Age 24 and younger on their own,” accessed April 20, 2024, <https://www.wilder.org/mnhomeless/results/youth>.

The criminal justice system imposes collateral consequences that further housing insecurity. Because housing is often denied to people with criminal histories, interactions with the criminal justice system make people vulnerable to housing insecurity, which in turn makes them vulnerable to trafficking.¹⁵⁴ Once trafficked, the cycle continues and can result in additional criminal histories and further bars to housing for the person. For example, a mandatory, three-year categorical ban on admission to public housing exists for all household members associated with an eviction for drug-related criminal activity.¹⁵⁵ If a victim of trafficking is forced to commit drug-related crimes or is evicted because their trafficker is committing these offenses, they will be unable to access public housing, augmenting their vulnerabilities for further exploitation. Federal regulations also allow housing authorities to evict entire families for activities as minor as a household member's suspected criminal activity (which includes potentially unwarranted arrests)¹⁵⁶ or activities as remote as a guest's off-site criminal activity.¹⁵⁷ Subject matter experts also highlighted a gap for those people who are seeking treatment for substance use abuse. Residential treatment centers are not equipped with a navigator to help outgoing patients, who have been solely focused on treatment, find housing.¹⁵⁸

Aside from public housing, private landlords can access criminal records of prospective tenants, rejecting rental applications for people with criminal histories—even if those histories are due to trafficking.¹⁵⁹ Some landlords might accept tenants with criminal histories only to prey on them. The tenants rely on the landlords' lenient requirements and are less likely to report their abusive practices.¹⁶⁰ Due to the racial disparities that

¹⁵⁴ See Polaris Project, *Punishing the Victim. Recovery Barriers for Survivors with Criminal Records*, 2023, 2, <https://polarisproject.org/wp-content/uploads/2023/07/Punishing-the-Victim-Recovery-Barriers-for-Survivors-with-Criminal-Records.pdf>.

¹⁵⁵ Denial of admission and termination of assistance for criminals and alcohol abusers, Housing and Urban Development, 24 C.F.R. § 982.553 (2022).

¹⁵⁶ Denial of admission and termination of assistance for criminals and alcohol abusers, Housing and Urban Development, 24 C.F.R. § 982.553 (2022) (preponderance of the evidence is enough to evict).

¹⁵⁷ *Department of Housing and Urban Development v. Rucker*, 535 U.S. 125 (2002) (upholding evictions for grandparents whose grandsons were charged with smoking marijuana in a parking lot near their apartment, a tenant whose caregiver was found with cocaine, and a father whose daughter was arrested, a few blocks from home, for possession of cocaine).

¹⁵⁸ Consultation with Experts with Lived Experience, Session IV.

¹⁵⁹ Consumer Financial Protection Bureau, Justice-Involved Individuals and the Consumer Financial Marketplace, January 2022, 30.

¹⁶⁰ U.S. Department of Housing and Urban Development, *Housing Needs of Survivors of Human Trafficking Study*, 2024, 5, 53. <https://www.huduser.gov/portal/portal/sites/default/files/pdf/Housing-Needs-of-Survivors-of-Human-Trafficking-Study.pdf>.

plague criminal arrests and convictions, this cycle of arrest to conviction to homelessness to trafficking is most acute for communities of color.¹⁶¹

When faced with homelessness, people may be forced to trade sex in return for a place to stay. For those without housing, “sleeping on [a] dude’s couch doesn’t cost me anything if I do ‘xyz.’”¹⁶² One interviewee explained that many youths start out couch surfing, which transitions into sex trafficking.¹⁶³

RECOMMENDATIONS

- Prioritize providing safe, accessible, and affordable housing without barriers as a frontline defense against sex trafficking.
- Remove or reduce eligibility limitations based on criminal convictions.

Abuse, Neglect, and Isolation

Childhood physical or sexual abuse, neglect, or parental substance abuse is often a risk factor for sex trafficking and exploitation later in life.¹⁶⁴ Many at-risk people experience domestic or sexual abuse at a young age, often over long periods of time.¹⁶⁵ Often, such abuse is coupled with another poverty-related factor, such as homelessness, unstable housing, or economic instability, further increasing the risk.¹⁶⁶ Sexual or physical violence, emotional neglect, strained parental relationships, or other past trauma can make people susceptible to the control tactics of traffickers.¹⁶⁷ Isolation itself can also give rise to vulnerability for already marginalized groups, such as LGBTQ+ people, as described earlier on page 33, and persons with disabilities.

History of Sexual or Domestic Abuse

Findings show that a history of sexual abuse is one of the most common risk factors for sex trafficking.¹⁶⁸ Insights by interviewees show youth who have experienced sexual violence are more likely to experience sexual exploitation compared to their peers who have not experienced such trauma.¹⁶⁹ Indeed, one service provider estimates that 80

¹⁶¹ U.S. Department of Housing and Urban Development, *Housing Needs of Survivors of Human Trafficking Study*, 2024, 52. <https://www.huduser.gov/portal/portal/sites/default/files/pdf/Housing-Needs-of-Survivors-of-Human-Trafficking-Study.pdf>.

¹⁶² Interview 88.

¹⁶³ Interview 96; Interview 85.

¹⁶⁴ Interview 69; Interview 7.

¹⁶⁵ Interview 22; Interview 46.

¹⁶⁶ Interview 85.

¹⁶⁷ Interview 7; Interview 60.

¹⁶⁸ Interview 89; see, e.g., Interview 7; Interview 25; Interview 29; Interview 30; Interview 69; Interview 117.

¹⁶⁹ Interview 7; Interview 29; Interview 30; Interview 117.

percent of women seeking their help experienced sexual abuse before age 10.¹⁷⁰ A nonprofit worker illustrated how traffickers exploit such past sexual abuse:

They'll say something like, "why give away sex for free when you can make money from it." . . . That's a very common manipulation tactic. "Well, people are going to abuse you anyway, so you might as well get something from it."¹⁷¹

Abuse in the context of romantic or familial relationships is also a common factor leading to increased vulnerability. Children or adults who suffer domestic violence may be more susceptible than others to traffickers' tactics.¹⁷² The cycle of domestic abuse is similar to the grooming process for trafficking.¹⁷³ One interviewee observed that many trafficking relationships start as dating partners before grooming behaviors begin.¹⁷⁴ Similar to domestic abuse, people may be abused and trafficked by someone they love. An interviewee explained:

Seduction is the most common recruitment tactic by getting to someone through love, promise of love, through emotional connection, instilling violence, and instilling dependency. Exploitation may not start immediately with a person you meet; over time, the relationship turns to it.¹⁷⁵

It may be more difficult for people with previous experiences of abuse to recognize grooming given the psychological manipulation common in domestic violence.¹⁷⁶ It is also not unusual for a trafficker to continue as the victim's intimate partner while trafficking them, during which the domestic abuse continues.

When childhood abuse goes unaddressed, it can also give rise to perpetrators of sex trafficking and exploitation. Interviewees identified a lack of treatment and intervention for abuse during early adolescent years as a factor leading young boys to become perpetrators. One stakeholder noted, "So many perpetrators are also victims. I wish we could be better at handling young boys and getting them services when they're little."¹⁷⁷

¹⁷⁰ Maria H. Gottfried, *Super Bowl the biggest time for sex trafficking? That's a myth. Here's what happens every day in the Twin Cities*, Twin Cities Pioneer Press, Jan. 28, 2018, <https://www.twincities.com/2018/01/28/super-bowl-sex-trafficking-minneapolis-st-paul-breaking-free/>.

¹⁷¹ Interview 85.

¹⁷² Interview 31.

¹⁷³ Interview 30.

¹⁷⁴ Interview 21 ("A lot of interpersonal relationships start as a partner, boyfriend, girlfriend and turn into a manipulative situation where someone is groomed to become a victim of sex trafficking").

¹⁷⁵ Interview 52.

¹⁷⁶ Interview 21; Interview 30.

¹⁷⁷ Interview 114.

Neglect and Unhealthy Relationships

Emotional security and healthy relationships in the home are key to preventing trafficking.¹⁷⁸ When these are not present, the types of treatment and power imbalances that facilitate sexual exploitation within and outside the family of origin seem normal.¹⁷⁹ In particular, youth who lack healthy relationships with adults or peers are often less equipped to recognize grooming and exploitation.¹⁸⁰ An educator explained the effects when parental engagement with their children's school drops off after elementary school: with less parental engagement and increased access to risky behaviors as they become older, youth become more vulnerable.¹⁸¹ Without healthy child-adult relationships, youth with poor self-worth may seek validation from a trafficker. A nonprofit worker explained, "[k]ids who don't feel good about themselves are waiting for someone to tell them how great they are, so they fall under that spell easily. It's always been like that, we're just noticing it more now."¹⁸² An educator highlighted how low self-esteem combined with post-pandemic social isolation has increased people's reliance on the internet to find friends and social acceptance.¹⁸³

Traffickers, in turn, know how to target victims of child neglect or abuse. One interviewee noted that runaway youth are at higher risk as the separation from familial support exposes them to recruitment by traffickers.¹⁸⁴ Homeless youth are often approached for sex within their first 8-12 hours on the street, which often leads to trafficking.¹⁸⁵

In some instances, the foster care system can aggravate these risks for children who need safety, security, and healthy relationships. The Minnesota Department of Human Services, which supervises the state's county-administered child protection system, states that "[y]outh in the child welfare system are at high risk for sex or labor trafficking and sexual exploitation; prevention should be emphasized and integrated in all aspects

¹⁷⁸ Interview 25 (as one shelter worker described, kids want attention, and "Never have I had one kid say, 'I wish my parents pay less attention to me.'"); Interview 65.

¹⁷⁹ Interview 59; Jennifer E. O'Brien, *Sometimes, Somebody just Needs Somebody – Anybody – to Care: The Power of Interpersonal Relationships in the Lives of Domestic Minor Sex Trafficking Survivors*, 81 *Child Abuse & Neglect* (2018).

¹⁸⁰ Interview 60.

¹⁸¹ Interview 117.

¹⁸² Interview 44.

¹⁸³ Interview 117.

¹⁸⁴ Interview 29; see also *The Advocates for Human Rights, Safe Harbor: Fulfilling Minnesota's Promise to Protect Sexually Exploited Youth*, by Beatriz Menanteau, Michele Garnett McKenzie, Rosalyn Park, Research Director (Minneapolis: The Advocates for Human Rights, February 2013), 27, https://www.theadvocatesforhumanrights.org/Res/sh_2013_final_full_rept.pdf.

¹⁸⁵ Interview 93.

of child welfare services and responses.¹⁸⁶ Many of the people engaged in selling or trading sex have been passed around the child protection system, having to return to an abusive home or being placed in a worse situation than before.¹⁸⁷ When foster homes cannot provide the healthy relationships children need, they fail to mitigate the risks that children removed from their families otherwise face.¹⁸⁸ One nonprofit worker acknowledged, “Even the best-intentioned foster home still isn’t your home or family. And there are some really, really bad ones. Kids go there with a lot of trauma no one is prepared for, no matter how much training they get.”¹⁸⁹ Children whose needs are not being met or who feel unaccepted in the foster family may feel compelled to run away from an unsupportive situation.¹⁹⁰

Others elaborated on the cultural gaps in foster care, with one subject matter expert explaining how people of color may be placed in homes of white foster care families.¹⁹¹ They added, “Why would you want to go to somewhere where nobody looks like you, no one knows anything about your culture, hygiene, your care, none of that. Your food. Your culture.”¹⁹² In the most extreme cases, youth are exposed to further risk of exploitation when placed with pimps who hold foster care licenses.¹⁹³ Finally, interviewees emphasized that such vulnerability does not cease with age but will continue when those children age out of foster care and become adults.¹⁹⁴ Subject matter experts described that many foster children who have been dependent on the system for much of their lives are then “pushed out there into the world” and “thrown to the wolves” when they turn 18.¹⁹⁵ According to one interviewee, they may lack knowledge of life skills that others their age possess, such as how to open a bank account, pay bills, and budget.¹⁹⁶

Role of Education

As one counter to neglect and unhealthy relationships, schools can play a crucial role in prevention by creating safe, caring learning environments and fostering healthy

¹⁸⁶ See Minnesota Department of Human Services, Minnesota’s Best Practice Response to Trafficking and Exploitation of Children and Youth: A guide for county and tribal child welfare agencies, 6 (December 2022).

¹⁸⁷ Interview 60.

¹⁸⁸ Consultation with Experts with Lived Experience, Session IV.

¹⁸⁹ Interview 44.

¹⁹⁰ Consultation with Experts with Lived Experience, Session IV.

¹⁹¹ Consultation with Experts with Lived Experience, Session I.

¹⁹² Consultation with Experts with Lived Experience, Session I.

¹⁹³ Consultation with Experts with Lived Experience, Session I (explaining that pimps do not necessarily have criminal backgrounds so are able to qualify for a foster care license).

¹⁹⁴ Interview 95; Interview 69 (noting the biggest risk factor in her region is youth aging out of legal protection system).

¹⁹⁵ Consultation with Experts with Lived Experience, Session II.

¹⁹⁶ Consultation with Experts with Lived Experience, Session II.

relationships between educators and youth.¹⁹⁷ One interviewee explained that young people may not have someone in their family they can trust, but by building appropriate relationships within schools, they may have someone they can seek out for help.¹⁹⁸ The interviewee elaborated, “If the student is seeing good social skills being role modeled by the adults at school, and they have built those trust relationships, it gives the student some radar as to who they can go to for help.”¹⁹⁹ One interviewee elaborated on the preventive role of schools in building healthy relationships with students:

Whenever a student is suspended, it increases the potential and/or possibility they may disengage from school and engage in activities that are not very healthy for them. When students are in school, they are provided with another layer of adults who hopefully see them and can see how things are going for them. It also can serve as an interrupter or early intervention to many of the social challenges children are facing, including sex trafficking experiences.²⁰⁰

When school districts and educators use primary prevention interventions, social and emotional learning strategies, and restorative practices to develop relationships with students, they help students learn softer but important skills around social, emotional, life, and relationship issues.²⁰¹ In turn, these softer skills promote student engagement and reduce the risk they may participate in unhealthy activities.²⁰² As one educator summarized, “An ‘ounce of prevention is more than an ounce of cure.’ It is so much more cost effective to [do] prevention work than to focus all of our time, efforts, resources to intensive intervention.”²⁰³

Schools in Minnesota, however, lack state-standardized comprehensive health education standards; currently, what is covered in the health curriculum is left to local decision-makers.²⁰⁴ One curriculum on healthy relationships, trafficking, and grooming, Not a Number, is promoted by MDH and offered by some Safe Harbor providers, but schools are not required to provide it or a comparable curriculum.²⁰⁵ One

¹⁹⁷ Interview 54.

¹⁹⁸ Interview 54.

¹⁹⁹ Interview 54.

²⁰⁰ Interview 54 (elaborating that negative discipline, such as suspension, can break a relationship “in an instant.” Suspension is an outdated approach that forces students to spend days in a location where they are not learning, not getting proper nutrition, may be unsupervised, do not have access to emotional support, and often, “not even a smile.”)

²⁰¹ Interview 54.

²⁰² Interview 54.

²⁰³ Interview 118.

²⁰⁴ Interview 118.

²⁰⁵ Interview 34; Interview 53; Palmer C., Menanteau B., Glaccum E., Flood A., Miller J., Schaefer P., Cook E., Orley M., “Partnering for Human Trafficking Prevention: Implementing Love146’s Not a Number Curriculum through Minnesota’s Safe Harbor Program.” *Harvard Public Health Review*. 2021; 58.

stakeholder stated that comprehensive education requires a two-pronged approach: (i) training for educators to learn about the risks, signs, and available resources, and (ii) education of young people to understand grooming and exploitation.²⁰⁶ For system reforms, the interviewee stressed the need to fill education workforce shortages and the need for smaller settings where kids can “see, be seen, and feel heard.”²⁰⁷ The interviewee acknowledged that, until this smaller student-teacher ratio can be reached, measures like modeling healthy relationships, self-regulation, and self-awareness can help build solid relationships.²⁰⁸ One major gap is ensuring that staff, counselors, and administrators reflect the diversity of the students they serve. A stakeholder explained that when students of color have no one teaching them who looks like them, the students grow up believing what they learn in the media, which can be racially biased.²⁰⁹

One interviewee highlighted how the lack of resources has left schools unprepared to address social isolation after the pandemic:

We have a lot of absenteeism issue[s] at school right now. Post-pandemic, there are kids that dropped off that we haven't found that are [not] coming back to school. The counties don't have enough money to do truancy work, and really dig in to why are they not in school, what is going on, maybe they're home baby-sitting younger children in the home, maybe they have too much anxiety to come to school any more, but they dropped off. We don't have resources to find them. So social isolation is a real piece that I don't think we were prepared for.²¹⁰

Some initiatives are underway to foster healthier school-student relationships using models such as “Positive Behavior Intervention and Supports” and restorative practices.²¹¹ One educator stressed the importance of reinforcing positive community norms and shifting the narrative to focus on positive behaviors instead of the problematic ones.²¹² Some districts have created trauma-informed schools with the assumption that children may have experienced trauma and therefore deserve kindness, trust, and respect.²¹³ One interviewee added that knowing whether a student

10.54111/0001/FFF1; Information about Not a Number can be found at <https://love146.org/notanumber/>. See also Lutheran Social Services, “Not a #Number,” <https://www.lssmn.org/services/youth/health/sex-trafficking-services/community-education/not-a-number>.

²⁰⁶ Interview 118.

²⁰⁷ Interview 118.

²⁰⁸ Interview 118.

²⁰⁹ Interview 118.

²¹⁰ Interview 118.

²¹¹ Interview 54. “Positive Behavior Intervention and Supports” is a model for supporting all aspects of students’ health and well-being to foster “positive, predictable, equitable and safe learning environments where everyone thrives.” PBIS, “What is pbis?” accessed February 2, 2024, <https://www.pbis.org/pbis/what-is-pbis>.

²¹² Interview 118.

²¹³ Interview 54.

has experienced trauma or other adversity is crucial to working with youth at risk of trafficking.²¹⁴

Any initiatives must be schoolwide at all grade levels to ensure consistency for all students.²¹⁵ An interviewee corroborated the need to start early, stressing that health class should be a standardized, required course that starts from kindergarten, not in middle school when it is too late.²¹⁶ Cross-agency collaboration, braiding of funding to maximize resources, and continued monitoring through the Minnesota student survey are key components in positioning schools in prevention.²¹⁷

RECOMMENDATIONS

- Evaluate the effectiveness of the child welfare system and foster care at preventing and responding to abuse and creating positive outcomes for children as they exit the system.
- Provide sufficient resources for all communities to effectively meet the needs of children and families at risk of needing child protective services.
- Invest in programs that strengthen families and adult engagement with youth.
- Identify existing trusted community organizations and networks and provide funding and resources so they can effectively connect with communities that may not trust government agencies.

Stigmatization of Mental Health Conditions

Lack of Mental Health Services

The risk of sexual exploitation increases when people lack access to adequate physical and mental health care.²¹⁸ Mental health care requires sufficient resources for a culturally specific and trauma-informed approach, especially for residential treatment programs.²¹⁹ Intersectional factors, such as disabilities or physical illness, can escalate vulnerability when a person does not have access to adequate health care.²²⁰ According to one national study, risks faced by people with disabilities increase when systems actors fail to provide comprehensive health and social services tailored to their needs,

²¹⁴ Interview 54.

²¹⁵ Interview 54.

²¹⁶ Interview 118.

²¹⁷ Interview 118.

²¹⁸ Interview 11; Interview 69; Interview 85; Interview 107. Healthcare is discussed in this section under the concept of the “highest attainable standard of health” but focuses on the lack of mental health care as a particular driver to being trafficked.

²¹⁹ Missing and Murdered Indigenous Women Task Force, *Report to the Legislature*, by Nicole MartinRogers and Virginia Pendelton (Saint Paul: Minnesota Department of Public Safety Office of Justice Programs, December 2020), 121, <https://dps.mn.gov/divisions/ojp/Documents/missing-murdered-indigenous-women-task-force-report.pdf>.

²²⁰ Interview 69.

capacities, and the stigma and discrimination they often face.²²¹ Traffickers, who are aware of these gaps, seek out people with disabilities who have insufficient support to meet their basic needs and then target them through alternative programs that provide a cover for trafficking operations.²²²

In particular, mental health conditions can aggravate vulnerabilities.²²³ Interviewees explained that a person's mental health condition can be a risk factor for trafficking.²²⁴ Some providers noted that the stigma attached to mental health care deters people from seeking out resources, particularly in some refugee communities.²²⁵ Interviewees noted an acute need for mental health services that are culturally specific and for "culturally specific workers" who "understand trauma and racial disparities."²²⁶

Findings reveal a substantial need for increased and accessible mental health services in Minnesota.²²⁷ The lack of mental health care available to at-risk people is partly due to the inherent complexities of working with people with mental health conditions.²²⁸ One stakeholder noted, "[l]ack of qualified mental health [services] is a huge barrier. It's hard to find mental health providers who have developed a specialty in trafficking or sexual abuse, and to be able to understand child development and trauma, is asking a lot."²²⁹ Another stakeholder added, "[e]veryone says they want to work and support trafficking victims but it's really a small number that do ... because it's really, really hard. [It's] hard to find psychiatric facilities that want to take these youth on."²³⁰

Even when mental health services are available, several factors still diminish access. For example, lack of transportation is a common barrier to reaching mental health services, especially in areas without public transport. A Regional Navigator recalled how health clinics are hours apart for some communities, requiring people to have the financial resources or transportation options just to reach a facility. She recalled a trafficked

²²¹ Polaris, *On Ramps, Intersections, and Exit Ramps, A Road Map for Systems and Industries to Prevent and Disrupt Human Trafficking*, by Brittany Anthony, (Washington D.C.: Financial Services Industry, July 2018), 20-21, <https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Health-Care.pdf>.

²²² Polaris, *On Ramps, Intersections, and Exit Ramps, A Road Map for Systems and Industries to Prevent and Disrupt Human Trafficking*, by Brittany Anthony, (Washington D.C.: Financial Services Industry, July 2018), 21-22, <https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Health-Care.pdf>.

²²³ For example, one nonprofit director noted that many of the girls with lived experience whom they serve have Fetal Alcohol Syndrome or autism. Interview 59.

²²⁴ Interview 107.

²²⁵ Interview 78.

²²⁶ Interview 9.

²²⁷ See, e.g., Interview 6; Interview 8; Interview 9; Interview 17; Interview 18; Interview 22; Interview 44; Interview 45; Interview 69; Interview 83.

²²⁸ See, e.g., Interview 101.

²²⁹ Interview 7.

²³⁰ Interview 8.

woman who could not attend her mental health appointments because she did not have a car.²³¹

In rural communities, the gap in psychiatry and other mental health care is even more acute.²³² According to one Regional Navigator, mental health resources are “scattered” in Greater Minnesota, particularly north of Duluth.²³³ The navigator emphasized the need for an agency that specifically serves youth in northern Minnesota, explaining that schools and churches are the primary providers of these services.²³⁴ A law enforcement officer agreed, noting the need for inpatient services for youth outside of the Twin Cities metro area.²³⁵ While Safe Harbor has helped meet some of these needs in Greater Minnesota for those under 24 years, gaps still remain as described on page 81.

Minnesota’s health care system also excludes people living in poverty, decreasing their ability to access mental health services, and increasing their vulnerability to sex trafficking. According to interviewees, people who cannot pay providers are often precluded from receiving these services.²³⁶ Insurance policies can also hinder access for those in poverty. A community organization employee described how some health care providers do not accept government-provided insurance, preventing clients from securing treatment for their health needs.²³⁷

Substance Use Disorder

People who are at risk often struggle with chemical dependency, substance use disorder, and/or addiction before their exploitation.²³⁸ Although sex trafficking and the drug trade have been intertwined,²³⁹ interviewees observed that traffickers especially target people struggling with chemical dependency.²⁴⁰ Traffickers may coerce a person into trafficking to pay for alcohol or drugs.²⁴¹ In some cases, the person’s trafficker may also be their drug dealer.²⁴² A prosecutor estimated more than half the cases of trafficking he encounters now involve controlled substance use.²⁴³ Traffickers

²³¹ Interview 69.

²³² Interview 69; Interview 60; Interview 43; Interview 27.

²³³ Interview 43.

²³⁴ Interview 43.

²³⁵ Interview 27.

²³⁶ Interview 70.

²³⁷ Interview 89.

²³⁸ Interview 83 (noting chemical dependency as a risk factor generally); Interview 29 (noting chemical health is a risk factor).

²³⁹ Interview 106.

²⁴⁰ Interview 106.

²⁴¹ Interview 12; Interview 72. One nonprofit employee opined that “[c]hemical addiction and not having access to treatment for that addiction can be a driving factor” propelling victims into sex trafficking. Interview 21.

²⁴² Interview 9.

²⁴³ Interview 81 (noting cases in Wright County).

themselves recognize the link between substance use disorder and victimization. One advocate said that, in her region, traffickers attend treatment programs: “Men know [people] are vulnerable, they sexually assault them, then recruit them for trafficking.”²⁴⁴

As with other root causes, the drivers of substance use disorder and trafficking are interconnected. People with a substance use disorder may not receive comprehensive support because the range of services they need are “difficult and expensive” to obtain.²⁴⁵ Some prevention strategies have been implemented in Minnesota. For example, reframing of drug use as a social or health issue, instead of a criminal justice one, under the Law Enforcement Assisted Division/Let Everyone Advance with Dignity (LEAD) model has been successful, including in Minneapolis’s Lake Street area.²⁴⁶ This model incorporates harm reduction approaches and reduces collateral consequences related to convictions.

Stakeholders explained that trauma and addiction²⁴⁷ are both common among people who may rely on substance use to cope with exploitation.²⁴⁸ Trauma and addiction can work in tandem to impact the delivery of assistance, especially when chemical health services are unavailable.²⁴⁹ Behaviors arising from substance use disorder can adversely affect multiple touchpoints in peoples’ lives, such as housing or parental status, which are compounded when combined with other factors such as credit history, criminal history, vehicle access, and employment.²⁵⁰ These behaviors can cause people to leave shelters or withdraw from services as “a trauma reaction to cope with [something that] triggered them.”²⁵¹ One stakeholder described youth struggling with substance use: “[t]hese youth are victims of horrific things ... and they are really angry and understandably so.”²⁵² Finally, trauma and addiction can be further compounded by the difficulties faced by people who experience psychosis, physical symptoms of addiction, or overdose.²⁵³ As one stakeholder elaborated:

[M]ost are coming out of extreme trauma and a lot have used and self-medicated. Asking them to come into a safe environment and be still ... their body

²⁴⁴ Interview 85.

²⁴⁵ Interview 17.

²⁴⁶ Rise Research LLC, *Minnesota Drug Policy: State of the Evidence*, by Ari Edelman McHenry and Anne Siegler (Saint Paul: Minn. Dept. of Public Safety - Office of Justice Programs, February 2024), 52, <https://www.lrl.mn.gov/docs/2024/mandated/240343.pdf>.

²⁴⁷ Interview 29; Interview 64; Interview 74.

²⁴⁸ Interview 72.

²⁴⁹ Interview 29; Interview 59; Interview 44.

²⁵⁰ Consultation with Experts with Lived Experience, Session IV.

²⁵¹ Interview 44.

²⁵² Interview 8.

²⁵³ Interview 18; Interview 30; Interview 73.

will start to react to the trauma and without the right meds... it's going to be very hard to be successful.²⁵⁴

Subject matter experts cautioned against simplifying the cause-and-effects of substance use disorder and stressed the importance of understanding that more is in jeopardy than just housing. One person explained, "You think I lost my housing because I was on drugs, when I really lost my house because maybe I had to move . . . [b]y the time I had to move, my credit was bad.... I'd caught a charge or something like that or I'd lost my section 8. Or something like that and that snowballed effect."²⁵⁵

Interviewees consistently cited a need for more wraparound services to address the unique needs of someone with substance use disorder.²⁵⁶ Most shelters are not equipped to provide help related to mental health, trauma, or addiction. One stakeholder explained that many shelters are "emergency housing, and they are not counselors. ... Oftentimes it feels like they are putting band-aids on things."²⁵⁷

In addition, several stakeholders expressed the need for service providers to remain non-judgmental of people who struggle with chemical health issues. One stakeholder explained their perception that "[r]elapse is real. We don't have a rescue mentality.... We make sure there are no judgments. We know it may take time to get out of the life."²⁵⁸ Even those who are sympathetic, however, may have preconceptions that negatively impact people with a substance use disorder, especially given the power imbalance between provider and client. One lawyer, trying to show empathy with someone struggling with addiction, assumed that it was an inevitable path from experiencing poverty to trafficking one's child:

Poverty is what drives all of it. If I have no hope in life, I'm going to self-medicate. Now I'm going to do anything I can do to get heroin. Then my dealer says if I let him sleep with my 11-year-old daughter, I can get more heroin.²⁵⁹

Subject matter experts highlighted that assuming a person with a substance abuse disorder will inevitably traffic their child reinforces a power dynamic that places the service provider in the role of a rescuer and diminishes the agency of the person needing assistance.²⁶⁰

²⁵⁴ Interview 64.

²⁵⁵ Consultation with Experts with Lived Experience, Session IV.

²⁵⁶ See, e.g., Interview 9; Interview 17; Interview 22; Interview 26; Interview 45; Interview 74; Interview 83.

²⁵⁷ Interview 83.

²⁵⁸ Interview 9.

²⁵⁹ Interview 88.

²⁶⁰ Consultation with Experts with Lived Experience, Group 2.

Facilities do not always have the flexibility to incorporate a harm-reduction model when it comes to substance use disorder.²⁶¹ For example, one nonprofit worker suggested more housing where residents are allowed to use drugs or alcohol should be available, but also noted the challenges in shared housing when other residents are working to maintain sobriety.²⁶² They stressed that, while people experiencing substance use issues deserve housing, incentives to maintain sobriety are also important.²⁶³

RECOMMENDATIONS

- Expand access and funding to mental health and substance use treatment facilities and other resources, especially in rural areas.
- Expand mental health services that are culturally sensitive and specific to communities at high risk of trafficking.
- Expand the training of mental health providers on trafficking vulnerability and treatment of trauma and its impacts.
- Provide incentives to improve access to mental health services for those on public insurance.
- Expand access to substance use disorder treatment and to necessary care for people who do not want treatment.

Complicating Factors

Immigration Status

Lack of immigration status increases vulnerability to trafficking.²⁶⁴ People without immigration status are vulnerable to those who threaten immigration consequences to coerce them into trafficking. Some are also vulnerable because their immigration status ties them to a sponsor who may wield that power to coerce them into trafficking. For example, a person enticed to come to the U.S. on a fiancé visa is required to marry the U.S. sponsor within 90 days of arrival. Cases have involved situations, however, in which that sponsor refuses to marry the individual and begins forcing them to engage in commercial sex. When the 90-day visa expires with no marriage, the victim is fearful of immigration consequences and, therefore, beholden to the fiancé visa sponsor – their trafficker. Traffickers may make either promises regarding immigration status, e.g., “I know a good lawyer and will pay to help you get status,” or threats related thereto,

²⁶¹ See, e.g., Interview 22. *But* see Interview 30 (providing an example of a sex trafficking victim who was sent to a shelter while recovering from a crack-cocaine addiction but left after she was not allowed to smoke cigarettes due to being underage; a harm-reduction model would have allowed her to smoke cigarettes to aid her recovery from crack-cocaine). See *infra*, A Trauma-Informed Response in Victim Protection.

²⁶² Interview 59.

²⁶³ Interview 59.

²⁶⁴ Interview 89; see *also* Interview 23; Interview 38; Interview 44; Interview 111; Interview 117.

e.g., “I know you are undocumented and will turn you over to ICE unless you do XYZ.” This exploitation has also manifested in a form of trafficking whereby a person is enticed to come to the U.S. and the trafficker pays for smuggling and travel. The trafficker then forces the victim to engage in commercial sex or other work to repay these fees under threat that she will be turned over to ICE if she refuses or leaves.

Many interviewees noted that traffickers readily exploit immigration status as a means of coercion.²⁶⁵ One interviewee shared an example of a woman who came to the United States to live with another woman who was her intimate partner: “She came here with a visitor visa. She was unable to work because she didn’t speak English. The lady promised to do things for her and ended up sexually exploiting her. She wouldn’t give her back her paperwork, so the victim was [unable to prove her status].”²⁶⁶

Immigration status can especially increase children’s vulnerability. For example, an interviewee noted that Minnesota received a great number of minor children crossing the border alone.²⁶⁷ It was further noted that, consequently, many unaccompanied children coming from Central America arrive in the United States without support and may become “entrapped in sex and labor work.”²⁶⁸ Another interviewee noted that the children do not report the exploitation or trafficking because of their fear of deportation.²⁶⁹ As an example, an interviewee recalled a boy he worked with from the Dominican Republic where the “trafficker helped him with his visa and put him in school. [The trafficker] then stopped that and made [the boy] work. He was abused sexually. The trafficker threatened deportation. Immigration status was the controlling factor.”²⁷⁰ Although some requirements exist for children to be screened for trafficking by immigration officials, the U.S. immigration system still lacks training on victim-centered and trauma-informed screening and referral processes, as well as clear requirements and expectations about who is required to conduct such screening and assistance. This gap can result in a failure to identify or advise on rights for such victims in immigration proceedings and the subsequent deportation of children who are victims of trafficking.

Incarceration and Other Places of Recruitment

Traffickers also target those released from incarceration, particularly those with a record of substance use and/or involvement in the commercial sex trade.²⁷¹ By using

²⁶⁵ Interview 23; Interview 38; Interview 44; Interview 111; Interview 117.

²⁶⁶ Interview 23.

²⁶⁷ Interview 89.

²⁶⁸ Interview 89.

²⁶⁹ Interview 44.

²⁷⁰ Interview 27.

²⁷¹ Humphrey School of Public Policy Repository, Recommendations for a Coordinated Response to Human Trafficking/Exploitation (Sex and Labor) and Substance Use in Minnesota, by Caroline Palmer (Minneapolis: University of Minnesota, May 2023), 15.

publicly available information on incarcerated people, traffickers can groom them through communications, monetary contributions to their bank accounts, false promises, and even offers of rides to anyone needing transport upon release.²⁷² The current jail and prison infrastructure provides opportunities for traffickers to access this data and exploit people. Different Minnesota counties publish different information: some counties post a person's photos with the charges; others post only names and charges; some counties do not post a list but provide a search function; and, other counties provide bail, hearing dates, and even the expected date of release.²⁷³ As for bank deposits, while they can be investigated, they can generally be made by anyone, with some limited exceptions.²⁷⁴ The Department of Corrections does review mail when "there is a justifiable belief that its contents constitute a risk to the safety and security of the facility, specific individuals, or the general public, or when staff have reason to believe that the offender or the sender/recipient is involved in criminal activity."²⁷⁵

The juvenile justice system exacerbates the issues minors face, according to stakeholders, because corrections officers have difficulty managing children who are "both/and"—victims of trafficking or exploitation who have also committed crimes.

Our correction facilities, a lot of things that happen – strip search, restraint chairs, full on restraints – people don't think, maybe we shouldn't do that if we have a population of sexually exploited youth.²⁷⁶

After they exit detention, the system still struggles with how to manage these youth:

They can't separate the action from what is happening, how they have been surviving. It looks very different if you are on probation and you have a curfew and you are not home by curfew. Your exploiter doesn't care if you have a curfew. Corrections is not forgiving on [violations] that are directly related to the exploitation.²⁷⁷

A nonprofit director observed that traffickers will also know where systems-involved teenagers congregate and will target them that way.²⁷⁸ For example, traffickers will

²⁷² Humphrey School of Public Policy Repository, Recommendations for a Coordinated Response to Human Trafficking/Exploitation (Sex and Labor) and Substance Use in Minnesota, by Caroline Palmer (Minneapolis: University of Minnesota, May 2023), 15–16.

²⁷³ Humphrey School of Public Policy Repository, Recommendations for a Coordinated Response to Human Trafficking/Exploitation (Sex and Labor) and Substance Use in Minnesota, by Caroline Palmer (Minneapolis: University of Minnesota, May 2023), 16–17.

²⁷⁴ Humphrey School of Public Policy Repository, Recommendations for a Coordinated Response to Human Trafficking/Exploitation (Sex and Labor) and Substance Use in Minnesota, by Caroline Palmer (Minneapolis: University of Minnesota, May 2023), 17.

²⁷⁵ Mail, Minnesota Department of Corrections Policy Manual § 302.020 (2019), <https://policy.doc.mn.gov/DOCPolicy/>.

²⁷⁶ Interview 70.

²⁷⁷ Interview 70.

²⁷⁸ Interview 59.

loiter around alternative schools, Alcoholics Anonymous group meetings, AlaTeen meetings, and juvenile centers to recruit youth.²⁷⁹

COVID-19

COVID-19 heightened risk factors, especially for people struggling financially as it reduced options for employment.²⁸⁰ In a Safe Harbor survey, almost half of the respondents reported that the pandemic made finding a safe place to stay and getting a living-wage job more difficult.²⁸¹ Economically, COVID-19 decreased revenues, making people more vulnerable to trafficking.²⁸² The pandemic also pushed people who had exited trafficking back into the commercial sex trade when they lost jobs.²⁸³ Another interviewee summarized that COVID-19 has worsened the risk factors for sex trafficking including job loss, isolation, housing and food insecurity, an inability for community organizations to do as much street outreach as before, and fewer contacts between at-risk children and mandated reporters.²⁸⁴

Law enforcement and advocacy organizations pointed out the COVID-19 pandemic made it more difficult to identify people at risk of sexual exploitation.²⁸⁵ The COVID-19 pandemic also increased the use of digital technologies to traffic and exploit people.²⁸⁶ Furthermore, the pandemic hindered the ability of people to connect to the advocates and the nonprofit and state service providers who could provide them with resources.²⁸⁷ In a recent evaluation, more than half of survey respondents responded

²⁷⁹ Interview 59.

²⁸⁰ See, e.g., Interview 89.

²⁸¹ Minnesota Department of Health, An Evaluation of the Safe Harbor Initiative in Minnesota – Phase 4 Report to Commissioner (Saint Paul: Minnesota Department of Health, April 2019 - June 2021), 21, <https://www.health.state.mn.us/communities/safeharbor/documents/2021shevalreport.pdf>.

²⁸² UN Women and ODIHR, Guidance: Addressing emerging human trafficking trends and consequences of the COVID-19 pandemic, by Kevin Hyland, Dalia Leinarte, Christopher H. Smith, Per-Anders Sunesson and Shandra Woworuntu (New York: UN Women, 2020), 29, <https://www.unwomen.org/en/digital-library/publications/2020/07/guidance-addressing-emerging-human-trafficking-trends-and-consequences-of-the-covid-19-pandemic>.

²⁸³ Interview 89; UN Women and ODIHR, Guidance: Addressing emerging human trafficking trends and consequences of the COVID-19 pandemic, by Kevin Hyland, Dalia Leinarte, Christopher H. Smith, Per-Anders Sunesson and Shandra Woworuntu (New York: UN Women, 2020), 29, <https://www.unwomen.org/en/digital-library/publications/2020/07/guidance-addressing-emerging-human-trafficking-trends-and-consequences-of-the-covid-19-pandemic>.

²⁸⁴ Interview 95.

²⁸⁵ Interview 89; Minnesota Department of Health, An Evaluation of the Safe Harbor Initiative in Minnesota – Phase 4 Report to Commissioner (Saint Paul: Minnesota Department of Health, April 2019 - June 2021), 37, <https://www.health.state.mn.us/communities/safeharbor/documents/2021shevalreport.pdf>.

²⁸⁶ Remarks by John Cotton Richmond, Ambassador-at-Large of the Office to Monitor and Combat Trafficking in Persons, “Trafficking, COVID-19, and Technology,” made at Dell Technologies Initiative for Freedom, October 7, 2020.

²⁸⁷ Interview 89.

that “services they needed, even remote services, were not available because of COVID-19.”²⁸⁸

Parenthood

Interviewees identified parenthood as another factor that can force people in poverty to trade or sell sex to ensure that their children have housing and other basic necessities.²⁸⁹ A person might have resources, but when circumstances change, such as becoming a single parent or losing a job, that person may resort to trading or selling sex in order to continue caring for their family.²⁹⁰ A subject matter expert cautioned against assumptions that focus only on poverty, adding, “It doesn’t just start off with poverty.”²⁹¹ In turn, an interviewee asserted that parents will “often choose to stay where they are to have shelter, food to eat, and be with their children.”²⁹² One youth program service provider reported that young parents were particularly vulnerable. They end up experiencing homelessness and trade sex to survive.²⁹³

Parenthood can make people reluctant to seek help. According to subject matter experts, due to past institutional violence, Black and Indigenous parents fear having their children taken away from them by a racially biased child welfare system. Therefore, they tend not to reach out for services.²⁹⁴ At the same time, however, subject matter experts also stressed that parenthood can be the impetus for people to “leave the life.” One person stated, “as far as I know, everyone, everyone over here got out of [the selling trade] because they were a mother.”²⁹⁵ She added, “because now I’m a mom. So now I got to make different decisions. Now I got to go and get help. Now I got to do this. I got to do that, right?”²⁹⁶ Another subject matter expert, who identifies as a sex worker, observed that voluntary sex work supported their ability to parent their children.²⁹⁷

²⁸⁸ Minnesota Department of Health, *An Evaluation of the Safe Harbor Initiative in Minnesota – Phase 4 Report to Commissioner* (Saint Paul: Minnesota Department of Health, April 2019 - June 2021), 18, <https://www.health.state.mn.us/communities/safeharbor/documents/2021shevalreport.pdf>; Minnesota Department of Health, “Safe Harbor Minnesota,” accessed June 12, 2024, <https://www.health.state.mn.us/communities/safeharbor/>; Minnesota Department of Human Services, “Safe Harbor/No Wrong Door,” accessed June 12, 2024, <https://mn.gov/dhs/partners-and-providers/program-overviews/child-protection-foster-care-adoption/safe-harbor/>.

²⁸⁹ Interview 21.

²⁹⁰ Consultation with Experts with Lived Experience, Session I.

²⁹¹ Consultation with Experts with Lived Experience, Session I.

²⁹² Interview 37.

²⁹³ Interview 97.

²⁹⁴ Consultation with Experts with Lived Experience, Group 2.

²⁹⁵ Consultation with Experts with Lived Experience, Session IV.

²⁹⁶ Consultation with Experts with Lived Experience, Session IV.

²⁹⁷ Consultation with Experts with Lived Experience, Group 2.

Other Factors

Traffickers may use access to luxury goods and social norms to disguise their intentions with young people who may be at risk. For example, subject matter experts highlighted the peer pressure that young people face to keep up their appearances and possess certain material goods.²⁹⁸ Traffickers may use this pressure to fit in with peers to lure youth of various races and socio-economic backgrounds.²⁹⁹ Although these items are not necessities, traffickers can use small luxuries, such as clothes, shoes, and styled hair and nails, to reel in young people.³⁰⁰ The accessibility and privacy of online transactions, such as performing online sex acts or showing their bodies, makes it easy for youth to hide their activity, and also incoming funds, from their parents.³⁰¹ Although satisfying these small wants may seem minor, acquiring these items aligns with the youth's broader desire to fit in and be accepted, rather than face isolation.³⁰²

The demand for sex is another contributing factor.³⁰³ One interviewee noted that little research is done on why people buy sex, but posits that the motivations are wide-ranging and that more work is required to understand those reasons.³⁰⁴ According to Mapping the Demand: Sex Buyers in the State of Minnesota [hereinafter, Mapping the Demand], “[s]ex buyers, and the demand for commercial sex, are the least understood aspect of the marketplace for sex.”³⁰⁵ Our findings show, however, that understanding how to reduce demand has not been a priority for authorities.³⁰⁶

The issue is complex and, as one law enforcement officer acknowledged, it is “tough” to curb demand.³⁰⁷ As described below in Public Awareness, another law enforcement officer stated that “demand is generated based on society's mindset.”³⁰⁸ There are various reasons why people purchase sex, but common across many of those buyers is the “hint of dehumanization.”³⁰⁹ Mapping the Demand suggests primary prevention and education focused on values and changing societal norms, such as “consent, dismantling rape culture and toxic masculinity, and developing healthy gender roles”

²⁹⁸ Consultation with Experts with Lived Experience, Session IV.

²⁹⁹ Interview 118 (noting they have learned of white, affluent students also being sexually exploited).

³⁰⁰ Consultation with Experts with Lived Experience, Session IV.

³⁰¹ Interview 117.

³⁰² Consultation with Experts with Lived Experience, Session IV.

³⁰³ See e.g., Interview 25.

³⁰⁴ Interview 117.

³⁰⁵ Women's Foundation of Minnesota, *Mapping the Demand: Sex Buyers in the State of Minnesota*, by Lauren Martin, Christina Melander, Harshada Karnik and Corelle Nakamura (Minneapolis: Robert J. Jones Urban Research and Outreach-Engagement Center, August 2017), 31, <https://uroc.umn.edu/sites/uroc.umn.edu/files/2021-08/MappingtheDemand-FullReport%20-%20FINAL%20July%2031%202017.pdf>.

³⁰⁶ Interview 4; Interview 68.

³⁰⁷ Interview 12.

³⁰⁸ Interview 14.

³⁰⁹ Interview 117.

could decrease demand.³¹⁰ Breaking Free has restructured its former John School into a restorative justice model called “Men Breaking Free.”³¹¹ The program works with arrested buyers “in an introspective, healing, and learning process designed to break the cycle of sex trafficking and sexual exploitation.”³¹²

RECOMMENDATIONS

- Promote screening and referral of potential trafficking victims among providers of services to high-risk populations such as foreign nationals and people released from incarceration.
- Continue to invest in low or no barrier services for people regardless of immigration status.
- Examine how the juvenile and adult criminal justice systems could better respond to people who have past histories of abuse or trauma that impact their current circumstances.
- Increase support for families, such as childcare and cash assistance, so they can meet their basic needs before abuse or harm occurs.

PUBLIC AWARENESS

Accurate information is crucial for trafficking prevention. For example, the Minnesota Missing and Murdered Indigenous Women (MMIW) Task Force urged stakeholders to “[c]reate public awareness campaigns specifically about sex trafficking and Indigenous women.”³¹³ Targeted campaigns emphasizing community-specific risk factors and barriers can improve identification and support of people experiencing sexual exploitation.³¹⁴ The commitment of adequate resources will also help.³¹⁵ Key to public

³¹⁰ Women’s Foundation of Minnesota, *Mapping the Demand: Sex Buyers in the State of Minnesota*, by Lauren Martin, Christina Melander, Harshada Karnik and Corelle Nakamura (Minneapolis: Robert J. Jones Urban Research and Outreach-Engagement Center, August 2017), 111, <https://uroc.umn.edu/sites/uroc.umn.edu/files/2021-08/MappingtheDemand-FullReport%20-%20FINAL%20July%2031%202017.pdf>.

³¹¹ Breaking Free, “Men Breaking Free,” accessed June 12, 2024, <https://breakingfree.net/men-breaking-free-1>.

³¹² Breaking Free, “Men Breaking Free,” accessed June 12, 2024, <https://breakingfree.net/men-breaking-free-1>.

³¹³ Department of Public Safety, *Missing and Murdered Indigenous Women Task Force: A Report to the Minnesota Legislature*, by Nicole MartinRogers and Virginia Pendleton (Saint Paul: Wilder Research, December 2020), 129, https://www.wilder.org/sites/default/files/imports/MMIW_TaskForceReport_12-20.pdf.

³¹⁴ CEDAW, General recommendation No. 38 on trafficking in women and girls in the context of global migration, (November 20, 2020), UN. Doc. CEDAW/C/GC/38, ¶ 75.

³¹⁵ Corinne Schwarz, Chong Xing, Ryan Daugherty, Sierra Watt and Hannah E. Britton, *Frontline Workers’ Perceptions of Human Trafficking: Warning Signs and Risks in the Midwest*, *Journal of Human Trafficking* (2020), 6:1, 61-78; Office of Justice Programs and Office for Victims of Crime, *Building Effective Collaborations To Address Human Trafficking (OVC Fact Sheet)* (Washington D.C.: US Department of

awareness is ensuring that the language of the messages is understandable to all members of the community, not just stakeholders already familiar with the terminology.³¹⁶ When communities lack an understanding of sex trafficking, they may resort to victim-blaming.³¹⁷

Since Safe Harbor, public understanding and attitudes toward sex trafficking have changed tremendously.³¹⁸ Before Safe Harbor, the public was often shocked to learn that sex trafficking was occurring in their communities. In some cases, the public simply did not acknowledge the problem.³¹⁹ Now, one stakeholder stated, “We’re transitioning from a community where we had a naïveté, where we were blind to [sex trafficking] but with the awareness that it’s happening here. We are now saying we need to have resources to combat that.”³²⁰ Another interviewee echoed that statement, explaining “It used to be that I would go to church groups or rotary groups, and they were shocked to hear that sex trafficking was happening, but I don’t feel that’s the case anymore. Now it’s trying to understand where it’s happening.”³²¹ Several interviewees commented on the increased and altered media attention to sex trafficking.³²² Where the media previously focused on “sensationalizing trafficking,” now it focuses on promoting education and engagement.³²³

Safe Harbor provides funding to raise awareness of sex trafficking in communities at risk of trafficking. For example, Lutheran Social Services and other Safe Harbor grantees launched programs based on Love146’s “Not a Number” program, a curriculum for youth that focuses on prevention and includes basic sexual health information.³²⁴ YMCA of the Greater Twins cities piloted the “Enough” program, offering one-to-one counseling and life skills for at-risk youth.³²⁵ Prevention education can also help to identify youth experiencing sexual exploitation: “the groups help reach these youth –

Justice, December 2015), 1,

https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/HT_Building_Effective_Collab_fact_sheet-508.pdf.

³¹⁶ Consultation with Experts with Lived Experience, Session IV.

³¹⁷ Interview 56.

³¹⁸ Interview 8; Interview 94; Interview 44. For example, a Community Organization Member noted that with more public awareness and programming, people are “starting to have a 101 grasp” of sex trafficking; Interview 64; Consultation with Experts with Lived Experience, Session II (observing that many persons with lived experience do not know what the Safe Harbor Law is or provides).

³¹⁹ Interview 94; Interview 56.

³²⁰ Interview 31.

³²¹ Interview 94.

³²² Interview 41; Interview 106.

³²³ Interview 56.

³²⁴ Interview 34; Interview 53; Information about *Not a Number* can be found at <https://love146.org/notanumber/>. See also Lutheran Social Services, “Not a #Number,” <https://www.lssmn.org/services/youth/health/sex-trafficking-services/community-education/not-a-number>.

³²⁵ Interview 53.

including survivors [who] have already experienced [sexual exploitation] and learn for the first time that they can call it that.”³²⁶ One stakeholder cautioned, however, against educational campaigns with limited reach.³²⁷ A school prevention curriculum will reach only a small audience within the educational institution, whereas prevention efforts need to move upstream to examine how the environment, i.e., the school district and its policies need reform to promote intolerance for sexual violence.³²⁸

One effect of the heightened public awareness is less victim-blaming among the general public.³²⁹ A nonprofit leader explained, “several years ago nobody wanted to acknowledge sex trafficking. There was aversion and victim blaming.”³³⁰ A subject matter expert described the change as a shift in understanding who is at fault for sex trafficking. She explained, “[f]or the most part, people in [Minnesota] feel like it is wrong for men to buy sex. It took them a minute to get there, but they eventually got there.”³³¹ One interviewee reflected that, where sexual exploitation is more widely discussed in the community, like in Duluth, there tends to be less stigma around services and needs related to reproductive health and sexual exploitation.³³² Nevertheless, subject matter experts pointed out existing problems in the law that sanitize others’ roles in sexual exploitation, such as buyers. One expert denounced Minnesota’s statute that uses the term “patron” and stated their preference for the term “buyer.”³³³ They elaborated, “I’m okay with the word ‘buyer,’ because that’s what they are. They are buying and purchasing... that word ‘patron’ just drives me freaking nuts. Because...they’re predators...these are predators, and they’re preying on vulnerable individuals.”³³⁴

A shift in public discourse is necessary to transform the dominant narrative and the remaining stereotypes about trafficking being limited to urban centers, coastal regions, or border states.³³⁵ More work is needed to continue educating the public and shifting longstanding cultural norms and gender stereotypes. A culture that sexualizes girls contributes to the risk of sexual exploitation, and, as one nonprofit worker

³²⁶ Interview 97.

³²⁷ Interview 36.

³²⁸ Interview 36.

³²⁹ Interview 56; Interview 31; Interview 38.

³³⁰ Interview 56.

³³¹ Interview 71.

³³² Interview 56.

³³³ Consultation with Experts with Lived Experience, Session II.

³³⁴ Consultation with Experts with Lived Experience, Session II.

³³⁵ Corinne Schwarz, Chong Xing, Ryan Daugherty, Sierra Watt and Hannah E. Britton, *Frontline Workers’ Perceptions of Human Trafficking: Warning Signs and Risks in the Midwest*, *Journal of Human Trafficking* (2020), 6:1, 62–63; National Human Trafficking Prevention, *A Public Health Approach to Preventing Human Trafficking Framework*, (2024), 56, https://www.acf.hhs.gov/sites/default/files/documents/otip/HHS%20Human%20Trafficking%20Prevention%20Framework_Final.pdf

explained, harmful gender norms are reinforced by prevailing toxic masculinity.³³⁶ Such sexualized stereotypes also pervade depictions of certain communities of color. One native housing worker noted that an internet search of Native American women shows results of “scantily clad, sexualized or violent, half animal” women.³³⁷

To be an effective prevention intervention, education and awareness-raising should be connected to other efforts to address the root causes of trafficking. This type of public awareness responds to the specific dynamics and needs of every community and strengthens the outreach and connectedness of the community members.³³⁸ As an interviewee stated:

In a perfect world, we’re understanding, valuing, and funding prevention to look at social norms, social conditions, risk and protective factors for both victimization and perpetration, and doing this at more of a local/community level than at a state level. It’s particularly important at a local level because every community is different.³³⁹

Increasing public awareness includes creating a digital space that is safe for people at risk of sexual exploitation. The United Nations has highlighted the need to create a global culture of total intolerance toward violence against women and girls in digital spaces, including trafficking, and recognized how digital technologies are currently being used for sexually exploitative purposes.³⁴⁰ Technology-facilitated gender-based violence highly intersects with trafficking as digital tools can exacerbate it, with online grooming, for example.³⁴¹ Although this current report touches on the role of social media in trafficking when discussing online investigations, further analysis of its role in preventing sex trafficking and exploitation is necessary.

RECOMMENDATIONS

- Continue to provide the public with accurate information about sex trafficking and sexual exploitation.

³³⁶ Interview 60. See also Interview 59 (stating that many buyers referred to a johns program admit they did not know it was wrong to purchase sex).

³³⁷ Interview 56.

³³⁸ Consultation with Experts with Lived Experience, Group 2.

³³⁹ Interview 36.

³⁴⁰ United Nations Economic and Social Council, Innovation and technological change, and education in the digital age for achieving gender equality and the empowerment of all women and girls: Agreed conclusions (March 20, 2023), U.N. Doc E/CN.6/2023/L.3, ¶ 57), <https://documents.un.org/doc/undoc/ltid/n23/081/71/pdf/n2308171.pdf?token=yDO4lprTLXt4MnnAin&fe=true>.

³⁴¹ UNIRIC, “How Technology-Facilitated Gender-Based Violence Impacts Women and Girls,” accessed November 29, 2023, <https://unric.org/en/how-technology-facilitated-gender-based-violence-impacts-women-and-girls/>; Human Trafficking Front, “Social Media and Child Sex Trafficking,” accessed June 13, 2024, <https://humantraffickingfront.org/social-media-and-child-sex-trafficking/>.

- Expand the availability of curricula for youth that emphasize healthy relationships, bodily autonomy, safe supports, and safe use of technology.
- Raise awareness of remaining stereotypes about trafficking, gender stereotypes and cultural norms that contribute to tolerance of sexual violence.
- Invest in and enhance community-level initiatives for trafficking prevention.

PROTECTION

International law establishes a positive obligation on countries to provide trafficking victims protection, including physical and psychological support and legal assistance.³⁴² Support must be culturally sensitive, free from discrimination, gender- and age-sensitive, and not dependent on cooperation with criminal prosecution.³⁴³ Importantly, such measures should safeguard people from revictimization and meet other best practice principles. These principles include ensuring access to various services; allowing time for reflection; establishing means for compensation; and if emigration is entailed, providing for temporary or permanent status in the destination country.³⁴⁴ States must comply with the principle of non-punishment, which imposes a negative obligation on them.³⁴⁵ In other words, all nations are to refrain from the arrest and punishment of victims who, in addition to selling sex, may have participated in forced criminality as a result of their sexual exploitation.³⁴⁶

LEGISLATION RELEVANT TO VICTIM STATUS

Minnesota enacted the Safe Harbor Act [Safe Harbor] in 2011. Safe Harbor amended Minnesota's legislation to prevent delinquency adjudication of children who engage in conduct which would, if committed by an adult, violate laws relating to engaging in sexual penetration or sexual conduct for hire.³⁴⁷ The Safe Harbor Act delayed implementation of this change until August 1, 2014, to provide time for Minnesota to plan a system once the state no longer relied on the delinquency system to respond.³⁴⁸

³⁴² United Nations High Commissioner for Human Rights, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, (May 20, 2002), E/2002/68/Add. 1, ¶¶ 8, 9, <https://www.un.org/esa/documents/ecosoc/docs/2002/e2002-68add1.pdf>.

³⁴³ United Nations Economic and Social Council, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, (May 20, 2002), E/2002/68/Add. 1, ¶¶ 7- 9; United Nations Office on Drugs and Crime, *International Framework for Action to Implement the Trafficking in Persons Protocol*, 2009, 11, https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf.

³⁴⁴ United Nation Office on Drugs and Crime, *International Framework for Action to Implement the Trafficking in Persons Protocol*, 2009, 11, https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf.

³⁴⁵ United Nation Office on Drugs and Crime, *International Framework for Action to Implement the Trafficking in Persons Protocol*, 2009, 11, https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf.

³⁴⁶ United Nations High Commissioner for Human Rights, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, (May 20, 2002), E/2002/68/Add. 1, ¶¶ 7, 9, <https://www.un.org/esa/documents/ecosoc/docs/2002/e2002-68add1.pdf>

³⁴⁷ Laws of Minnesota 2011, 1st Spec. Sess., chapter 1, article 4, section 1. Originally, only children under age 16 were excluded from the delinquency definition. In 2013, before Safe Harbor's effective date, Minn. Stat. § 260B.0070 (2023), subd. 6, was amended to include all children under age 18. Laws of Minnesota 2013, Reg. Sess., chapter 108, article 37.

³⁴⁸ Laws of Minnesota 2011, 1st Spec. Sess., chapter 1, article 4.

Minnesota’s Safe Harbor Act defines³⁴⁹ “sexually exploited youth” as a person who “is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;” is a victim of illegal sexual conduct involving minors,³⁵⁰ is a sex trafficking victim,³⁵¹ or is a victim of federal crimes involving the sexual exploitation of minors.³⁵² It also provides that sexually exploited youth qualify as children in need of protection or services under Minnesota Statute § 260C.007.³⁵³ People older than 18 years who sell sex are still subject to criminal penalties.³⁵⁴ The definition of sexually exploited youth has since been expanded to include “a victim of commercial sexual exploitation as defined in United States Code, title 22, section 7102(11)(A) and (12).”³⁵⁵

The Minnesota Safe Harbor Act required “the commissioner of public safety, in consultation with the commissioners of health and human services, [to] develop a victim services model to address the needs of sexually exploited youth and youth at risk of sexual exploitation.”³⁵⁶ The No Wrong Door model aims to provide communities statewide with the capacity and resources to identify sexually exploited and at-risk youth through provision of safe housing and trauma-informed services.³⁵⁷ Originally available only to youth under age 18, eligibility for Safe Harbor services was expanded to those 24 years and under in 2016.³⁵⁸

³⁴⁹ The statutory definition for *sexually exploited youth*, as created by Safe Harbor, went into effect on August 1, 2011. Laws of Minnesota 2011, 1st Spec. Sess., chapter 1, article 4.

³⁵⁰ *Illegal sexual conduct* involving minors is defined in Minn. Stat. §§ 609.342, 609.345, 609.3451, 609.3453, 609.352, 617.246, 617.247 (2023), and *production of sexually explicit depictions of a minor for importation into the United States* is defined at 18 U.S.C. § 2260 (2019).

³⁵¹ Laws of Minnesota 2011, 1st Spec. Sess., chapter 1, article 4. Minnesota Law defines “sex trafficking victim” as a person subjected to the following practices: “(1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).” Minn. Stat. § 609.321 (2023), subd. 7a & 7b.

³⁵² The federal crimes involving the sexual exploitation of minors can be found in United States Code, title 18, section 2421; 2422; 2423; 2425; 2425A; or 2256; and United States Code, title 22, section 7102(11)(A) and (12).

³⁵³ Laws of Minnesota 2011, 1st Spec. Sess., chapter 1, article 4. The addition of sexually exploited youth to the definition of children in need of protection or services went into effect on August 1, 2011. Minn. Stat. § 260C.007 (2023), subd. 6(11).

³⁵⁴ Minn. Stat. § 609.324 (2023), subd. 7.

³⁵⁵ Minn. Stat. § 260C.007 (2023), subd. 31.

³⁵⁶ Laws of Minnesota 2011, 1st Spec. Sess., chapter 1, article 4.

³⁵⁷ Wilder Research, “Safe Harbor,” accessed January 19, 2023, <https://www.leg.mn.gov/docs/2017/mandated/171116.pdf>.

³⁵⁸ Minn. Stat. § 145.4716 (2021), amended by 2016 c 189 article 15 s 1, 2.

In addition, Safe Harbor funds twelve Regional Navigator positions across Minnesota regions.³⁵⁹ Regional Navigators serve as connectors who provide training, outreach, referrals, service placement assistance and other support, but who are not intended to maintain a case load or provide direct services.³⁶⁰ Each Regional Navigator serves as the primary contact for a specific region and is a source for referrals, training, and partnerships.³⁶¹ There are eight Regional Navigators who serve greater Minnesota, with one in each of the following regions: Northeast Minnesota, North Central Minnesota, Northwest Minnesota, East Central Minnesota, West Central Minnesota, South Central Minnesota, Southwest Minnesota, and Southeast Minnesota.³⁶² Two Navigators serve the East and West Metro. Additionally, two Tribal Navigators work with the Mille Lacs Band and White Earth Tribal Nation.³⁶³ People in Minnesota can connect with their region's Navigator by calling or texting the statewide Day One Crisis Hotline or by visiting the Day One Website.³⁶⁴ An interviewee noted that concerned people or other system participants can also contact Regional Navigators on behalf of victims.³⁶⁵

Initially, the Minnesota Department of Health ("MDH") created two statewide Tribal Regional Navigator positions.³⁶⁶ Eleven Tribes are located in Minnesota, however, each of which is a separate sovereign nation with its own geographic, cultural and specialized needs.³⁶⁷ Recognizing this mistake, MDH sets aside Safe Harbor funding specifically for Tribes, and established a parallel process for the Tribes whereby Safe Harbor representatives meet with the Tribal leaders of the nine tribes that elected to participate in Safe Harbor.³⁶⁸ Now, each Tribe receiving Safe Harbor grants determines its own response to victims of sex trafficking.³⁶⁹

³⁵⁹ Minnesota Department of Health, "Safe Harbor Regional Navigators," accessed December 21, 2022, <https://www.health.state.mn.us/communities/humantrafficking/safeharbor/navigators.html>.

³⁶⁰ Minnesota Department of Health, "Safe Harbor Regional Navigators," accessed December 21, 2022, <https://www.health.state.mn.us/communities/safeharbor/response/navigators.html>; Interview 34; Interview 35; Interview 78.

³⁶¹ Interview 35.

³⁶² Minnesota Department of Health, "Safe Harbor Regional Navigators," accessed December 21, 2022, <https://www.health.state.mn.us/communities/safeharbor/response/navigators.html>.

³⁶³ Minnesota Department of Health, "Safe Harbor Regional Navigators," accessed December 21, 2022, <https://www.health.state.mn.us/communities/safeharbor/response/navigators.html>.

³⁶⁴ Minnesota Department of Health, "Safe Harbor Regional Navigators," accessed December 21, 2022, <https://www.health.state.mn.us/communities/safeharbor/response/navigators.html>.

³⁶⁵ Interview 51.

³⁶⁶ Interview 35.

³⁶⁷ Interview 35.

³⁶⁸ Interview 35.

³⁶⁹ Interview 34.

VICTIM IDENTIFICATION

An effective response begins with identifying victims of sex trafficking and offering them services they may need.³⁷⁰ Various actors—street outreach workers, health care providers, lawyers, law enforcement officers, and others—play a frontline role in identifying trafficked people and connecting them with services. Interviewees emphasized that training by community groups for these actors, adequate funding for outreach, and engagement of more people with lived experience are key factors in victim identification and support.³⁷¹ New tools can also assist stakeholders in victim identification efforts. For example, officers have used tools like Spotlight, an online tool to analyze and archive websites; this tool has facilitated the identification of 17,092 child trafficking victims between 2016 and 2020.³⁷²

Where communities possess less awareness of sex trafficking, however, those knowledge gaps hamper victim identification and outreach.³⁷³ For example, interviews show that law enforcement in some rural communities grapple with understanding and identifying victims.³⁷⁴ A nonprofit worker explained, “When I was in [Greater Minnesota], I had a clear-cut sex trafficking [case] but law enforcement was not able to understand when it was actually sex trafficking.”³⁷⁵ Intersectional issues can compound these challenges even further for populations that tend to be more “hidden” and lack adequate data, such as people with disabilities.³⁷⁶

Youth have many reasons for not self-identifying as survivors.³⁷⁷ Interviewees elaborated that not everyone can verbalize what they experienced or they may not trust the person enough to disclose they are a survivor.³⁷⁸ When services or government agencies require identification as a trafficking victim to access support, people who do not see themselves as a victim-survivor or who resist disclosure may lose out on needed

³⁷⁰ U.S. Department of State, “3Ps: Prosecution, Protection, and Prevention,” accessed January 1, 2023, <https://www.state.gov/3ps-prosecution-protection-and-prevention/>.

³⁷¹ Consultation with Experts with Lived Experience, Session IV; NDAA Women Prosecutors section, *National Human Trafficking Prosecution Best Practices Guide* (Arlington: National District Attorneys Association, January 2020), 47, <https://ndaa.org/wp-content/uploads/Human-Trafficking-White-Paper-Jan-2020.pdf>.

³⁷² Thorn, “Spotlight helps find kids faster,” accessed June 13, 2024, <https://www.thorn.org/spotlight/>; Giving Compass Insights, “Tech Solutions Related To UN SDG 17: Partnerships for the Goals,” accessed August 7, 2024, <https://x4i.org/partnerships-goals/tech-solution/q-victims%20of%20human%20trafficking>; Interview 50; Interview 77; Interview 13.

³⁷³ Interview 64; Interview 69; Corinne Schwarz, Chong Xing, Ryan Daugherty, Sierra Watt and Hannah E. Britton, *Frontline Workers’ Perceptions of Human Trafficking: Warning Signs and Risks in the Midwest*, *Journal of Human Trafficking* (2020), 6:1, 63.

³⁷⁴ Interview 25.

³⁷⁵ Interview 25.

³⁷⁶ Interview 36.

³⁷⁷ Interview 95.

³⁷⁸ Interview 95.

services.³⁷⁹ One subject matter expert wondered why the system spends so much effort on identification instead of making it easy for anyone who needs the services to access them.³⁸⁰ Indeed, stakeholders emphasized treating everyone as potentially experiencing sexual exploitation to ensure they receive the full range of assistance:

If you're working with people experiencing homelessness, these are survivors, probably experiencing exploitation, you treat them as Safe Harbor. For anyone in a vulnerable situation, you can't say that 100% are survivors of exploitation. But the numbers are high. It's similar to trauma-informed care. You use this with every person you work with. You don't wait for a young person to tell you they've been exploited. You bring all the tools you have.³⁸¹

Service providers play a key role in identifying people experiencing sex trafficking or exploitation, particularly when they prioritize responding to the services people may need. Some providers have intentionally circumvented explicit identification and instead focus on responding to the person's immediate needs.³⁸² According to one stakeholder who conducts street outreach, "We are trying to provide the services or hook them up with partners in community without asking questions around [trafficking]."³⁸³ They find that people open up on the topic of exploitation after they have been referred to more stable services and have built trust.³⁸⁴ One attorney talked about balancing his responsibility to his client and working with social services to find them resources.³⁸⁵ The attorney explained, "It's a very delicate balance between thinking that the youth has been sexually exploited and talking to them about it."³⁸⁶ By working with social workers, he can get information from them that will guide his approach to legal representation and enable him to find a positive outcome for his client, such as treatment centers or counseling.³⁸⁷

Health care professionals are on the frontlines to identify people who have experienced sex trafficking or exploitation. According to one stakeholder, 87.8% of sex trafficking victims reported needing healthcare in the last year.³⁸⁸ Ensuring access to health care provides a screening opportunity to identify victims. But that opportunity is lost when people lack insurance coverage or access to health care. For example, the costs of certain healthcare services—such as gender-affirming care for trans people or psychological support for people with mental health conditions—may not be covered

³⁷⁹ Consultation with Experts with Lived Experience, Group 2.

³⁸⁰ Consultation with Experts with Lived Experience, Group 2.

³⁸¹ Interview 98.

³⁸² Interview 93; Interview 98; Interview 112.

³⁸³ Interview 98.

³⁸⁴ Interview 95; Interview 98.

³⁸⁵ Interview 110.

³⁸⁶ Interview 110.

³⁸⁷ Interview 110.

³⁸⁸ Interview 112.

in full or in part by a person's insurance or the state.³⁸⁹ In other instances, such services are simply unavailable or inaccessible.³⁹⁰ People slip through the cracks when they "don't have insurance but don't qualify for the free services based on income."³⁹¹ Moreover, people who sell or trade sex may need health care but fear triggering an unwanted intervention, so they may refrain from disclosing their experience³⁹² Under these circumstances, health care facilities like an emergency room can serve as an identification point. More than 68% of trafficking victims have gone to the emergency room.³⁹³ When emergency room personnel are not trained to recognize trafficking victims without patient self-disclosure, however, that identification opportunity is lost.³⁹⁴

Schools can play an important role in victim identification. Law enforcement and nonprofits both reported successful referrals from high schools.³⁹⁵ According to one stakeholder, "It can be a hit or miss relationship, but teachers and school social workers can identify red flags such as being disruptive in school and truancy."³⁹⁶ One educator, however, noted missed opportunities in schools when school actors misdirect blame, hold uncertainties, or do not communicate with other sectors.³⁹⁷ For example, an interviewee described a case where the student's behavior became the focus rather than the sexual exploitation itself.³⁹⁸ At least one educator observed that school social workers, who are generally those with the student relationships and who get direct information, may be unsure about what they are allowed to report.³⁹⁹ They noted that social workers tend to make the mandated report and "they are done with it."⁴⁰⁰ Instead, they emphasized giving social workers follow-up discussion points to use with students to learn more information, understand if exploitation is happening, and continue strengthening those relationships.⁴⁰¹ Finally, a judge noted that greater collaboration with the educational sector can enhance responses, as "[w]e work in silos. Teachers were noticing things they wouldn't share with resource officers and vice versa. No one was getting involved until we all got together at a table."⁴⁰²

³⁸⁹ Interview 79; Interview 101.

³⁹⁰ Interview 51; Interview 69; Interview 75; Interview 89.

³⁹¹ Interview 115.

³⁹² Consultation with Experts with Lived Experience, Group 2.

³⁹³ Interview 112.

³⁹⁴ See *generally* Interview 112.

³⁹⁵ Interview 92; Interview 93.

³⁹⁶ Interview 107.

³⁹⁷ Interview 99.

³⁹⁸ Interview 95.

³⁹⁹ Interview 99.

⁴⁰⁰ Interview 99.

⁴⁰¹ Interview 99.

⁴⁰² Interview 114.

The private sector also has a role to play in improving victim identification. For example, Radisson Hotels partnered with Ramsey County Attorneys' Office in 2013 to train employees to recognize and respond to sex trafficking in hotels.⁴⁰³ A law enforcement interviewee reported that maintaining a good relationship with area hotel managers, who alert them to relevant information, helps police identify victims.⁴⁰⁴ Another officer noted that, after Radisson enacted the training program, police received more tips from hotlines.⁴⁰⁵ Such initiatives can lay the groundwork for legal reforms. In 2018, Minnesota ultimately enacted a statute requiring hotel workers, within 90 days of hire, to complete a training on preventing sex trafficking.⁴⁰⁶

Stakeholders explained the need to balance identification with the potential negative consequences people can face if they reveal incriminating or stigmatizing information. Mandated reporting requirements changed in 2017, defining sex trafficking as a form of child abuse regardless whether the alleged offender was a caregiver. In some ways, this increased identification. One rural child protection officer recounted how they did not encounter or receive reports of sex trafficking until the federal trafficking legislation on child protection became effective.⁴⁰⁷ Nevertheless, people may fear punitive consequences as a result of disclosing. Mandated reporting rules may interfere with building trust with youth as “[t]here’s such a fear of government, which we are a part of and law enforcement, which we kind of are an enforcer of rules and regulations, that really is not in the best interest of trafficked youth. That could do more harm than good.”⁴⁰⁸ One stakeholder explained that parenting youth are subject to mandated reporting if the mom is a trafficking victim, putting the youth at risk of losing her kids, adding “They are scared to death they will lose their kid if they identify an instance of trafficking.”⁴⁰⁹

RECOMMENDATIONS

- Identify all potential stakeholders, service providers, and state agents that may have contact with a person with lived experience in sex trafficking to identify where identification tools and partnerships need to be initiated, revisited, refined, monitored, and evaluated.
- Expand and continue training for systems actors on victim identification and support in collaboration with people with lived experience in trafficking and historically marginalized groups.

⁴⁰³ Interview 26; see also MPRNews, *Minnesota hotels receive training to spot sex trafficking*, accessed October 28, 2013, <https://mprnews.org/amp/story/2013/10/28/daily-circuit-hotel-sex-trafficking-training>.

⁴⁰⁴ Interview 13.

⁴⁰⁵ Interview 26.

⁴⁰⁶ Minn. Stat. § 157.177 (2023); see also

<https://www.health.state.mn.us/communities/safeharbor/communities/hoteltrafficking.html>.

⁴⁰⁷ Interview 105.

⁴⁰⁸ Interview 105.

⁴⁰⁹ Interview 93.

- Plan, fund, and implement targeted holistic training for victim identification in rural Minnesota with leadership from people in each region.

TRAINING

Appropriate training is imperative for an effective trafficking response. Training should be ongoing for all stakeholders who may interact with victims.⁴¹⁰ Cross-training that involves actors from many sectors of society can enhance responses within community-oriented strategies.⁴¹¹ Training programs should focus on capacity-building and improving interactions and professional relationships with people with lived experience.⁴¹²

Since Safe Harbor, various sectors have enhanced their anti-trafficking training in positive ways.⁴¹³ Interviewees noted the greater levels of sophistication and breadth of training, as well as their engagement of subject matter experts as trainers.⁴¹⁴ For example, the Minnesota Department of Health developed the Minnesota Youth Trafficking and Exploitation Identification Tool and Guide in 2020 to assist “professionals who work with youth, including human services, public health, behavioral health, juvenile corrections, residential programs, and schools.”⁴¹⁵ The Department also created a training for health care professionals on identifying and caring for victims of human trafficking.⁴¹⁶

Effective training can positively impact victim treatment, identification, and services. Prosecutors shared how training on a victim-centered approach changed their interactions with victims.⁴¹⁷ Stakeholders also noted that Safe Harbor training improved identification of victims, reducing the number of victims who are unintentionally overlooked by system participants.⁴¹⁸ For example, Tribes United Against Sex Trafficking (“TRUST”) conducts training at casinos and for tribal law enforcement.⁴¹⁹ As a result, the

⁴¹⁰ Interview 64; Interview 25; Interview 85.

⁴¹¹ Macy, Giattina, Parish, and Crosby, 2010; Nichols, 2011; Zweig & Burt, 2007 in Andrea J. Nichols and Erin C. Heil, *Challenges to Identifying and Prosecuting Sex Trafficking Cases in the Midwest United States*, *Feminist Criminology* (2015), 10:1, 28.

⁴¹² Farrell, Amy, Meredith Dank, Ieke de Vries, Matthew Kafafian, Andrea Hughes, and Sarah Lockwood, *Failing victims? Challenges of the police response to human trafficking*, *Criminology & Public Policy*, 18:3 (2019), 666.

⁴¹³ Interview 28; Interview 29; Interview 78.

⁴¹⁴ Interview 67; Interview 30. See *infra*, Meaningful Involvement by Individuals with Lived Experience.

⁴¹⁵ Minnesota Department of Health, “Minnesota Youth Trafficking and Exploitation Identification Tool and Guide,” accessed January 16, 2023, <https://www.health.state.mn.us/communities/safeharbor/documents/mytei.pdf>.

⁴¹⁶ Minnesota Department of Health, “Minnesota Youth Trafficking and Exploitation Identification Tool and Guide,” accessed January 16, 2023, <https://www.health.state.mn.us/communities/humantrafficking/training/healthcare.html>.

⁴¹⁷ Interview 17; Interview 94.

⁴¹⁸ Interview 29; Interview 43.

⁴¹⁹ Interview 43.

Regional Navigator receives frequent referrals from casino workers about people needing services, and tribal officers have been able to respond more effectively to victims.⁴²⁰ Training has also helped foster connecting victims with services.⁴²¹ After health care systems invested in training for their providers, one interviewee saw those professionals become “champions in referrals.”⁴²²

Nevertheless, findings reveal gaps in training. Training is not consistently available throughout the state. One advocate noted the many training opportunities in the Twin Cities metro area, but the dearth of such education in Greater Minnesota.⁴²³ They specified:

We need training for advocates who are unable to identify [sex trafficking], talk about it, know when it’s happening, and are not sure how to help people walk through systems, especially when they have a pimp, a gang or criminal record and/or familial violence. [A case is] much more complex and takes much longer. There are a variety of skills that need to be ramped up.⁴²⁴

In addition, training must address jurisdictional issues, particularly in the context of tribal laws. The Minnesota MMIW Task Force recommended Minnesota “[p]rovide training for law enforcement officers and leaders of local and state agencies about tribal sovereignty and laws that pertain to Indian Country and American Indian people, jurisdictional issues, the MMIW injustice, and related policies.”⁴²⁵

Training can also address issues with lack of cultural understanding, as described further on page 84.⁴²⁶ Specifically, stakeholders identified a need to address biases among some service providers.⁴²⁷ One interviewee elaborated on the need for service providers to understand the preconceptions they may hold:

We need to know ourselves very well and do continual work on ourselves before doing our best work with those who have been victimized... We don’t give enough attention to understanding our own history, too, and our own experiences and how that frames the work that we do. We need to understand our privileges and biases.⁴²⁸

⁴²⁰ Interview 43.

⁴²¹ Interview 43.

⁴²² Interview 43.

⁴²³ Interview 25.

⁴²⁴ Interview 25.

⁴²⁵ Wilder Research, *Missing and Murdered Indigenous Women Task Force: A report to the Minnesota Legislature*, by Nicole MartinRogers and Virginia Pendleton (Minneapolis: Wilder Research, December 2020), 120, <https://dps.mn.gov/divisions/ojp/Documents/missing-murdered-indigenous-women-task-force-report.pdf>.

⁴²⁶ Interview 33; Interview 89.

⁴²⁷ Interview 93.

⁴²⁸ Interview 87.

Monitoring and evaluation of training outcomes to ensure actual use of the learned best practices needs to be improved.⁴²⁹ High rates of turnover in those who receive training and the lack of a coordinated training plan across sectors can complicate the state's ability to effectively monitor whether training is having the intended impact.

RECOMMENDATIONS

- Expand and ensure funding for training on cultural competency and concepts such as sexual exploitation, building rapport, confidentiality, and handling trauma in collaboration with subject matter experts with lived experience, community members and civil society organizations serving such communities.
- Evaluate existing training initiatives throughout the state and identify their impact on service provision and community trust.
- Establish continuous monitoring of training initiatives for law enforcement, criminal justice actors, victim advocates, child welfare workers, service providers, and other key sectors interacting with trafficking victims to evaluate effectiveness of curricula and appropriate frequency to ensure ongoing learning and improvement.

SERVICES

Once victims are identified, immediate access to services is crucial to protect them. International standards stress that long- and short-term services be needs-based, comprehensive, culturally sensitive, and trauma-informed in their design and implementation. In addition, effective service provision calls for systems actors interacting with potential victims to perform a risk and needs assessment and make appropriate referrals.⁴³⁰

Safe Harbor has expanded services in a way that gives victims swifter access to support.⁴³¹ A 2015 evaluation of Safe Harbor found that 70% of respondents identified this history of strong victim services as key to the program's success.⁴³² In addition to dedicated programs, Safe Harbor also funds domestic violence and sexual assault organizations to incorporate services for victims of sex trafficking into their existing services.⁴³³ The Safe Harbor network has since continued to expand its reach. In the most recent evaluation of the Safe Harbor program, the Minnesota Department of

⁴²⁹ Consultation with Experts with Lived Experience, Group 2.

⁴³⁰ Committee on the Elimination of Discrimination against Women, *General recommendation No.38 (2020) on trafficking in women and girls in the context of global migration*, (November 20, 2020), U.N. Doc. CEDAW/C/GC/38, ¶¶ 39, 40, and 92.

⁴³¹ Interview 44; Interview 96.

⁴³² Wilder Research, *Safe Harbor: First Year Evaluation Report*, by Julie Atella, Laura Schauben, and Emma Connell (Saint Paul: Wilder Research, September 2015), https://www.wilder.org/sites/default/files/imports/SafeHarbor_FirstYearEvaluation_9-15.pdf.

⁴³³ Interview 6; Interview 25; Interview 52.

Health found that 1,270 youth were enrolled in services, compared to 358 in its first year.⁴³⁴ Law enforcement also reported long-term positive impacts from Safe Harbor's services. One law enforcement official described people who, years later, reach out to his detectives to tell them they received their General Equivalency Diploma (GED) or achieved a goal that helped get their life on track.⁴³⁵

Interviewees noted, however, that many people, both victims and service providers, remain unaware of Regional Navigators and what they do.⁴³⁶ One subject matter expert observed, when recently speaking to housing coordinators about resources, "they don't know what Safe Harbor is and they definitely don't know what a Regional Navigator is."⁴³⁷ They identified the gaps that remain unaddressed:

Regional Navigators [the program] need to be building relationships with healthcare, hotels, schools, foster people, other community organizations that are not directly doing work with sexually exploited folks . . . if those other services don't even know [what] regional navigators are doing, what are we really doing?⁴³⁸

In addition, legal services are key to ensuring that justice is both efficient and fair, and that a person's basic human rights are met.⁴³⁹ Best practices call for legal aid, advice, and representation to be available to women at no or low expense.⁴⁴⁰ Availability alone is not sufficient, however, to ensure accessibility. As one interviewee observed, "From the legal side, people are in huge distress."⁴⁴¹ Victims and survivors face multiple barriers in accessing the justice system due to its complexity and the unique risks they

⁴³⁴ Minnesota Department of Health, *An Evaluation of the Safe Harbor Initiative in Minnesota – Phase 4* (Saint Paul: Minnesota Department of Health, April 2019 - June 2021), <https://www.health.state.mn.us/communities/safeharbor/documents/2021shevalreport.pdf>; Wilder Research, *Safe Harbor: First Year Evaluation Report*, by Julie Atella, Laura Schauben, and Emma Connell (Saint Paul: Wilder Research, September 2015), https://www.wilder.org/sites/default/files/imports/SafeHarbor_FirstYearEvaluation_9-15.pdf. (The difference is even more stark because the numbers for the first year are not unique enrollments and so could include the same youth accessing multiple supports).

⁴³⁵ Interview 100.

⁴³⁶ Interview 58 (noting that callers are not always aware of Safe Harbor); Consultation with Experts with Lived Experience, Session V.

⁴³⁷ Consultation with Experts with Lived Experience, Session V.

⁴³⁸ Consultation with Experts with Lived Experience, Session V.

⁴³⁹ Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 33 on Women's Access to Justice*, (August 3, 2015), U.N. Doc. CEDAW/C/GC/33, ¶¶ 36, 37; United Nations Office on Drugs and Crime, *Submission to the third session of the Forum on Human Rights, Democracy and the Rule of Law. on "Equal access to justice for all: a necessary element of democracy, rule of law and human rights protection,"* (November 16-17, 2021), <https://www.ohchr.org/sites/default/files/2022-01/UNODC.pdf>.

⁴⁴⁰ Committee on the Elimination of Discrimination Against Women, *General Recommendations No. 33 on Women's Access to Justice*, (August 3, 2015), U.N. Doc. CEDAW/C/GC/33, ¶ 36.

⁴⁴¹ Interview 10.

face, such as retribution, deportation, prosecution, and structural biases.⁴⁴² Moreover, cultural or language barriers or distrust of institutions may impose additional hurdles for access.⁴⁴³

Finally, findings revealed a need to build capacity of more advocates to deliver these specialized services:

We need more advocates who have training. We are trying to address this incrementally but we are not there. Advocates who are working in dual or tri-advocacy programs have a hesitation to work with victims of sex trafficking because it is too big and hard because victims of sex trafficking require more services. Instead, they want to refer victims to experts and so the pool for the resources is more narrowed. That is a barrier to receiving those services.⁴⁴⁴

RECOMMENDATIONS

- Continue funding the expansion of services under Safe Harbor to be proportionate to the level of need, with particular attention to barriers like culture, location, or requirements that people disclose experiences with exploitation to qualify.
- Strengthen the outreach and awareness of Regional Navigators and Safe Harbor services among communities and sectors in the state.
- Evaluate and adjust service provision based on feedback and knowledge from people with lived experience in sex trafficking and exploitation.

Age Qualifications

International standards on protection and non-punishment of trafficking victims do not vary by age.⁴⁴⁵ The only age distinction these standards draw is omission of the

⁴⁴² Interview 10; Interview 37; Interview 44; Interview 63; Interview 88; Interview 114; United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons*, Tool 8.16: Access to information and legal representation (2008), https://css.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_8-16.pdf.

⁴⁴³ Interview 44; Interview 49; Interview 69.

⁴⁴⁴ Interview 21.

⁴⁴⁵ Committee on the Elimination of Discrimination against Women, General Recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration, (November 20, 2020), U.N. Doc. CEDAW/C/GC/38, ¶¶ 92, 98 (calling for states to provide recovery and reintegration measures to “trafficked women and their dependents,” which includes “appropriate individualized, gender-sensitive, child-sensitive and trauma-informed emergency and longer-term access to accommodations, welfare benefits, educational and employment opportunities, high-quality medical care, including sexual and reproductive health services and counselling, the issuance of official identification documents free of charge, family reunification measures and asylum procedures ...” and calling for states to “[e]nsure that all women and girls who are victims of trafficking, without exception, are not subject to arrest, charge, detention, prosecution or penalty.”) See *also* UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations

“means” requirement (i.e., “threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”) for children under the age of 18.⁴⁴⁶

In contrast, Minnesota law distinguishes between adults over 25 versus youth 24-and-under for services, and adults 18 or older versus those 17-and-under for non-punishment. Stakeholders in many sectors recognized that this age disparity does not reflect the reality of the sale and trading of sex. Safe Harbor’s age delineation reflects a misperception that adults are most vulnerable to sexual exploitation from ages 18 to 24.⁴⁴⁷ One stakeholder noted, however, that “exploitation doesn’t stop there.”⁴⁴⁸ As one judge commented, those selling sex are often doing so out of necessity and as a means of survival.⁴⁴⁹ Once someone turns 18, those basic needs may still be present but the services are not. Consultations with subject matter experts corroborated these views, with one person questioning Safe Harbor’s changing age cutoffs: “Why is this age stopping at 16? Seventeen and under. Then they went to 18. It’s like, really? Seriously? You’re going to go up one more? What happens when that same person turns 19?”⁴⁵⁰ Others expressed concerns that youth will age out of the system and “fall through the cracks.”⁴⁵¹ One navigator recalled a girl who was “in and out, kind of institutionalized.”⁴⁵² When she turned 18, “the county was like, ‘we’re done,’ and it was on [the victim].”⁴⁵³ Finally, one law enforcement officer described how some trafficking venues, such as Asian massage parlors, routinely exploit older individuals up to the age of 60.⁴⁵⁴

Safe Harbor’s age limits also disregard the childhood trauma from which many adults with lived experience may still be suffering.⁴⁵⁵ According to one stakeholder, the age limit of 24 was set with the understanding the human brain is typically fully developed

Convention against Transnational Organized Crime, 2000, Article 3(a) (defining trafficking as the “recruitment, transportation, transfer, harbouring or receipt of persons” (emphasis added) without distinction as to age and charging states with providing protection to “victims of trafficking in persons” without distinction as to age); United Nation Office on Drugs and Crime, International Framework for Action to Implement the Trafficking in Persons Protocol, 2009, https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf (referring to “victims of trafficking” without distinction as to age).

⁴⁴⁶ UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, Art 3.

⁴⁴⁷ Interview 53.

⁴⁴⁸ Interview 81.

⁴⁴⁹ Interview 38.

⁴⁵⁰ Consultation with Experts with Lived Experience, Session I.

⁴⁵¹ Interview 43.

⁴⁵² Interview 43.

⁴⁵³ Interview 43.

⁴⁵⁴ Interview 50.

⁴⁵⁵ Interview 59.

by age 25, but studies show that trauma can negatively affect brain functioning well into adulthood.⁴⁵⁶ Stakeholders also suggested that older people with lived experience may have experienced more trauma than younger ones due to longer involvement with trafficking, the criminal justice system, or substance use disorder.⁴⁵⁷ Older people with lived experience may be less likely to find gainful employment or have family members, such as parents, to reach out to for help.⁴⁵⁸ One prosecutor stressed the importance of supporting adult victims by noting how necessary it is to “see the adult victim as a child once. They were likely brought into the life as a child or had really terrible things happen to them to become a victim.”⁴⁵⁹

People older than Safe Harbor’s age cap of 24 years face serious barriers to obtaining services that they urgently need. Indeed, one state official receives a “large volume of calls” from people over age 24 seeking assistance.⁴⁶⁰ Concerns prevail that older people are nevertheless overlooked.⁴⁶¹ One police officer lamented, “I feel like we kind of say ‘we don’t have anything for you.’”⁴⁶² A subject matter expert corroborated this perception, stating that, once a person turns 24, “they throw you to the wolves.”⁴⁶³ A service provider summarized that most older people with lived experience end up “forgotten.”⁴⁶⁴

The need for services for those older than 24 years is so great that at least one Safe Harbor facility has opted to serve these people despite the limitations on the grant, because there are no other area service providers for that age group.⁴⁶⁵ Research corroborates these firsthand observations, and a 2018 report documented the need to remove Safe Harbor age limits and fund services and support to “all adults with lived

⁴⁵⁶ Interview 44; Interview 64; Interview 88. Studies have shown that victims of sex trafficking report symptoms of depression, anxiety, and post-traumatic stress disorder. Furthermore, mental health concerns may increase vulnerability to trafficking “due to factors directly associated with poor mental health, such as reduced decision-making capacity or understanding and increased dependence on others.” Sukran Altun, Melanie Abas, Cathy Zimmerman, Louise M. Howard, and Sian Oram, *Mental Health and Human Trafficking: Responding to Survivors’ Needs*, *British Journal of Psychiatry* (2017), 21–23; see also Sian Oram, Melanie Abas, Debra Bick, Adrian Boyle, Rebecca French, Sharon Jakobowitz, Mizanur Khondoker, Nicky Stanley, Kylee Trevillion, Louise Howard, and Cathy Zimmerman, *Human Trafficking and Health: A Survey of Male and Female Survivors in England*, *American Journal of Public Health* (2016), 1073–78.

⁴⁵⁷ Interview 77; Interview 81.

⁴⁵⁸ Interview 6; Interview 77.

⁴⁵⁹ Interview 74.

⁴⁶⁰ Interview 62.

⁴⁶¹ Interview 67; see also Interview 59.

⁴⁶² Interview 11.

⁴⁶³ Consultation with Experts with Lived Experience, Session II (adding that people “really search” for services available to them).

⁴⁶⁴ Interview 25.

⁴⁶⁵ Interview 67.

experience.”⁴⁶⁶ Minnesota’s MMIW Task Force has followed the same approach and recommended that the state expand Safe Harbor to “all trafficking victims” and ensure the necessary resources to deliver services to victims.⁴⁶⁷ As one interviewee summarized:

[R]egardless of a person’s age, if you have been sexually exploited, you should never be criminalized, you should be offered services. It’s insane that organizations have to turn down people because they’re 18 years old or 25 years old. ‘We can’t help you because you’re not a minor.’ That’s a horrible thing to do. So, we need to expand services to adults. . . .”⁴⁶⁸

Currently, few resources exist for people over the age of 24.⁴⁶⁹ Organizations receive Safe Harbor funding only for sexually exploited and at-risk youth up to age 24, meaning they either do not provide services for older people or do not receive Safe Harbor funding for services provided to people over that age.⁴⁷⁰ When first responders look for assistance for older victims, a lack of options frustrates their efforts. A law enforcement officer elaborated, “the one negative thing about Safe Harbor is that it’s really hard when your victim is 25 or older. It’s like there’s nothing.”⁴⁷¹ Another officer recalled that his attempts to refer a Native American victim in her 30s were unsuccessful despite his calling numerous service providers.⁴⁷² Others corroborated how challenging it is to find support for victims older than age 40.⁴⁷³ Moreover, because assistance programs are often designed for families, if people no longer have dependent-age children at home, they may not qualify.⁴⁷⁴ Even when services for older people are available, they are not well-funded and are generally inadequate. One stakeholder even labeled adult shelters “a joke” compared to youth shelters.⁴⁷⁵

By drawing age limits on decriminalization and state-funded assistance, Safe Harbor at times perpetuates public and system biases against older people with lived experience. One nonprofit worker observed that victims older than 24 are more likely to be “written

⁴⁶⁶ Rainbow Research, University of Minnesota Urban Research and Outreach-Engagement Center, The Advocates for Human Rights, *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, by Lauren Martin, Christina Melander, Katie Fritz Fogel, Beki Saito, Michele Garnett McKenzie, Rosalyn Park, (October 2018), 125, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>.

⁴⁶⁷ Wilder Research, *Missing and Murdered Indigenous Women Task Force: A report to the Minnesota Legislature*, by Nicole MartinRogers and Virginia Pendleton (Minneapolis: Wilder Research, December 2020), 124, <https://dps.mn.gov/divisions/ojp/Documents/missing-murdered-indigenous-women-task-force-report.pdf>.

⁴⁶⁸ Interview 85.

⁴⁶⁹ See, e.g., Interview 1; Interview 27; Interview 35; Interview 52; Interview 62; Interview 67.

⁴⁷⁰ Interview 67.

⁴⁷¹ Interview 11.

⁴⁷² Interview 27.

⁴⁷³ Interview 6.

⁴⁷⁴ Interview 6.

⁴⁷⁵ Interview 97.

off” than younger victims.⁴⁷⁶ One prosecutor described how the public almost universally regards trafficked children as ‘true victims’ but is split on whether they view adults as victims.⁴⁷⁷ This prosecutor added, “I would like to think it’s getting better. But I talk to my own friends and family, who I believe are educated, who don’t fully understand adults are victims.”⁴⁷⁸ Even those who are sympathetic toward people experiencing sexual exploitation have internalized the Safe Harbor age limitations, seeing sex trafficking as an issue that affects only youth and adults under the age of 25.⁴⁷⁹ Actors in the criminal justice system may also struggle to treat trafficked adults as victims when the law classifies their activity as criminal.⁴⁸⁰ According to one stakeholder, “[t]here is a difference between how law enforcement and prosecutors treat victims after age 18. They are failing in their treatment of those 18-24.”⁴⁸¹ One prosecutor’s comments reflected this implicit bias, noting that adults “can make their own decisions,” suggesting that their involvement in trafficking is voluntary.⁴⁸²

Minnesota law still criminalizes those 18 and over who are hired for the crime of prostitution.⁴⁸³ Although adults are not typically prosecuted, current legislation sends a message that they are nevertheless criminals.⁴⁸⁴ One nonprofit worker summarized:

We also need to change the social norms where we only have compassion for young people that this has happened to. We need compassion for everybody, it doesn’t matter if you’re 60 and being prostituted on the street, and you’re using meth, and you’ve got a criminal background—all these stigmatizing things. We should have as much compassion for that person as we do for the 11-year-old being trafficked. That’s an important piece, where we’re not making distinctions between whose life is worthy and who is disposable and who we are okay with exploiting.⁴⁸⁵

Even where people are not prosecuted or convicted of prostitution or solicitation crimes, arrests put them at risk of other harms. This risk is particularly acute for noncitizens who may be identified by immigration enforcement agents from arrest

⁴⁷⁶ See, e.g., Interview 25.

⁴⁷⁷ Interview 74.

⁴⁷⁸ Interview 74.

⁴⁷⁹ Interview 108 (discussing how the adult protection system would respond to sex trafficking: “talking with Safe Harbor in the past, that 18-24 age group may or may not meet the definition of a vulnerable adult depending on their situation and their abilities”).

⁴⁸⁰ Interview 117; see also Interview 73; Interview 74.

⁴⁸¹ Interview 107.

⁴⁸² Interview 17.

⁴⁸³ Minn. Stat. § 609.321, subd. 9.

⁴⁸⁴ See *infra*, section Incarceration and Other Places of Recruitment.

⁴⁸⁵ Interview 85.

and jail records, placing them at risk of deportation⁴⁸⁶ even if they are not ultimately prosecuted or convicted.⁴⁸⁷

Findings show a tendency to prioritize crimes involving child victims over those involving adult victims in these cases. For example, prosecutors tend to focus on prosecuting adult-to-minor, rather than adult-to-adult, trafficking and solicitation crimes, diminishing the systemwide focus on adult victims.⁴⁸⁸ In some counties, this priority is partly because trafficking a minor is a felony.⁴⁸⁹ A rural prosecutor explained that their office prosecutes more cases of adult victims than other counties because of their greater leeway to prosecute gross misdemeanors.⁴⁹⁰ In contrast, prosecutors in larger counties “are focused on demand for children,” because they lack jurisdiction to prosecute gross misdemeanors.⁴⁹¹ Likewise, due to capacity limitations, the Bureau of Criminal Apprehension (BCA) usually focuses on finding sex trafficking victims who are minors, rather than adults.⁴⁹²

RECOMMENDATIONS

- Expand the availability of Safe Harbor services to include sexually exploited and at-risk people regardless of age.
- Fund a transition period to map existing resources and gaps, identify current and new service providers who can meet the needs of persons with lived experience, and increase the capacity of the Regional Navigator system to meet increased demand.
- Strengthen the state response for adult victims and expand the funding to programs that currently serve people over age 24 with lived experience, including those incarcerated, on probation, or in treatment centers.

⁴⁸⁶ According to immigration lawyer John Bruning, such risks depend on multiple factors, including a county’s discretionary practice. In his experience, not every arrest may end in deportation, as it depends on the particularities of each case. Factors that may enhance the risk of deportation are a prior criminal record, the county of arrest, a particular immigration status, and whether the person is already on ICE’s radar. The attorney observed that, for example, in the case of Ramsey and Hennepin counties, officers will not call ICE. In the case of Dakota County, they may call. Lastly, he noted that people could face either deportation or inadmissibility, depending on whether the person entered with inspection.

⁴⁸⁷ Interview 1; see *also*, Fair Adjudications for Immigrants Act, Immigration and Nationality Act, 8 U.S. Code § 1101(a)(48)(A) (2023).

⁴⁸⁸ See Interview 14; Interview 18; Interview 74.

⁴⁸⁹ Interview 17; Interview 74.

⁴⁹⁰ Interview 74.

⁴⁹¹ Interview 74.

⁴⁹² Interview 17.

Specific Populations

Rural Services

Although Safe Harbor reduced gaps, rural communities still face a lack of services.⁴⁹³ Even though there are organizations serving victims in rural Minnesota,⁴⁹⁴ the needs of victims outpace available services.⁴⁹⁵ When discussing the challenges of capacity of urban and rural service providers, interviewees observed that the Twin Cities metro area is a small geographic zone yet has more programs than rural regions of Minnesota.⁴⁹⁶ Compared to urban communities, Minnesota's rural communities generally have fewer community organizations with less funding, training, and capacity.⁴⁹⁷ Legal assistance is also scarce outside of the Metro Area.⁴⁹⁸ For example, one nonprofit highlighted the need to better coordinate basic services so victims can find food, clothing, housing, and access to an advocate in one place.⁴⁹⁹ Unless these services are within reasonable reach for people in rural communities, victim perceptions that the system cannot help them will persist.⁵⁰⁰

Given the large geographic areas they are expected to cover, rural programs also face challenges in ensuring accessibility to services.⁵⁰¹ In more isolated areas, both outreach and transportation become obstacles for programs. Even when a victim knows, trusts, and qualifies for the services, access may be impossible because of physical distance. One advocate illustrated these transportation barriers:

Given we work with [rural] Minnesota clients, transportation is a barrier to services. We are not allowed to transport clients ourselves. Victims can't take buses because that is not widely available. I don't know what the solution is. We could give out gas cards, but when they don't have a car, that doesn't help.⁵⁰²

Even when they can find transport, safety concerns pose additional hurdles. An advocate emphasized:

We have to come up with some system for safe transportation. Buses and taxis and Ubers or Lyfts are . . . unsafe. When we're trying to get survivors to services or

⁴⁹³ Consultation with Experts with Lived Experience, Session II.

⁴⁹⁴ See, e.g., Interview 61(b) (referencing the Program for Aid to Victims of Sexual Assault and Life House Safe Harbor Program as important service providers in the Duluth area).

⁴⁹⁵ Interview 45; Interview 60; Interview 61(b).

⁴⁹⁶ Interview 58.

⁴⁹⁷ Interview 35; Interview 25; Interview 22; Interview 21; Interview 58; Interview 43; Interview 64; Interview 89; Consultation with Experts with Lived Experience, Session II.

⁴⁹⁸ Interview 64; Interview 88.

⁴⁹⁹ Interview 60.

⁵⁰⁰ Interview 69.

⁵⁰¹ Interview 45; Interview 9; Interview 21; Interview 69; Interview 85; Interview 88; Consultation with Experts with Lived Experience, Session II.

⁵⁰² Interview 76.

shelters, sometimes they're assaulted by taxi drivers, or they're getting recruited on buses a lot. We need some totally alternative transportation systems so that survivors can go places safely and not have to worry about being assaulted.⁵⁰³

Findings revealed that funding for rural programs is a constant challenge.⁵⁰⁴ Stakeholders at rural organizations described how just one or two staff members are responsible for multiple counties.⁵⁰⁵ One Safe Harbor navigator recalled how she was responsible for eight counties, half of which lacked supportive service resources, placing the case management back on her shoulders.⁵⁰⁶ Similarly, advocates serving Northeast Minnesota are “amazing” but “sincerely overworked.”⁵⁰⁷ Although advocates work hard to assist victims in emergency situations, “the bandwidth isn’t there” to provide the depth of case management to help victims progress to next steps.⁵⁰⁸

Culturally Specific Services

As discussed on page 30, persons of color are at higher risk of exploitation and trafficking than others.⁵⁰⁹ Being part of a diverse cultural community increases the risk of exploitation as well as changes the experience of sex trafficking, thus creating diverse needs for effective advocates. Varying cultural norms and other human rights issues that exist within cultural communities can in turn exacerbate shame, fear, and negative perceptions of sex and sexuality, making it more difficult and more complicated for victims to get help.⁵¹⁰

Given this context, culturally specific and competent services are “crucial” to multicultural communities.⁵¹¹ One nonprofit leader explained how many of her clients “yearn for connection to [their] culture.”⁵¹² Another nonprofit worker explained how culturally specific services “reduce barriers and allow victims to have comfort [that] they are working with someone who understands their culture and needs.”⁵¹³

Findings revealed a deficiency, however, in culturally specific services throughout the state.⁵¹⁴ One interviewee observed that victims of color tend to be forgotten in the context of available services.⁵¹⁵ Stakeholders repeatedly cited this gap for Minnesota’s

⁵⁰³ Interview 85.

⁵⁰⁴ See, e.g., Interview 58.

⁵⁰⁵ Interview 64; Interview 69.

⁵⁰⁶ Interview 64.

⁵⁰⁷ Interview 45.

⁵⁰⁸ Interview 45.

⁵⁰⁹ Interview 85.

⁵¹⁰ Interview 23; Interview 93; Interview 3.

⁵¹¹ Interview 93; Interview 97; Interview 6.

⁵¹² Interview 93.

⁵¹³ Interview 6.

⁵¹⁴ Interview 4; Interview 10; Interview 44; Consultation with Experts with Lived Experience, Session III.

⁵¹⁵ Interview 53.

communities of color, especially victims who are Black,⁵¹⁶ Hmong,⁵¹⁷ Latine,⁵¹⁸ Native American,⁵¹⁹ or Somali.⁵²⁰ A disproportionately large number of victims identify with these communities, yet not all current services incorporate the nuances of their culture.⁵²¹ The MMAAW Task Force also identified this gap and recommended the state “[d]evelop effective, culturally appropriate, anti-racist trainings and professional education”⁵²² for services to meet the needs of Black women and girls.

Even when culturally appropriate services are available, access for persons of color is another challenge. Organizations that provide culturally specific services are primarily located in the Twin Cities metropolitan area, leaving a void in the suburbs and rural Minnesota.⁵²³ Victims in these regions must then rely on services provided broadly throughout the state, which are not tailored to address their specific needs.⁵²⁴ Furthermore, subject matter experts observed that people using the services tend to be repeat clients who already know about those services. Programs are not reaching people from communities of color who rely on word-of-mouth communication to learn of services.⁵²⁵

Language can be another barrier for people who do not speak English or for whom English is not their first language.⁵²⁶ A government official lamented that they do not provide translators and that existing services are not designed with immigrant populations in mind.⁵²⁷ Limited language access exacerbates existing cultural gaps in service provision. Acknowledging this challenge, a law enforcement agent explained how difficult it is, despite their efforts, to find Mandarin and Cantonese interpreters.⁵²⁸ The options are even scarcer for less common languages.⁵²⁹ One service provider

⁵¹⁶ Interview 67; Interview 24; Interview 6.

⁵¹⁷ Interview 9.

⁵¹⁸ Interview 9; Interview 4.

⁵¹⁹ Interview 33; Interview 6.

⁵²⁰ Interview 9; Interview 4.

⁵²¹ Interview 24; Interview 35; Interview 36.

⁵²² Missing and Murdered African American Women Task Force, *Taskforce Report to Legislature: Executive Summary*, by Dr. Catherine Squires, Dr. Brittany Lewis, Dr. Lauren Martin, Ariana Kopycinski, and Ayize James (Minneapolis: Minnesota Department of Public Safety Office of Justice Programs, December 2022), 10.

⁵²³ Interview 67.

⁵²⁴ Interview 4; Interview 24.

⁵²⁵ Consultation with Experts with Lived Experience, Session III.

⁵²⁶ Interview 1; Interview 9. See also *infra*, Vulnerabilities that Arise out of Historical Marginalization and Racism.

⁵²⁷ Interview 33. See also Interview 9 (noting how some organizations have limited, or no translators are available).

⁵²⁸ Interview 13.

⁵²⁹ Interview 38.

indicated that, while they rely on language lines, there are not enough interpreters, and costs become prohibitive when meeting all language needs.⁵³⁰

When service providers do not understand the clients or their culture, it can lead to further victim-blaming. For example, a prosecutor concluded that, when certain people with lived experience in trafficking “don’t speak the language, they don’t want to accept services; they don’t identify as victims at all.”⁵³¹ Some interviewees reported instances of implicit bias, microaggressions, and discrimination in service delivery to victims of color. Interviewees perceived that service providers exhibit a lower level of compassion and professionalism for people of color compared to white people.⁵³² An interviewee added:

We see people of color especially get kicked out of housing services for basically nothing, while white people can do all sorts of things and don’t get kicked out. So especially when people of color are accessing services, we see the level of compassion that services and professionals have is really small compared to [what they have for] white people.⁵³³

One subject matter expert explained her experience as a black woman:

I've been in places where they're like, “well, you didn't shower today.” I'm like, I did shower today. “Well, you didn't wash your hair, so you get the consequence.” Well, I'm Black, I'm not supposed to wash my hair every day. And now that's a problem because I don't wash my hair every day. But because you don't have the training to know that Black people DON'T wash their hair every day. So now I'm getting consequences because I didn't do my basic hygiene.⁵³⁴

One attorney noted, “Implicit bias also plays a part. A disproportionate amount of women I work with are Natives, and there is absolutely a bias.... If someone knows how to codeswitch in a way that would make the well-meaning white lady at the trauma center help you more,” then they might receive more favorable treatment than other victims who are more difficult because of their trauma response.⁵³⁵ Recognizing these biases, the Minnesota MMIW Task Force recommended that the state “[a]ddress systemic racism in all system [actors] that interact with Indigenous women and girls (education, health care, housing, child welfare, law enforcement, criminal justice, etc.) by hiring more Indigenous staff, by providing training and education to reduce bias among professionals working in these systems, and by demanding accountability to

⁵³⁰ Interview 67.

⁵³¹ Interview 16.

⁵³² Interview 85; Interview 88.

⁵³³ Interview 85.

⁵³⁴ Consultation with Experts with Lived Experience, Session IV.

⁵³⁵ Interview 88.

eliminating bias.”⁵³⁶ Finally, one stakeholder suggested a link between biases within service-providing organizations and more systemic, political biases. The service provider remarked:

“We have missed the opportunity to look at this issue in the Black community and apply resources for prevention and intervention. . . because of the buy-in we needed from legislators. ‘We want you here and to show up and we want you to participate, but we want legislators to buy it and we will not be centering this movement around those numbers.’ I understand the strategy but what happened on the other end is we did not get the recognition we needed.”⁵³⁷

In some cases, services must take into account intersectional marginalization. One tribal stakeholder explained that LGBTIQ+ and two-spirit relatives are impacted disproportionately by trafficking, partly because those Natives who so identify do not feel comfortable reaching out to non-LGBTIQ+ providers.⁵³⁸ One nonprofit staff person remarked how Native American LGBTIQ+ people do not feel comfortable going to “regular” LGBTIQ+ trafficking resources.⁵³⁹ The MMIW Task Force documented this gap, recommending resources to increase “Indigenous-led community organizations with funds specifically earmarked for improving and increasing services for two spirit and LQBTQ+ survivors.”⁵⁴⁰

Culturally sensitive services must be available but not mandatory. In some cases, victims of color may be uncomfortable using a culturally focused service.⁵⁴¹ For example, findings showed that victims from tightly-knit communities, such as members of Minnesota’s Hmong,⁵⁴² Latine,⁵⁴³ and Somali⁵⁴⁴ communities, may fear that

⁵³⁶ Missing and Murdered Indigenous Women Task Force, *Report to the Legislature*, by Nicole MartinRogers and Virginia Pendleton (Saint Paul: Minnesota Department of Public Safety Office of Justice Programs, December 2020), 12.

⁵³⁷ Interview 24.

⁵³⁸ Interview 47.

⁵³⁹ Interview 47.

⁵⁴⁰ Wilder Research, *Missing and Murdered Indigenous Women Task Force: A report to the Minnesota Legislature*, by Nicole MartinRogers and Virginia Pendleton (Minneapolis: Wilder Research, December 2020), 132, <https://dps.mn.gov/divisions/ojp/Documents/missing-murdered-indigenous-women-task-force-report.pdf>.

⁵⁴¹ Interviewees stressed that organizations with diverse staff must remain mindful that their services meet the cultural needs of diverse victims. For example, findings show that victims from certain communities, such as Hmong and Somali communities, may be more trusting of outsiders than of service providers from their own communities because of victims’ fears around a lack of confidentiality if services are received from another community member. In one case, a stakeholder explained that, at their organization, victims mostly wanted to avoid staff members of their own community, possibly because the organization had “multiple instances” with “interpreters in our community [who] did break confidentiality requirements.” Interview 3; Interview 85.

⁵⁴² Interview 9.

⁵⁴³ Interview 23.

⁵⁴⁴ Interview 9.

they or their family will face community disapproval upon disclosing victimization.⁵⁴⁵ The director of a civil society organization noted:

There are some people [who] may not feel comfortable going there because their community is so small, and they are afraid confidentiality won't be maintained, either due to physical location or word of mouth.⁵⁴⁶

Another interviewee explained:

There are only 18 last names in the Hmong community. Sex trafficking—being a victim, buyer, or trafficker—would affect the whole family with that name. People are afraid of losing honor and status in their family and extended family, so they don't speak up.⁵⁴⁷

A different stakeholder recounted that her organization had hired a Somali advocate with the hope that it would increase trust and feelings of safety, but it did the opposite. They explained, “[a]lmost all Somali survivors didn't want to meet with her – it was nothing personal – just that there had been instances where we have had Somali interpreters in the community that did break confidentiality requirements. I know this happened in the healthcare system.”⁵⁴⁸ This experience is not unique to communities of color. One advocate in a small town described it as a “fishbowl. Everyone is in everyone's business.”⁵⁴⁹ Allowing the affected person to direct how they receive services can mitigate some of these worries.

As with some systems actors, findings show that some communities of color resist acknowledging sex trafficking within their community, requiring a different approach to outreach.⁵⁵⁰ One official suggested that discussions should focus on how trafficking could affect the community, rather than asserting unequivocally that trafficking is affecting the community.⁵⁵¹ The Minnesota MMIW Task Force included, in Mandate 20, the promotion of community healing that involves perpetrators, survivors, and relatives. Such an approach echoes restorative justice and would require ensuring that facilitators: adhere to international principles for this methodology; promote feminist interpretation of human rights; have expertise in preventing re-victimization; and adhere to substantive gender equality in conflict resolution and access to justice.⁵⁵²

⁵⁴⁵ Interview 3; Interview 9; Interview 23.

⁵⁴⁶ Interview 93.

⁵⁴⁷ Interview 3.

⁵⁴⁸ Interview 85.

⁵⁴⁹ Interview 88.

⁵⁵⁰ Interview 3.

⁵⁵¹ Interview 3.

⁵⁵² Sarah Deer & Abigail Barefoot, *The Limits of the State: Feminist Perspectives on Carceral Logic, Restorative Justice and Sexual Violence*, 28 *Kansas Journal of Law & Public Policy* 505 (2019); Vesna Nikolic-Ristanovic, “Sexual violence, international law and restorative justice,” in *Sexual violence, international law and restorative justice* (Oxford: Hart Publishing, 2005), 273.

Additionally, the Task Force observed that provision of services for survivors should address “cultural connections and community engagement.”⁵⁵³

Service Providers Do Not Yet Reflect the Diversity of Minnesota’s Population

Interviewees reported a general lack of diversity at organizations serving victims.⁵⁵⁴ Findings show that service providers in Minnesota tend to have predominantly white staff.⁵⁵⁵ Descriptions of organizations ranged from “a lot of white people”⁵⁵⁶ to “pretty darn white.”⁵⁵⁷ Various reasons account for the lack of diversity, including a smaller pool of diverse candidates, disparities in access to education, and lower salaries in the nonprofit than private sector.⁵⁵⁸

Interviewees observed that this lack of diversity can leave victims of color feeling unrepresented and misunderstood. For example, one subject matter expert observed how many service providers rely on a “strong ‘white therapy’ culture. The way they view trauma, healing, and growth, all of it is rooted in how white people view trauma, healing, and resilience, viewed in a white value system and in white ways and theories.”⁵⁵⁹

Some communities of color may harbor mistrust toward, or even reject, nonprofits with predominantly white staff.⁵⁶⁰ An interviewee opined that a lack of diverse staffing may lead to victims refusing services, explaining “there are many reasons victims may not want services, including the lack of diversity in advocates, and that they have encountered people in the system who attempted to help them but didn’t pull through in the end.”⁵⁶¹ Subject matter experts corroborated this assessment, explaining that “there’s not a lot of Black and Brown [people] coming into these services getting the help they need.”⁵⁶² Findings further suggest that, due to past and current systemic institutional discrimination, people of color may harbor distrust of overall systems and their actors, deterring them from seeking services.⁵⁶³ As one stakeholder explained:

⁵⁵³ Missing and Murdered Indigenous Women Task Force, *Report to the Legislature*, by Nicole MartinRogers and Virginia Pendelton (Saint Paul: Minnesota Department of Public Safety Office of Justice Programs, December 2020), 132, <https://dps.mn.gov/divisions/ojp/Documents/missing-murdered-indigenous-women-task-force-report.pdf>.

⁵⁵⁴ Interview 53; Interview 67; Interview 60.

⁵⁵⁵ Interview 53; Interview 60; Interview 85.

⁵⁵⁶ Interview 53.

⁵⁵⁷ Interview 60.

⁵⁵⁸ Susan Medina, *The Diversity Gap in the Nonprofit Sector*, *Philanthropy News Digest*, June 14, 2017, <https://philanthropynewsdigest.org/features/the-sustainable-nonprofit/the-diversity-gap-in-the-nonprofit-sector>.

⁵⁵⁹ Interview 71.

⁵⁶⁰ Interview 85.

⁵⁶¹ Interview 60.

⁵⁶² Consultation with Experts with Lived Experience, Session III.

⁵⁶³ Interview 44.

[T]he system itself is racist and sexist, and all of the symptoms of oppression are embedded in our system. That's why people don't want to report to law enforcement, don't trust child protection, child protection breaks people's families up and takes children away, and law enforcement blames people and can be brutal as we all know.⁵⁶⁴

Where service providers are predominantly white, collaborations can help bridge gaps. Interviewees reported success from cooperating with organizations that already provide culturally specific services.⁵⁶⁵ One stakeholder explained, “[c]ulturally specific organizations providing resources within communities with values and traditions that are important to them is crucial. We all need to be able to go to work, address our biases, etc. It’s not a one-size-fits-all. Partnerships between these kinds of culturally focused organizations is key.”⁵⁶⁶ Interviewees noted other measures that can increase cultural focus. For example, one organization allows rituals such as sage burning at shelters for Native American women.⁵⁶⁷ In another example, a multi-cultural group in Hennepin County is working on a grant program to provide “culturally unique food” to communities.⁵⁶⁸

Services for Male Victims

Lack of reporting and documentation of male victims of sex trafficking continues to be of concern. Interview findings revealed little or nominal mention of men and boys as victims of sexual exploitation and trafficking. According to the 2022 Minnesota Student Survey, however, the percentage of boys who reported trading sex was nearly equal to the percentage of girls who reported trading sex (1.0 percent of cisgender boys compared to 1.1 percent).⁵⁶⁹

The absence of findings on men and boys who sell or trade sex does not suggest that this activity is uncommon. Rather, it may be a matter of how men’s behavior is perceived and regarded. For example, subject matter experts remarked how some men experiencing homelessness seek out women for relationships—and for their housing—during wintertime in Minnesota.⁵⁷⁰ Although many people see these relationships as men finding housing in winter, those experts see that as survival sex

⁵⁶⁴ Interview 85. See also Consultation with Experts with Lived Experience, Session II (stating that parents of victims call the police for protection against buyers, but then risk allegations of child neglect and losing custody of their child).

⁵⁶⁵ Interview 6; Interview 93.

⁵⁶⁶ Interview 93.

⁵⁶⁷ Interview 88.

⁵⁶⁸ Interview 91.

⁵⁶⁹ Martin, Lauren; Brown, Camille; McMorris, Barbara; Johnston-Goodstar, Katie; Rider, G. Nic; Filoteo, Montana. (2024). *Trading Sex and Sexual Exploitation among High School Students: Data from the 2022 Minnesota Student Survey*, 2. Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/256516>.

⁵⁷⁰ Consultation with Experts with Lived Experience, Session II.

for men experiencing homelessness.⁵⁷¹ The lack of focus on this specific group shows that perceptions of sexual exploitation and trafficking have yet to catch up to reality.

Men and boys continue to endure preconceptions on the unlikelihood of their exploitation for several reasons.⁵⁷² First, prevailing stereotypes hinder the identification of male victims.⁵⁷³ As one stakeholder explained, “[g]ender is a barrier because, in our culture, boys shouldn’t cry, and boys are never victims, which is so wrong.”⁵⁷⁴ Stigma and shame can prevent identification, as “a lot of times, their sexuality is questioned, masculinity is questioned, and boys are less likely to disclose that this has happened.”⁵⁷⁵ As one law enforcement officer stated, prevailing stigma means “less attention” to, and “less sympathy” for, male victims.⁵⁷⁶ Second, stakeholders pointed to the few statistics collected on boy victims of trafficking.⁵⁷⁷ Although some interviewees observed increased identification of male victims and collection of data about them as awareness increases,⁵⁷⁸ another observed that the experiences of male victims are often the “most underrepresented, under prosecuted, under reported and [under] acknowledged.”⁵⁷⁹ An additional barrier is the lack of resources for male victims.⁵⁸⁰ Findings revealed that services and programs specific to boys are insufficient.⁵⁸¹ For example, one interviewee highlighted the shelter gaps for male victims.⁵⁸² This gap can become a self-perpetuating cycle hindering an effective response. When male victims perceive that services are unavailable for them, it in turn deters them from seeking help.⁵⁸³ Indeed, those providers who do deliver services to both sexes find that girls are the primary beneficiaries.⁵⁸⁴

⁵⁷¹ Consultation with Experts with Lived Experience, Session II (elaborating that when a woman seeks out a man to live with during winter, to provide food, to use their car, and to provide money – that is seen as survival sex. “But for males, it’s not looked at as survival sex”).

⁵⁷² ReportOUT, Not an Ideal Victim? Trafficking, Homelessness, and Risks Faced by LGBTQI+ Young People: A Global Scoping Report for the UN Special Rapporteur on Contemporary Forms of Slavery, by Drew Dalton and Lauren Harper (Newcastle: OHCHR, 2023), 4, https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/reporthrc54/submission-slavery-hrc54-cso-reportout_0.pdf.

⁵⁷³ Interview 51.

⁵⁷⁴ Interview 53.

⁵⁷⁵ Interview 85.

⁵⁷⁶ Interview 46.

⁵⁷⁷ Interview 2; Interview 18.

⁵⁷⁸ Interview 101.

⁵⁷⁹ Interview 18.

⁵⁸⁰ Human Trafficking Institute, “The Silenced Minority: Sex Trafficking of Males,” accessed January 23, 2023, <https://traffickinginstitute.org/the-silenced-minority/>.

⁵⁸¹ Interview 64; Interview 52.

⁵⁸² Interview 94.

⁵⁸³ Interview 97.

⁵⁸⁴ Interview 44 (referring to Safe Harbor service providers).

Finally, stakeholders noted large gaps in training that focus on young men as victims.⁵⁸⁵ As one interviewee explained, “if [we’re] only screening women, [we will] not identify boys who need help. Everyone needs to be screened.”⁵⁸⁶ Others emphasized the disparities male victims face regarding agencies’ preparedness to work with this population, summarizing, “People don’t know how to serve men and boys.”⁵⁸⁷

Services for LGBTIQ+ Identifying Victims

Higher rates of family rejection, discrimination, stigma, and lack of support exacerbate the risk of LGBTIQ+ victims being sexually exploited. As discussed in the section above on Root Causes of Sex Trafficking, these factors leave LGBTIQ+ young people at greater risk of homelessness and, therefore, exploitation.⁵⁸⁸ Research reveals that sex traffickers take advantage of intersectional characteristics, such as sexual orientation, gender identity, and ethnicity; and they use these structural inequalities to cement their control over people belonging to the LGBTQ+ community.⁵⁸⁹

People, particularly youth, who identify as LGBTIQ+ represent a significant proportion of trafficking victims. One study found that lesbian, gay, and bisexual youth who experienced homelessness were “significantly more likely to be sex trafficked” than their heterosexual peers.⁵⁹⁰ Indeed, that study shows that 61 percent of LGB youth experiencing homelessness have experienced human trafficking within their lifetimes,

⁵⁸⁵ Interview 114; see also Interview 44.

⁵⁸⁶ Interview 51.

⁵⁸⁷ Interview 25.

⁵⁸⁸ According to a Wilder Research Report, “The percentage of Minnesotans experiencing homelessness who identify as LGBTQ is 11%, and the percentage of all Minnesotans who identify as LGBT is 4% (Gates, 2017), suggesting that LGBTQ people are over-represented in the Minnesota homeless population. A total of 67 respondents identified as transgender or gender queer (2% of all homeless respondents; 15% of LGBTQ respondents.” Wilder Research, *Characteristics of People Who Identify as LGBTQ Experiencing Homelessness. Findings from the 2018 Minnesota Homeless Study*, by Virginia Pendleton, Walker Bosch, Margaret Vohs, Stephanie Nelson-Dusek, and Michelle Decker Gerrard (Saint Paul: Wilder Research, September 2020), 1,

https://www.wilder.org/sites/default/files/imports/2018_HomelessnessInMinnesota_LGBTQ_9-20.pdf.

⁵⁸⁹ Hogan and Roe-Sepowitz (2020) in ReportOUT, Not an Ideal Victim? Trafficking, Homelessness, and Risks Faced by LGBTQ+ Young People: A Global Scoping Report for the UN Special Rapporteur on Contemporary Forms of Slavery, by Drew Dalton and Lauren Harper (Newcastle: OHCHR, 2023), 6, https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/reporthrc54/submission-slavery-hrc54-cso-reportout_0.pdf.

⁵⁹⁰ Murphy, 2016 in Hogan and Roe-Sepowitz, 2020 in ReportOUT, Not an Ideal Victim? Trafficking, Homelessness, and Risks Faced by LGBTQ+ Young People: A Global Scoping Report for the UN Special Rapporteur on Contemporary Forms of Slavery, by Drew Dalton and Lauren Harper (Newcastle: OHCHR, 2023), 7, https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/reporthrc54/submission-slavery-hrc54-cso-reportout_0.pdf.

and 44 percent of lesbian, gay, and bisexual youth who were trafficked experienced it while homeless.⁵⁹¹

Regarding the relationship between trafficking and homelessness of transgender youth, research shows that 71 percent of the current homeless transgender youth population experienced trafficking and 65 percent of those youth were victims of trafficking while they were homeless.⁵⁹² The 2022 Minnesota Student Survey found that 3.3 percent of Minnesota high school students who identified as transgender or gender diverse had traded sex.⁵⁹³ In addition, research shows that barriers or the absence of gender-affirming care place transgender young people at additional risk for sexual exploitation.⁵⁹⁴

Despite their substantial representation among sex trafficking victims, LGBTIQ+ people remain underserved in terms of support and resources for several reasons. First, identification of LGBTIQ+ victims can be challenging, as understandings of sex trafficking have evolved beyond the conventional pimp or gang control practices. Instead, victims may be forced to provide sex in exchange for food and shelter, or they

⁵⁹¹ ReportOUT, Not an Ideal Victim? Trafficking, Homelessness, and Risks Faced by LGBTIQ+ Young People: A Global Scoping Report for the UN Special Rapporteur on Contemporary Forms of Slavery, by Drew Dalton and Lauren Harper (Newcastle: OHCHR, 2023), 7, https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/reporthrc54/submission-slavery-hrc54-cso-reportout_0.pdf.

⁵⁹² Atlanta Youth Count Report, 2018 in ReportOUT, Not an Ideal Victim? Trafficking, Homelessness, and Risks Faced by LGBTIQ+ Young People: A Global Scoping Report for the UN Special Rapporteur on Contemporary Forms of Slavery, by Drew Dalton and Lauren Harper (Newcastle: OHCHR, 2023), 7, https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/reporthrc54/submission-slavery-hrc54-cso-reportout_0.pdf. The UN Special Rapporteur Special Rapporteur on Contemporary Forms of Slavery reiterated this issue in his report. Human Rights Council, Report of the Special Rapporteur on the contemporary forms of slavery, including causes and consequences, (July 19, 2024), U.N. Doc. A/HRC/57/46, ¶ 38.

⁵⁹³ Martin, Lauren; Brown, Camille; McMorris, Barbara; Johnston-Goodstar, Katie; Rider, G. Nic; Filoteo, Montana. (2024). *Trading Sex and Sexual Exploitation among High School Students: Data from the 2022 Minnesota Student Survey*, 2, accessed January 23, 2023. Retrieved from the University Digital Conservancy, [https://hdl.handle.net/11299/256516.trading sex or sexual activity to receive money, food, drugs, alcohol, a place to stay, or anything else?.](https://hdl.handle.net/11299/256516.trading%20sex%20or%20sexual%20activity%20to%20receive%20money%20food%20drugs%20alcohol%20a%20place%20to%20stay%20or%20anything%20else%3F) Minnesota Student Survey, *Trading Sex and Sexual Exploitation among High School Students: Data from the 2019 Minnesota Student Survey*, accessed January 23, 2023, 1, <https://drive.google.com/file/d/1qHWI8MNY5cTvCsWWcgulo2brzZbHDg6Z/view?pli=1>.

⁵⁹⁴ Polaris Project, Breaking Barriers: Improving Services for LGBTQ Human Trafficking Victims. A Top Ten List for Service Providers and Criminal Justice Professionals, July 2015, <https://polarisproject.org/wp-content/uploads/2019/09/breaking-barriers-lgbtq-services.pdf>; Murphy (2016) and Hogan and Roe-Sepowitz (2020) in ReportOUT, Not an Ideal Victim? Trafficking, Homelessness, and Risks Faced by LGBTIQ+ Young People: A Global Scoping Report for the UN Special Rapporteur on Contemporary Forms of Slavery, by Drew Dalton and Lauren Harper (Newcastle: OHCHR, 2023), 4, https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/reporthrc54/submission-slavery-hrc54-cso-reportout_0.pdf.

may be forced to provide sex by members of their own households.⁵⁹⁵ One interviewee observed that, even though the number of male and transgender individuals seeking help at their facility has increased over the past five to ten years, those clients still represent a minority of the groups they serve.⁵⁹⁶ Second, findings reveal that there are not enough services specific to LGBTIQ+ victims.⁵⁹⁷ Best practices call for services for LGBTIQ+ victims to employ LGBTIQ+ staff and volunteers and to include local LGBTIQ+ providers and survivors in their efforts.⁵⁹⁸

Finally, interviewees highlighted the need for training on LGBTIQ+ issues.⁵⁹⁹ One person working in No Wrong Door acknowledged not knowing much about the LGBTIQ+ community in the trafficking context.⁶⁰⁰ Another nonprofit employee noted, “[w]e are behind on how to provide services to queer and trans victims and especially gender-affirming services. We need more training and better training on implementing service provision in a way that does not revictimize the individual.”⁶⁰¹ A government official added that service providers need more education to provide adequate support and resources focused on avoiding and reducing the exploitation of LGBTIQ+ children, particularly since this issue is “highly complex, and not enough services [are] focused [on] helping these kids.”⁶⁰²

Services for Noncitizen Victims of Trafficking

Noncitizen victims require specialized services, as they are generally unable to access public benefits available to U.S. citizens. Additionally, because traffickers often wield immigration fears to coerce people to enter or remain in trafficking situations, those who are not citizens require additional support to escape a trafficking situation.

The U.S. government allows for “Continued Presence” for people who are believed to be victims of trafficking, which then provides them access to a broad range of public

⁵⁹⁵ Polaris Project, *Sex Trafficking and Youth*, 2019, <https://polarisproject.org/wp-content/uploads/2019/09/LGBTQ-Sex-Trafficking.pdf>; Polaris Project, *Breaking Barriers: Improving Services for LGBTQ Human Trafficking Victims. A Top Ten List for Service Providers and Criminal Justice Professionals*, July 2015, <https://polarisproject.org/wp-content/uploads/2019/09/breaking-barriers-lgbtq-services.pdf>.

⁵⁹⁶ Interview 67.

⁵⁹⁷ Interview 33; Interview 35; Interview 44; Interview 58; Interview 4; Interview 85; Interview 62; Interview 52; Interview 94; Consultation with Experts with Lived Experience, Session II (stating the need is even more acute for LGBTIQ+ individuals over the age of 18).

⁵⁹⁸ Polaris Project, *Breaking Barriers: Improving Services for LGBTQ Human Trafficking Victims. A Top Ten List for Service Providers and Criminal Justice Professionals*, July 2015, 2, 7, <https://polarisproject.org/wp-content/uploads/2019/09/breaking-barriers-lgbtq-services.pdf>.

⁵⁹⁹ Interview 21; Interview 44; Interview 30.

⁶⁰⁰ Interview 48.

⁶⁰¹ Interview 21.

⁶⁰² Interview 30.

benefits, protections from removal and detention, and work authorization.⁶⁰³ Yet many people who should be eligible for these benefits are not able to access them. These access barriers stem from law enforcement agencies' lack of awareness that victims of trafficking are eligible for such benefits. Access is further limited because it is a discretionary benefit that may not be sought or granted where law enforcement perceives the victim as "imperfect," such as having a criminal history or other negative factors.⁶⁰⁴

Noncitizen victims may need help obtaining immigration relief and understanding the possible consequences of doing so. T-visas can provide legal status to victims of trafficking and a path to permanent residency; however, they are underused, complex, not immediately available, and generally require the assistance of law enforcement.⁶⁰⁵ Interim benefits (e.g., continued presence) are dependent on law enforcement approval and can be time-consuming to obtain, leaving many victims without access to housing, work authorization, and basic needs. One attorney perceived victims as deterred from seeking a T-visa because there is no assurance that the conduct they disclose to obtain the visa will not be used against them when they apply for naturalization.⁶⁰⁶

RECOMMENDATIONS

- Expand and fund appropriate services to fulfill the specific needs of rural, LGBTIQ+, and noncitizen people, and communities of color.
- Examine barriers that may limit the ability of organizations led by rural, LGBTIQ+, noncitizens, and communities of color to access existing funding.
- Increase funding, awareness, outreach, and availability of service providers (centers, facilities) in rural communities to bolster anti-sex trafficking knowledge and skills among providers in rural areas.
- Develop and roll out incentivized placement programs that increase access to qualified service providers in rural areas.
- Map existing resources and identify gaps in meeting the specific needs of different populations, especially those that overlap with prevention measures, such as mental health care and chemical dependency treatment.

⁶⁰³ Center for Countering Human Trafficking, Continued Presence Temporary Immigration Designation for Victims of Human Trafficking, September 9, 2021, <https://www.ice.gov/doclib/human-trafficking/pdf/continued-presence.pdf>. See 18 U.S.C. § 1595.

⁶⁰⁴ Interview 111; The Advocates for Human Rights, Trafficking in Persons Report 2022, by Michelle Garnett McKenzie et al. (The Advocates for Human Rights: Minneapolis, February 2022), 13.

⁶⁰⁵ Interview 1; Trafficking Victims Protection Act of 2000, 8 US Code § 1101 (2000). Trafficked persons who are foreign nationals may also be eligible for other forms of immigration relief besides the T-Visa, such as: (1) the U-Visa, 8 U.S.C. § 1101(2007); (2) a VAWA self-petition, *id.* § 1101; or (3) asylum, *id.* § 1158.

⁶⁰⁶ Interview 1.

- Identify existing trusted community organizations and networks and provide funding and resources to effectively serve communities that may not trust government agencies.

Resources

To effectively protect victims, investments in the well-being of survivors are necessary.⁶⁰⁷ Achieving these aims requires significant funding.⁶⁰⁸ One of the main contributions to Safe Harbor’s effectiveness is the increase in funding that Minnesota has devoted to combating sex trafficking.⁶⁰⁹ Minnesota now provides more dedicated personnel than ever before to stop sex trafficking.⁶¹⁰ Increased funding has provided for more programs for survivors and at-risk youth.⁶¹¹ Access to housing and complementary supportive services has also improved in Minnesota.⁶¹² Overall, service providers have expanded their reach and the scope of their services, particularly those targeting certain populations, and invested in cultural competence and trauma-informed, people-centered approaches.⁶¹³ One interviewee acknowledged that it is “a different world from the last report on sex trafficking and [it] shows a great progression of the movement”⁶¹⁴

Nevertheless, current levels of staffing and funding do not meet all victim needs, especially for those over 24 and marginalized communities where poverty rates are higher.⁶¹⁵ Funding may be restricted, meaning other needs go uncovered. One navigator expressed her desire for a flexible emergency trafficking fund for victims of any age, which could be used to buy prescriptions, rent assistance, transportation, or other creative activities that are not grant-restricted.⁶¹⁶ Subject matter experts reiterated and expanded on the need for greater wraparound services to address mental health, substance use, building good credit, independent life skills, job

⁶⁰⁷ This investment should include the provision of basic needs such as housing and health care. See Interview 21; Interview 35; Interview 63; Interview 61.

⁶⁰⁸ Interview 8; Interview 22; Interview 27; Interview 49; Interview 52; Interview 64; Interview 100.

⁶⁰⁹ See Interview 22; Interview 25; Interview 52; Interview 56.

⁶¹⁰ Interview 100.

⁶¹¹ See, e.g., Interview 34; Interview 98.

⁶¹² See, e.g., Interview 6.

⁶¹³ Consultation with Experts with Lived Experience, Session IV.

⁶¹⁴ Interview 49.

⁶¹⁵ Between 2016-19, Minnesota adults between the ages of 18 to 64 experienced a Supplemental Poverty Rate (SPM) of 9 percent, compared to Minnesota children under the age of 18 whose rate was 8 percent. During that same period, the Caucasian demographic experienced an SPM of 7.2 percent, in contrast to Black (20 percent), Asian (12.2 percent), Native American (23 percent), other or multiracial (11.9 percent), and Hispanic (14.6 percent) demographics. School of Public Affairs, *Minnesota Poverty Report 2009-2019*, by Angela R. Fertig (Minneapolis: MinnCAP, September 2022), 26, https://minncap.org/files/galleries/MinnesotaPovertyExpandedReport2019_final20220907.pdf.

⁶¹⁶ Interview 43.

readiness, and well-being.⁶¹⁷ In particular, they stressed the importance of helping people “grow” as a goal; one expert explained:

When I was in a use program ... when I was in, you know, some of the youth places – they didn’t want me to have a job. They didn’t want me to go to school.... They didn’t even set up anything for me to work on my mental health. I had to fight to do that [personal growth] stuff on my own.⁶¹⁸

Furthermore, rural Regional Navigators are responsible for large territories, which stretches their capacity.⁶¹⁹ Currently, Safe Harbor funds Regional Navigator positions for twelve Minnesota regions throughout the state.⁶²⁰ A health care employee questioned whether a single Regional Navigator can realistically know all available resources in Northeast Minnesota, let alone manage the volume of cases across the region.⁶²¹ Not only is the geographic area large, but it lacks a collective space where a victim’s immediate needs, such as housing, chemical dependency, and mental health, can be met with one phone call.⁶²²

RECOMMENDATIONS

- Continue to invest in Regional Navigator structures and personnel as a means of expanding access to quality services for people with lived experience in sex trafficking.
- Build on successes resulting from increased funding to Safe Harbor by continuing to expand staff and financial resources to meet the wide variety of needs of people with lived experience in sex trafficking.
- Develop a flexible emergency trafficking fund for victims of any age to provide unconditional multipurpose cash assistance to meet immediate protection needs.
- Conduct outreach about the Regional Navigator role and resources to potential points of connection to people selling or trading sex, such as libraries, health care providers, homeless shelters, hotels, food shelves, and related social services.

A Trauma-Informed Response in Victim Protection

Many diverse stakeholders are involved in an effective response to sex trafficking, including social workers, health care personnel, educators, the private sector, judges,

⁶¹⁷ Consultation with Experts with Lived Experience, Sessions II, III (acknowledging people may harbor fears of changing their lifestyle because of the loss of benefits and assistance).

⁶¹⁸ Consultation with Experts with Lived Experience, Session III.

⁶¹⁹ Interview 45; Interview 83.

⁶²⁰ Minnesota Department of Health, “Safe Harbor Regional Navigators,” accessed December 21, 2022, <https://www.health.state.mn.us/communities/humantrafficking/safeharbor/navigators.html>.

⁶²¹ Interview 45.

⁶²² Interview 45.

defense attorneys, child protection workers, and victim and witness advocates. Interviewees focused primarily on the roles of Regional Navigators, law enforcement, and prosecutors. Effective victim protection calls for stakeholders to adopt a victim-centered, trauma-informed response from the initial victim identification throughout all proceedings. This report describes in detail the victim-centered approach through the lens of victim protection, which must encompass all stages of a system's response.

A trauma-informed response uses an approach that prioritizes safety, trustworthiness and transparency, peer support, collaboration and mutuality, empowerment and choice, and a cultural, historical and gender lens.⁶²³ Implementing a trauma-informed response involves protecting the agency of each person as a proactive participant in their own journey of healing, promoting the capacity of a person to identify signs of trauma in others, and incorporating a principle of avoiding harm when formulating policies, procedures, and actions.⁶²⁴ Interviewees across the board agreed that survivors are likely to have a history of great trauma, which they continue to experience when trafficked.⁶²⁵ As one police officer described, trafficking victims “get beat, robbed, raped, [and] drugged several times a day.”⁶²⁶ These traumatic experiences have many negative effects, including difficulty trusting others,⁶²⁷ loss of self-esteem,⁶²⁸ and chemical dependency.⁶²⁹ Furthermore, victims can suffer re-traumatization after discussing experiences with service providers and overall long-term trauma.⁶³⁰ When victims lack access to basic needs or resources to address their trauma, “trafficking becomes the norm.”⁶³¹ As the interviewee elaborated, “[t]he trauma isn't acknowledged or dealt with because [trafficking] becomes a normalized way for a youth to make money.”⁶³²

People who have sold or traded sex have unique needs that make victim-centered services essential. They are less likely to accept services than victims of other crimes due in part to the psychological power traffickers often hold over them.⁶³³ Indeed, survivors will often decline services multiple times or repeatedly leave a shelter and return to their trafficker before they are able to exit permanently.⁶³⁴ Victim-centered

⁶²³ The CDC's Center for Preparedness and Response & SAMHSA's National Center for Trauma-Informed Care, 6 Guidance Principles to a Trauma-Informed Approach, June 28, 2018, <https://stacks.cdc.gov/view/cdc/56843>.

⁶²⁴ Office To Monitor And Combat Trafficking In Persons, Engaging Survivors of Human Trafficking – Fact Sheet, April 18, 2023, <https://www.state.gov/engaging-survivors-of-human-trafficking-2/>.

⁶²⁵ Interview 50; Interview 15; Interview 30; Interview 44; Interview 42; Interview 46; Interview 21; Interview 22.

⁶²⁶ Interview 50.

⁶²⁷ Interview 46.

⁶²⁸ Interview 22.

⁶²⁹ Interview 22.

⁶³⁰ Consultation with Experts with Lived Experience, Session II.

⁶³¹ Interview 21.

⁶³² Interview 21.

⁶³³ Interview 66.

⁶³⁴ Interview 59.

shelters and services meet victims where they are, which often is in a place of distrust of the systems.⁶³⁵ One interviewee acknowledged the changes still needed, noting how law enforcement in rural communities can have difficulty comprehending victims' fears of navigating the legal system.⁶³⁶ Another interviewee highlighted the "cycle of rejection" that compounds their experience.⁶³⁷ As one interviewee explained, victims carry tremendous distrust and anger as a result of the trauma they experienced, only to have the systems designed to help them routinely reject them for the very behaviors they have adopted as a response to trauma.⁶³⁸ The services provided to victims must take into account that healing for victims of sex trafficking is longitudinal, and survivors "aren't going to be 'fixed' in a year."⁶³⁹

Trauma often makes it difficult for people to self-identify as victims, which would in turn facilitate access to services. When the trauma is so severe that they do not view themselves as victims, it hinders connections to services.⁶⁴⁰ And when systems actors do not recognize this trauma, they miss the opportunity to meet those needs. As one nonprofit employee pointed out, "[k]ids we've labeled as criminals are actually victims of trauma."⁶⁴¹

Bypassing requirements for self-identification as a victim can foster outreach efforts. One healthcare organization employee described how they construct their outreach to override how someone might self-identify and reach people who may not view themselves as victims. The organization developed brochures on violence and trafficking that could fit into someone's shoe; the goal is framing the language to be more inviting, to not require someone to see themselves as a victim, and to avoid stigma.⁶⁴² The interviewee elaborated that, because most victims would not necessarily identify what they are enduring as trafficking, they strive to generalize their materials.⁶⁴³ Another interviewee, whose organization provides training and assistance to those who serve trafficking victims, noted that Safe Harbor housing programs may have had a faster start if they had joined efforts with homeless youth programs to ensure inclusion of those people who do not self-identify as being sex-trafficked.⁶⁴⁴ She elaborated the importance of framing outreach outside of the sex trafficking context. Service providers

⁶³⁵ Interview 10 (victims do not always trust the people to whom they might otherwise report abuse); Interview 95; The Missing and Murdered Indigenous Women Task Force recommended that policy makers "[a]ddress the harm that the child welfare system has done to Indigenous families and communities" (Mandate 14, at 127).

⁶³⁶ Interview 25.

⁶³⁷ Interview 22.

⁶³⁸ Interview 8.

⁶³⁹ Interview 22.

⁶⁴⁰ Interview 59; Interview 40; Interview 43.

⁶⁴¹ Interview 44.

⁶⁴² Interview 45.

⁶⁴³ Interview 45.

⁶⁴⁴ Interview 44.

may have fewer barriers if they aim to reach youth who claim, “I need help because I’m on my own,” as opposed to providers who look only for youth who state, “I need help because I’m being trafficked.”⁶⁴⁵

When people need to conform to expectations of how sex trafficking victims should behave to receive services, it erects a new barrier. Specifically, interviewees questioned whether increased funding for organizations that serve identified sex trafficking victims creates incentives for them to limit services to people willing to accept that designation.⁶⁴⁶ If so, organizations miss out on delivering services to many who need it. Because Minnesota criminalizes adults who sell or trade sex, people seeking services but not identifying as sex trafficking victims may feel unsafe disclosing voluntary participation in an illegal activity.⁶⁴⁷

Importantly, a best practice response integrates protocols and policies that avoid the exclusion and shaming of survivors, including behaviors that commonly derive from the trafficking experience. For example, one stakeholder described how trauma symptoms resemble “naughty behavior.”⁶⁴⁸ Behavior seen as problematic is often actually a reflection of trauma, and systems are not set up to account for this dynamic.⁶⁴⁹ Multiple interviewees expressed concern that trauma makes it difficult to place victims, especially children, in shelters or provide them with other services.⁶⁵⁰ Children often run from shelters or act out their trauma in an aggressive manner.⁶⁵¹ Interviewees emphasized that such behavior is a direct result of trauma and should not prevent them from benefitting from services.⁶⁵² An interviewee explained that, when kids run away, it is a trauma reaction to cope with whatever triggered them.⁶⁵³ Despite this dynamic, some shelters do not always accept victims because of the specific traumas they experienced and the associated behaviors.⁶⁵⁴ This rejection, when layered with ongoing stigma against victims, further reduces options for housing.⁶⁵⁵ Emergency housing for youth in mental health crisis is already hard to find, leaving nowhere for youth in crisis to go.⁶⁵⁶

⁶⁴⁵ Interview 44.

⁶⁴⁶ Consultation with Experts with Lived Experience, Group 2.

⁶⁴⁷ Consultation with Experts with Lived Experience, Group 2.

⁶⁴⁸ Interview 44.

⁶⁴⁹ See *generally* Consultation with Experts with Lived Experience, Session III.

⁶⁵⁰ Interview 44; Interview 10; Interview 22; Interview 7; Interview 58.

⁶⁵¹ Interview 44; Interview 22.

⁶⁵² Interview 53; Interview 44.

⁶⁵³ Interview 44.

⁶⁵⁴ Interview 58.

⁶⁵⁵ Interview 58.

⁶⁵⁶ Interview 7.

Trauma-informed care recognizes that a victim acting out may be caused by trauma-induced changes in brain chemistry.⁶⁵⁷ Yet current support, both for victims experiencing deep-seated trauma and for systems actors seeking to help them is inadequate.⁶⁵⁸ Interviewees identified gaps in trauma-informed services, especially for teenagers.⁶⁵⁹ Several interviewees identified the need for more mental health care, especially for youth who go into crisis while living in shelters.⁶⁶⁰

Despite these persistent service gaps, findings nevertheless revealed positive steps stakeholders have taken to account for trauma and support victims. Service providers have incorporated more trauma-informed practices into their approach. When a youth acts out, one nonprofit staff member explained, “[t]he question is not ‘what is wrong with you?’ but rather ‘what happened to you?’”⁶⁶¹ One lawyer explained that she strives “to see every individual as an individual,” which means understanding where they are and what they need.⁶⁶² An advocate stressed her organization’s goal of trauma-informed care is “developing young people rather than disciplining young people.”⁶⁶³

Several service providers strive to promote victim agency in decision-making, with one interviewee emphasizing that services are provided at the victim’s discretion.⁶⁶⁴ One youth service provider highlighted their focus on giving space for the youth to make decisions over their own process so it reflects their individual needs.⁶⁶⁵ These providers recognize that no one can force victims to leave sex trafficking, which is full of “complexities.”⁶⁶⁶ Systems that recognize this fact instead meet victims where they are. One stakeholder explained their approach:

[Our] program offers a non-judgmental approach, allowing persons to make decisions when ready. The program does not encourage or force persons to change their lives. The staff understands the population and its complexities. The idea that someone is going to come through the program and leave the sex trade life completely does not occur very often. The healing and recovery period is much longer than that.⁶⁶⁷

⁶⁵⁷ Interview 88.

⁶⁵⁸ Interview 44; see *also* Consultation with Experts with Lived Experience, Session III (citing the need for more training on client-centered and trauma-informed approaches).

⁶⁵⁹ Interview 44; Interview 10; Interview 22; Interview 7; Interview 53.

⁶⁶⁰ Interview 44; Interview 7.

⁶⁶¹ Interview 53.

⁶⁶² Interview 88.

⁶⁶³ Interview 53.

⁶⁶⁴ Interview 61(b); Interview 93; Interview 95.

⁶⁶⁵ Interview 95.

⁶⁶⁶ Interview 52.

⁶⁶⁷ Interview 52.

By centering victims' needs and preferences, service providers can gain the trust of survivors and help them make incremental progress at healing.⁶⁶⁸ In another example, one nonprofit staff member refrains from pressing victims to tell their stories:

I don't ask for details [of the harm] as they usually don't matter to the help I offer. Unless they're getting an OFP [order for protection], then the details matter. Because for some survivors, retelling their story can be cathartic, but for others, it's re-living it over and over again. But they don't have to in order to get services from us.⁶⁶⁹

Similarly, many service providers are focused on harm reduction.⁶⁷⁰ Harm reduction addresses victims' basic needs, helps them to access necessary services, and builds trust and a relationship without judgment.⁶⁷¹ Such services might include helping a victim obtain birth control and condoms, apply for a birth certificate or drivers' license, re-enter school, or address chemical dependency.⁶⁷² One nonprofit staff person explained their response when victims desire to return to their prior situation:

[E]ven if [the victim's] goal is to return to their abusive partner or go back to their pimp, we make sure they can do that safely. And [providers] know some people bristle at that, because it seems kind of backwards if you're not involved in trauma-informed care.⁶⁷³

A researcher summarized that "harm reduction shows love and care, and it helps people so that they don't die and they have a chance to figure out what they actually want to do in their lives."⁶⁷⁴ For example, service providers using a harm-reduction model of services would address substance use disorder with flexible rather than rigid methods.⁶⁷⁵ Moreover, the way service providers measure success reflects their shift to a victim-centered approach by assessing how much victims are accessing help with "medical care, childcare, employment, mental health, networking, chemical dependency, criminal justice, and therapy," instead of whether a victim left their trafficker.⁶⁷⁶ With the harm reduction model, an interviewee explained "you meet them where they are, and hopefully soon they will want to get help. You always leave that door open."⁶⁷⁷ Another interviewee talked about the mutual support that people within the lived- experience community provide to each other; such personal relationships

⁶⁶⁸ Interview 93; Interview 61(b).

⁶⁶⁹ Interview 88.

⁶⁷⁰ Interview 9; Interview 10; Interview 19; Interview 22; Interview 53; Interview 59; Interview 85; Interview 97.

⁶⁷¹ Interview 10.

⁶⁷² Interview 19.

⁶⁷³ Interview 61(b).

⁶⁷⁴ Interview 117.

⁶⁷⁵ Interview 30. As described in the section on substance use disorder, however, it can be challenging for housing providers to adopt a full harm reduction model in these situations.

⁶⁷⁶ Interview 52.

⁶⁷⁷ Interview 22.

can be trusted sources of assistance to escape violence because they are not top-down “power” relationships.⁶⁷⁸

RECOMMENDATIONS

- Audit requirements for victims to access a range of public benefits to minimize required disclosures of traumatic experiences before gaining that assistance.
- Provide incentives to expand the use of a harm-reduction model in service provision where appropriate.
- Provide training to state-funded service providers on best practices for managing trauma responses in a range of sectors including housing, substance abuse treatment, physical and mental health care, education, and the criminal justice system.

MEANINGFUL INVOLVEMENT BY PERSONS WITH LIVED EXPERIENCE

People with lived experience are crucial voices in anti-trafficking work. Best practices recognize their role in the development, execution, and evaluation of research, policy, and interventions.⁶⁷⁹ Direct victim participation can mitigate the risks of practices that are ineffectual, detrimental, or simply counterproductive.⁶⁸⁰ For example, people with lived experience can bridge the gap between the people making the decisions and those impacted by it. A lawyer explained, “[w]e aren’t practicing survival sex... [so] we don’t really know. We want to include everyone in the conversation when trying to come up with solutions.”⁶⁸¹ Reports like *Safe Harbor for All* revealed that a large number of stakeholders who engaged with the research had lived experience and professional roles related to anti-trafficking initiatives, which provided them with an in-depth knowledge of the needs and achievements of the anti-trafficking movement in the state.⁶⁸²

Involving subject matter experts in training can also help people move beyond narrow preconceptions about trafficking. For example, a law enforcement officer shared how,

⁶⁷⁸ Consultation with Experts with Lived Experience, Group 2.

⁶⁷⁹ See National Human Trafficking Training and Technical Assistance Center, Toolkit for Building Survivor-Informed Organizations, 2023, <https://nhttac.acf.hhs.gov/system/files/2023-03/Survivor%20Informed%20Toolkit%20Updated%202023.pdf>; see also Sue Lockyer, Beyond Inclusion: Survivor-Leader Voice in Anti-Human Trafficking Organizations, *Journal of Human Trafficking* (2020), 138.

⁶⁸⁰ Sue Lockyer, Beyond Inclusion: Survivor-Leader Voice in Anti-Human Trafficking Organizations, *Journal of Human Trafficking* (2020), 138. Organizations and agencies must prioritize the incorporation and implementation of survivors’ recommendations in the work of stakeholders; Interview 52.

⁶⁸¹ Interview 88.

⁶⁸² Rainbow Research, University of Minnesota Urban Research and Outreach-Engagement Center, The Advocates for Human Rights, *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, by Lauren Martin, Christina Melander, Katie Fritz Fogel, Beki Saito, Michele Garnett McKenzie, Rosalyn Park, (October 2018), 22, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>.

hearing during a training that one subject matter expert started out like a normal teenage girl broadened his perspective about trafficking: “[What] she said, it really drove home that this happens everywhere, and the belief that ‘this doesn’t happen in my hometown’ is incorrect.”⁶⁸³ In turn, this engagement can empower persons with lived experience, promote local leadership, and center their firsthand knowledge.⁶⁸⁴

Input from people with lived experience in decision-making and policy-making must also be a priority.⁶⁸⁵ One nonprofit director perceived a bias against funding survivor-led organizations, possibly due to misperceptions that such groups “don’t deserve it” or are too high-risk.⁶⁸⁶ Regulations that penalize people with criminal records may also prevent subject matter experts from participating fully in government programs. One stakeholder who advocates for incarcerated girls explained that almost all the people she worked with had been sexually exploited before their imprisonment. These girls in incarceration often want to speak with people who themselves have exited situations of sexual exploitation in order to learn how they were able to leave. Institutional policies, however, may bar people, including survivors who cannot pass a background check, from entering facilities, such as detention centers, where these girls are held.⁶⁸⁷

Involvement by historically marginalized groups is also needed.⁶⁸⁸ Interviewees noted a gap in engagement with culturally specific communities, including Native American, Hmong, Latine, African American, immigrant African, the queer and trans community, and deaf and hard of hearing adults.⁶⁸⁹ Yet the experiences of people with lived experience from these communities are vital to tackling systemic marginalization,⁶⁹⁰ as is training on historical trauma and culturally specific healing.⁶⁹¹

Finally, inclusive practices require engagement that goes beyond simply hearing or parading individual stories.⁶⁹² Subject matter experts need “space to lean into and own and create...not just to be the face or story but [to ensure] that they are interwoven into the policies and practices” of anti-trafficking work.⁶⁹³ As such, stakeholders must be mindful of avoiding “tokenizing inclusion that sensationalizes the trauma endured by

⁶⁸³ Interview 99.

⁶⁸⁴ Interview 48.

⁶⁸⁵ Interview 71.

⁶⁸⁶ Interview 59.

⁶⁸⁷ Interview 70.

⁶⁸⁸ See, e.g., Interview 47 (stating that Congress must stop making policies without Native American women’s input).

⁶⁸⁹ Interview 25.

⁶⁹⁰ See *generally* Interview 25.

⁶⁹¹ Interview 10; Interview 15; Interview 25; Interview 89; see also National Sexual Violence Resource Center, “Cultural Responsiveness,” “Historical Trauma,” <https://www.nsvrc.org/sarts/toolkit/6-2>.

⁶⁹² Interview 95; see also Interview 71.

⁶⁹³ Interview 95.

survivors” while at the same time devaluing or ignoring their expertise on the issue.⁶⁹⁴ Engaging people with lived experience to lead training and “not just to tell their trauma stories,” recognizes their expertise goes beyond the harms they suffered.⁶⁹⁵

At the same time, stakeholders must remain mindful of barriers that subject matter experts may face when training audiences like law enforcement. An interviewee described how fear of police can make speaking in front of a room full of officers “very intimidating [and] scary.”⁶⁹⁶ In addition, when training does not lead to tangible or apparent results, subject matter experts who participate may feel “like they have given a piece of themselves...without changing anything.”⁶⁹⁷ Effective engagement requires accountability so that subject matter experts can see that their involvement has had an impact.⁶⁹⁸

RECOMMENDATIONS

- Ensure subject matter expert leadership in developing policies and protocols.
- Provide appropriate compensation to subject matter experts in state-funded projects as a model for public and private sector engagement.
- Make subject matter experts integral to the planning, implementation, monitoring, and evaluation of the overall sex trafficking prevention and response law, policy, and service provision across Minnesota. This goal includes:
 - Providing training and guidance on working with people with lived experience so that engagement focuses on knowledge and expertise, not having to tell their story.
 - Investing in training of subject matter experts in order to assist them in building effective professional careers as consultants.
 - Directly funding survivor-led organizations and guarantee their involvement in service provision, coordination, and partnerships with other systems actors.

⁶⁹⁴ Sue Lockyer, *Beyond Inclusion: Survivor-Leader Voice in Anti-Human Trafficking Organizations*, *Journal of Human Trafficking* (2020), 136.

⁶⁹⁵ Interview 52 (For example, one survivor is co-authoring a book with neuropsychology professionals); Interview 102.

⁶⁹⁶ Interview 99. See *also* Interview 12 (noting that “[c]ops are males and scary” and as such, may be perceived as similar to traffickers).

⁶⁹⁷ Interview 71.

⁶⁹⁸ Consultation with Experts with Lived Experience, Group 2.

PROSECUTION

Prosecution seeks to hold traffickers accountable and provide justice to victims. Effective prosecution calls for a remedy that is victim-centered and timely. Under international standards, laws should criminalize sex trafficking and its associated crimes, and prosecution should not be conditional on survivors' participation.⁶⁹⁹ Criminal justice actors should investigate and prosecute such cases with due diligence, using "proactive, intelligence led investigative techniques" that will support a victim-absent prosecution.⁷⁰⁰ Actors and policies should refrain from using suspended sentences, fines, or administrative punishments in sex trafficking cases. Instead, they should strive for punishments that are commensurate with the gravity of the offense and will serve as a deterrent.⁷⁰¹ Finally, states should ensure victims' rights to protection and support partnerships between police, social services, and civil society throughout criminal proceedings.⁷⁰²

Prosecution serves to promote accountability after an offense has occurred, and it also plays an important role in prevention. A person's perceptions they may be caught and face punishment can serve as a deterrent from committing the crime.⁷⁰³ According to one law enforcement officer, an investigation, even if it does not lead to a successful prosecution, can make a trafficker's life "a bit more miserable" and prevent them from trafficking in that jurisdiction again.⁷⁰⁴

In the last 16 years, Minnesota's response to prosecution has changed considerably. In 2008, The Advocates reported that the state had carried out no prosecutions under Minnesota's newly enacted sex trafficking statute and few prosecutions for solicitation,

⁶⁹⁹ UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 38 on trafficking in women and girls in the context of global migration. U.N. Doc. CEDAW/C/GC/38, ¶¶ 92, 100, and 101; United Nations Office on Drugs and Crime, International Framework for Action to Implement the Trafficking in Persons Protocol, 2009, 10, International Framework for Action to Implement the Trafficking in Persons Protocol, UNODC, 2009, at 10; <https://www.state.gov/3ps-prosecution-protection-and-prevention/>, last visited Aug. 17, 2023. Office to Monitor and Combat Trafficking in Persons, <https://www.state.gov/3ps-prosecution-protection-and-prevention/>, accessed August 17, 2023.

⁷⁰⁰ United Nations Office on Drugs and Crime, International Framework for Action to Implement the Trafficking in Persons Protocol, 2009, 10; Office to Monitor and Combat Trafficking in Persons, "3Ps: Prosecution, Protection, and Prevention," accessed August 17, 2023, <https://www.state.gov/3ps-prosecution-protection-and-prevention/>.

⁷⁰¹ United Nations Office on Drugs and Crime, International Framework for Action to Implement the Trafficking in Persons Protocol, 2009, 10; Office to Monitor and Combat Trafficking in Persons, "3Ps: Prosecution, Protection, and Prevention," accessed August 17, 2023, <https://www.state.gov/3ps-prosecution-protection-and-prevention/>.

⁷⁰² United Nations Office on Drugs and Crime, International Framework for Action to Implement the Trafficking in Persons Protocol, 2009, 10.

⁷⁰³ National Institute of Justice, Five Things About Deterrence, June 5, 2016, <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>.

⁷⁰⁴ Interview 77.

inducement, or promotion of prostitution.⁷⁰⁵ Today, trafficking prosecutions are routine. The 2018 Human Trafficking in Minnesota report compiled by the Department of Public Safety (the most recent available) reported 96 charges and 32 convictions in 2017 under the statute covering sex trafficking and the promotion of prostitution, a rate roughly similar to the previous five years.⁷⁰⁶

Challenges in prosecution, however, still remain. In 2008, The Advocates also called upon prosecutors to prosecute buyers for purchasing sex and for other crimes committed against trafficked individuals. The Safe Harbor for All report also highlighted that people with lived experience are vulnerable to sexual violence, robbery, extortion and assault, among other crimes, from “sex buyers, traffickers and others (e.g., landlords or employers)” without having the opportunity to access accountability and protection because of the criminalization of transactional sex and, consequently, the fear of arrest and mistrust of the police.⁷⁰⁷ These recommendations reflect the vulnerability to predation and violence that people selling sex in the commercial marketplace face. To date, however, subject matter experts voiced their frustration that the system still does not adequately hold buyers accountable or impose sufficient punishments.⁷⁰⁸

Poor or weak prosecution of buyers of sex perpetuates demand. Although arrests of adult sellers of sex have decreased, authorities are also not arresting buyers—thereby treating both buyers and sellers the same.⁷⁰⁹ If and when a buyer is arrested and convicted, the typical sentence is probation without any sex offender registration.⁷¹⁰ Others observed that operations targeting demand tend to focus on buyers of juvenile sex, as opposed to adults, because of time constraints or jurisdictional issues.⁷¹¹ Racial and economic factors also create differentials in the treatment of buyers.⁷¹² For example, when buyers are white residents of suburbs purchasing sex in the City of

⁷⁰⁵ The Advocates for Human Rights, *Sex Trafficking Needs Assessment for the State of Minnesota*, by Angela Bortel, Mary Ellingen, Mary C. Ellison, Robin Phillips and Cheryl Thomas (Minneapolis: The Advocates for Human Rights, October 2008), 118-19, https://www.theadvocatesforhumanrights.org/Res_report_final_10_13_08.pdf.

⁷⁰⁶ Minnesota Office of Justice Programs and Minnesota Statistical Analysis Center *Human Trafficking in Minnesota: A Report to the Minnesota Legislature* (Saint Paul: Department of Public Safety, 2019), 72.

⁷⁰⁷ Martin, Lauren; Melander, Christina; Fritz Fogel, Katie; Saito, Beki; Garnett McKenzie, Michele; Park, Rosalyn. (2018). *Safe Harbor For All: Results from a Statewide Strategic Planning Process in Minnesota*, 44, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>.

⁷⁰⁸ Consultation with Experts with Lived Experience, Session III.

⁷⁰⁹ Interview 4; Interview 117.

⁷¹⁰ Interview 12.

⁷¹¹ Interview 27; Interview 74.

⁷¹² Women’s Foundation of Minnesota, *Mapping the Market for Sex with Trafficked Minor Girls in Minneapolis: Structures, Functions, and Patterns*, by Lauren Martin, Alexandra Pierce, Stephen Peyton, Ana Isabel Gabilondo and Girija Tulpule (Minneapolis: University of Minnesota Urban Research and Outreach-Engagement Center, September 2014), 30, <https://conservancy.umn.edu/server/api/core/bitstreams/4c65d465-71f1-451f-958e-bb897c0aaa7f/content>.

Minneapolis, Minneapolis police are less likely to investigate them.⁷¹³ White male defendants who can afford a private attorney often see their cases handled in the privacy of the judge's chambers and pled down to a lower charge.⁷¹⁴ Male defendants of color, who are often represented by public defenders, do not typically receive this treatment and most often see their cases handled in open court.⁷¹⁵

Notably, no respondents volunteered information during fact-finding about progress made to prosecute people for other crimes against people engaged in commercial sex, including rape, assault, and robbery. In the absence of such accountability, one stakeholder stated that, although people selling or trading sex know who the dangerous people are, they have no way to protect themselves.⁷¹⁶

CRIMINALIZATION OF SEX TRAFFICKING

Since the passage of the TVPRA, all 50 states have passed laws to address human trafficking in varying degrees.⁷¹⁷ In 2005 and 2006, Minnesota enacted legislation that defines and criminalizes sex trafficking and establishes legal protections for trafficked persons.⁷¹⁸ Minnesota's law contains various provisions to help prosecute traffickers. In 2005, the Minnesota Legislature defined the crime of sex trafficking as "receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual."⁷¹⁹ In contrast to federal law, Minnesota law does not require the use of "force, fraud or coercion" by traffickers to establish the crime of sex trafficking.⁷²⁰ Existing provisions of Minnesota law provide that consent of the person used in prostitution is not a defense to promotion of prostitution.⁷²¹ Also, a

⁷¹³ Women's Foundation of Minnesota, *Mapping the Market for Sex with Trafficked Minor Girls in Minneapolis: Structures, Functions, and Patterns*, by Lauren Martin, Alexandra Pierce, Stephen Peyton, Ana Isabel Gabilondo and Girija Tulpule (Minneapolis: University of Minnesota Urban Research and Outreach-Engagement Center, September 2014), 4, <https://conservancy.umn.edu/server/api/core/bitstreams/4c65d465-711f-451f-958e-bb897c0aaa7f/content>.

⁷¹⁴ Interview 46.

⁷¹⁵ Interview 46.

⁷¹⁶ Consultation with Experts with Lived Experience, Group 2.

⁷¹⁷ National Conference of State Legislatures, *Human Trafficking State Laws*, August 12, 2020, <https://www.ncsl.org/civil-and-criminal-justice/human-trafficking-state-laws>.

⁷¹⁸ Minn. Stat. § 609.321, subd. 7a (2005) (establishing the crime of sex trafficking); Minn. Stat. § 609.325, subd. 4 (2005) (establishing an affirmative defense for victims of sex trafficking); Minn. Stat. § 609.284, subd. 1 (2005) (establishing that consent or age of the victim is not a defense); S.F. 1689, 84th Leg. Sess., Reg. Sess. (Minn. 2005); H.F. 4162, 84th Leg. Sess., Reg. Sess. (Minn. 2006); Susan Gaertner, *Human Trafficking: Today's Hidden Slavery – Our Role in Recognizing and Protecting Victims*, Remarks at the Criminal Justice Institute in Bloomington, Minnesota (Aug. 22, 2006).

⁷¹⁹ Minn. Stat. § 609.321, subd. 7a (2005).

⁷²⁰ Minn. Stat. § 609.321, subd. 7(a) (2023); Crimes and Criminal Procedure, Sex trafficking of children or by force, fraud, or coercion, 18 U.S. Code § 1591 (2022).

⁷²¹ Minn. Stat. § 609.325, subd. 2 (2023). This offence under state law is even broader than the offence provided in the U.N. Protocol because it does not require the trafficker to use any specific means, such as

defendant may not cite a person's prior involvement in prostitution as a defense to a charge of promotion of prostitution.⁷²²

Minnesota's 2008 statutory scheme criminalized trafficking but failed to provide penalties reflecting the severity of the crimes. Subsequently, the Minnesota Legislature increased penalties and added sex trafficking crimes to the sentencing guidelines. Currently, these guidelines provide for sentences that are comparable to criminal sexual conduct offenses involving violence, coercion, or vulnerable victims.⁷²³ Nevertheless, subject matter experts expressed frustration that when prosecutors charge offenders with trafficking, defendants have found ways to protract proceedings or else plead the case down to a lesser charge, thus jeopardizing victims' ability to seek reparations.⁷²⁴

In 2021, Minnesota also increased the penalties for buyers of sex, making all purchasing of sex a gross misdemeanor at a minimum, along with other increased penalties.⁷²⁵ Despite increased penalties, subject matter experts criticized the lack of public transparency around the identity of convicted buyers.⁷²⁶ For example, those experts proposed that convicted buyers of sex face the same sort of public identification that those convicted of DWI face with having to have "whiskey" license plates on their cars or that convicted sex offenders face with registration.⁷²⁷ Others voiced concerns about the use of shame-based strategies or penalties and raised serious concerns about how such strategies might be used disproportionately against racial minorities.⁷²⁸

Other subject matter experts reported their belief that the continued criminalization of buyers made people less safe when selling or trading sex. By driving the transaction underground, criminal penalties for the buyer maintain a black market where the

threats or use of force or other forms of coercion, abduction, fraud, deception or abuse of power or vulnerability, for the offence to apply. See UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, Article 3(b), https://www.unodc.org/res/human-trafficking/2021the-protocol-tip_html/TIP.pdf.

⁷²² Minn. Stat. § 609.325, subd. 3 (2023).

⁷²³ Minnesota Sentencing Guidelines Commission, "2023 Sentencing Guidelines and Commentary," accessed April 4, 2024, <https://mn.gov/sentencing-guidelines/guidelines/>.

⁷²⁴ Consultation with Experts with Lived Experience, Session III (Subject Matter Experts explaining when defendants find ways to delay proceedings, it burdens the victim to keep returning to court when they want to get a job, "survive, and live!").

⁷²⁵ Minn. Stat. § 609.324, subd. 2 (2023).

⁷²⁶ Consultation with Experts with Lived Experience, Sessions III, IV.

⁷²⁷ Consultation with Experts with Lived Experience, Sessions III, IV.

⁷²⁸ Rainbow Research, University of Minnesota Urban Research and Outreach-Engagement Center, The Advocates for Human Rights, *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, by Lauren Martin, Christina Melander, Katie Fritz Fogel, Beki Saito, Michele Garnett McKenzie, Rosalyn Park (October 2018), 69–73, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>.

person selling or trading sex will not seek protection or services even if they themselves do not face criminal penalties.⁷²⁹

The 2018 Safe Harbor for All Strategic Planning Process report found a similar split in opinion. That report found most people who participated in the strategic planning process expressed a strong desire for continued or even increased criminal liability for people for purchase sex.⁷³⁰ While a small number of stakeholders expressed the opinion that Minnesota should not have any criminal liability solely for purchasing sex⁷³¹, Indigenous and African American stakeholders who view transactional sex as a continuation of the harms of colonialism, settlement, and slavery voiced strong support for continued criminal liability for sex buyers.⁷³²

Minnesota law provides some legal protections for trafficked people. Parents and guardians may also seek a protective order against any person who is inducing, coercing, soliciting, or promoting the prostitution of their minor child.⁷³³ In addition, people coerced into prostitution may also seek civil damages against pimps or patrons for the harm they experienced.⁷³⁴ People who are victims of trafficking or many related crimes are also eligible for funding from Minnesota's Crime Victims Reimbursement Board.⁷³⁵ Federal law does provide stronger restitution guarantees than state law. Whereas the Federal TVPRA provides mandatory restitution, Minnesota law merely

⁷²⁹ Consultation with Experts with Lived Experience, Group 2.

⁷³⁰ Rainbow Research, University of Minnesota Urban Research and Outreach-Engagement Center, The Advocates for Human Rights, *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, by Lauren Martin, Christina Melander, Katie Fritz Fogel, Beki Saito, Michele Garnett McKenzie, Rosalyn Park (October 2018), 69, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>.

⁷³¹ Rainbow Research, University of Minnesota Urban Research and Outreach-Engagement Center, The Advocates for Human Rights, *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, by Lauren Martin, Christina Melander, Katie Fritz Fogel, Beki Saito, Michele Garnett McKenzie, Rosalyn Park (October 2018), 72, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>.

⁷³² Rainbow Research, University of Minnesota Urban Research and Outreach-Engagement Center, The Advocates for Human Rights, *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, by Lauren Martin, Christina Melander, Katie Fritz Fogel, Beki Saito, Michele Garnett McKenzie, Rosalyn Park (October 2018), 70, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>.

⁷³³ Minn. Stat. § 609.3232, subd. 1 (2023). *But see* Consultation with Experts with Lived Experience, Session III (observing that perpetrators often violate those protective orders repeatedly but only receive minor penalties).

⁷³⁴ *Id.* § 611A.81. On January 25, 1997, the Star Tribune reported that a case settled for \$17,000. Kevin Duchshere, Prostitution-Coercion Law to be Tested: A Woman Who Alleges that She Was Virtually Enslaved Has Sued Under an Untested Law Allowing Prostitutes to Collect Damages from Johns if They Can Prove Coercion, MINNEAPOLIS STAR TRIBUNE, Nov. 20, 1995, § 1B; Kevin Duchshere, Woman Wins Settlement under Unique State Prostitution Law, MINNEAPOLIS STAR TRIBUNE, January 25, 1997, § 2B.

⁷³⁵ Office of Justice Programs, Minnesota Crime Victims Reimbursement Program, <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-reimbursements.aspx>. See also section on court-ordered compensation for victims page 135.

provides that victims have “the right to receive restitution” for their economic losses from the defendant as part of a criminal conviction.⁷³⁶

In 2022, the Minnesota Legislature enacted legislation requiring every county to use procedures that enhance processing of certification requests for foreign national victims of trafficking and other serious crimes.⁷³⁷ This reform seeks to further prosecution goals by partially addressing victims’ fears of immigration consequences should they come forward to police or participate in investigations. Importantly, however, a certification procedure alone is not sufficient to address all victims’ fears, which are complex and may be nuanced.

Criminal prosecutions in cases of people selling or trading sex are not the only form of legal protection. Minneapolis passed an ordinance protecting adult entertainment workers, a lawful occupation but one related to the commercial sex industry. The ordinance set out standards for health, safety, and fair contracting, and has the potential to assist people adjacent or connected to the commercial sex market in securing a stable legal livelihood and reducing their vulnerability to predation and trafficking.⁷³⁸

RECOMMENDATIONS

- Convene an expert panel to explore the treatment of buyers in the criminal statute. and to explore measures, apart from the criminal justice system, to identify buyers with a history of violence toward sellers.
- Ensure criminal justice system measures meet survivor and community needs for safety, justice, and restitution, including investigations, prosecutions, sentencing, reparations, and restorative measures.
- Explore protective measures that could be enacted outside the criminal justice system such as laws governing workplaces adjacent to the commercial sex industry.

⁷³⁶ Mandatory Restitution, 18 U.S.C. § 1593(a) (“the court shall order restitution for any offense under this chapter”); Minn. Stat. § 611A.04, subd. 1 (2023) (stating “[a] request for restitution may include, but is not limited to, any out-of-pocket losses resulting from the crime, including medical and therapy costs, replacement of wages and services, expenses incurred to return a child who was a victim of a crime under section 609.26 to the child's parents or lawful custodian, and funeral expenses”).

⁷³⁷ See Minn. Stat. § 611A.95 (2023).

⁷³⁸ Minneapolis Licensing Regulations for Places of Adult Entertainment Ordinance, Title 13 § 267.1180 (amending Title 13, Chapter 267 of the Minneapolis Code of Ordinances relating to Licenses and Business Regulations: Amusements) (2019).

VICTIMS' CRIMINAL HISTORY

Traffickers frequently coerce their victims to commit unlawful activities, such as prostitution, theft, drug crimes, fraud, or possession of false documents.⁷³⁹ Forced criminality is a form of human trafficking and an outcome of sex trafficking.⁷⁴⁰ Interactions with the criminal justice system as a result of forced criminality have collateral consequences, such as placing a person in immigration detention and removal proceedings or in child protection proceedings. A criminal record also limits victims' ability to access public benefits programs, education, safe housing, employment, other basic needs, and to secure parental rights to their children, making it even more challenging for people to permanently leave sex trafficking.⁷⁴¹ Laws that criminalize acts related to selling sex, such as loitering for prostitution or drug crimes, have similar consequences on the lives of people selling or trading sex.⁷⁴²

Furthermore, when the state arrests, charges, and prosecutes victims for trafficking-related offenses, it enables traffickers to hide behind their victims' forced criminality and continue trafficking with impunity.⁷⁴³ Collateral consequences, such as deportation, can additionally undermine the state's ability to prosecute traffickers.

The principle of non-punishment under international law provides that states shall not arrest, detain, charge, prosecute, or punish trafficking victims for their participation in unlawful offenses that are directly related to their trafficking status.⁷⁴⁴ It recognizes:

[Victims] have no, or limited, free will because of the degree of control exercised over them and the methods used by traffickers, consequently they are not

⁷³⁹ Katherine Kaufka Walts, Meghan Scholnick, and Joanne Curley, Perpetrators or Victims? The U.S. Response to the Forced Criminality of Children, American Bar Association, August 8, 2023, § 5, <https://www.americanbar.org/groups/litigation/resources/newsletters/childrens-rights/perpetrators-victims-us-response/>; Maria Grazia Giammarinaro, UN Special Rapporteur on Trafficking in Persons, Especially Women and Children, The Importance of Implementing the Non-punishment Provision: The Obligation to Protect Victims (2020), ¶¶ 3, 4, and 5, <https://www.ohchr.org/sites/default/files/Documents/Issues/Trafficking/Non-Punishment-Paper.pdf>.

⁷⁴⁰ Maria Grazia Giammarinaro, UN Special Rapporteur on Trafficking in Persons, Especially Women and Children, The Importance of Implementing the Non-punishment Provision: The Obligation to Protect Victims (2020), ¶¶ 3, 5, <https://www.ohchr.org/sites/default/files/Documents/Issues/Trafficking/Non-Punishment-Paper.pdf>.

⁷⁴¹ Interview 47; Interview 117; Interview 4.

⁷⁴² Consultation with Experts with Lived Experience, Group 2.

⁷⁴³ Special Rapporteur on trafficking in persons, especially women and children, The importance of implementing the non-punishment provision: the obligation to protect victims (July 30, 2020), ¶ 4, <https://www.ohchr.org/sites/default/files/Documents/Issues/Trafficking/Non-Punishment-Paper.pdf>. See also Consultation with Experts with Lived Experience, Session I (explaining that pimps are able to qualify for foster care licenses because they may not have a criminal background).

⁷⁴⁴ Office of High Commissioner for Human Rights, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, (May 20, 2002), E/2002/68/Add.1, ¶ 7; Committee on the Elimination of Discrimination against Women, *General recommendation No.38 (2020) on trafficking in women and girls in the context of global migration*, (Nov. 20, 2020), U.N. Doc. CEDAW/C/GC/38, ¶ 98.

responsible for the commission of the offence and should not therefore be considered accountable for the unlawful act committed.⁷⁴⁵

Importantly, this principle calls for a remedy for victims to clear their criminal records of convictions for offenses they committed as a direct consequence of being trafficked.⁷⁴⁶

Reducing the “burden of criminal liability” on persons with lived experience is a crucial next step identified in the Safe Harbor for All report.⁷⁴⁷ Although Safe Harbor brought many welcome changes, legislative provisions still impede a person’s abilities to effectively and safely exit the trading or selling of sex with dignity and with access to restitution and reparations.⁷⁴⁸ As an interviewee stated, people need protection from “legal ramifications and their traffickers. There is a real fear of prosecution and prison time among victims who have had no control over the situations they are emerging from.”⁷⁴⁹ For example, among other offenses, victims have been arrested for, or convicted of, offenses their traffickers coerced them to commit, including, among other offenses: prostitution; theft; illicit drug production, transportation, and sale; assault; and murder.⁷⁵⁰ Even with consistent and effective screening to avoid the arrest, charging or prosecution of victims, they still may not be identified as such until later in the criminal process. Thus, affirmative defenses play an additional part in preventing

⁷⁴⁵ OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking (2013), 10, <https://www.osce.org/files/f/documents/6/6/101002.pdf>; see also Council of Europe, Convention on Action against Trafficking in Human Beings, CETS No. 197 (Warsaw, 2005), Article 26; European Union, Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (April 2011), Article 8.

⁷⁴⁶ Committee on the Elimination of Discrimination against Women, *General recommendation No.38 (2020) on trafficking in women and girls in the context of global migration* (Nov. 20, 2020), U.N. Doc. CEDAW/C/GC/38, ¶ 98(c).

⁷⁴⁷ Rainbow Research, University of Minnesota Urban Research and Outreach-Engagement Center, The Advocates for Human Rights, *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, by Lauren Martin, Christina Melander, Katie Fritz Fogel, Beki Saito, Michele Garnett McKenzie, Rosalyn Park, (October 2018), 118, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>.

⁷⁴⁸ Subject Matter Experts corroborated this gap, highlighting how the person selling sex is going to go to jail and have that charge on their record for a long time. Consultation with Experts with Lived Experience, Session IV.

⁷⁴⁹ Interview 37.

⁷⁵⁰ United States Department of State’s Office to Monitor and Combat Trafficking in Persons, *The Use of Forced Criminality: Victims Hidden Behind the Crime*, June 2014; see also Interview 52 (recognizing that theft and drugs are crimes that “intersect with sexual exploitation”).

the convictions of trafficking victims for crimes that were the direct result of the trafficking.⁷⁵¹

In some cases, law enforcement uses the availability of criminal charges against the victim to build its case against the trafficker. One stakeholder explained how law enforcement arrests adults to search their phone for evidence.⁷⁵² Findings revealed other coercive approaches used by law enforcement to compel a person to identify as a victim and name a perpetrator. For example, one respondent described cases of law enforcement officers threatening adults with removing their child. They explained how officers would approach a woman who has sold sex and is giving birth to tell her, “We’re going to take your baby right now from this hospital if you don’t name somebody.”⁷⁵³

Similarly, law enforcement officers have used access to services as leverage to induce cooperation. There are cases in which officials withhold resources from victims if they do not provide adequate statements to assist in the investigation and prosecution of their traffickers.⁷⁵⁴ In other cases, law enforcement officials use criminal charges to coerce people into accepting services that they may not want. One nonprofit worker reported how law enforcement uses petty charges as leverage to compel victims to accept help.⁷⁵⁵

RECOMMENDATIONS

- Examine the impacts of collateral consequences for behavior linked to trafficking and implement policies and laws throughout the criminal justice process (from arrest to release from prison) to mitigate those consequences.

JUVENILE JUSTICE SYSTEM

Youth involved in the juvenile justice system are at high risk for sexual exploitation and trafficking, but the system struggles with those youth who may both be delinquent and a victim. One stakeholder explained how kids end up in corrections where there are “no resources.”⁷⁵⁶ Perceptions of youth affect their access to assistance in the juvenile justice system where “you are the ‘bad’ guy or gal, and you are not seen as a survivor. Now you already have a label, so you don’t get seen as a survivor.”⁷⁵⁷

Delinquency and truancy proceedings could serve as an opportunity to identify and refer youth when other charges are involved, but stakeholders report that such

⁷⁵¹ Alaina Richert, Failed Interventions: Domestic Violence, Human Trafficking, and the Criminalization of Survival, 120 Michigan Law Review 315, 318 (2021).

⁷⁵² Interview 106.

⁷⁵³ Interview 106.

⁷⁵⁴ Interview 106.

⁷⁵⁵ Interview 95.

⁷⁵⁶ Interview 104.

⁷⁵⁷ Interview 95.

intervention is inconsistent. One judge affirmed they look for sex trafficking in runaway or truancy cases.⁷⁵⁸ Another concurred, noting that there is a need for more effort to provide services and “get in front of these kids with services” before they enter the delinquency system.⁷⁵⁹ According to one stakeholder, however, this approach is not universal:

If the court follows through, they get services, but most courts are hands off and leave this in the social worker’s hands. They don’t want to touch it. There is definitely a gap in training. Social workers don’t know what to do and that’s been going on a long time. Probation officers don’t have training, and the same kids keep going through the system.⁷⁶⁰

Inconsistent communication between child welfare social workers and the juvenile justice system further complicates the issue. One service provider noted the challenge of serving system-involved youth in a fractured system. They reported that approximately half the children they serve are involved in both the child welfare system and the juvenile justice system, but those two systems do not communicate with one another. In addition, “young people don’t see county lines,” and service providers reported even more barriers in communicating with counties other than their own.⁷⁶¹ Some in the truancy and delinquency system pointed out that the division with child protection hampered their ability to learn more about a youth’s experience with sex trafficking. One truancy/runaway social worker described their process and the handover to child protection:

I was referred truancy and runaway cases... I would have conversations and ask, “What were you doing when you were out on run?” Then I would learn that sex trafficking was going on. I didn’t have authority at the time to do a ton of questioning when there was crossover with sex trafficking. I would make a report to the Child Protection units because it fell under child sexual abuse.⁷⁶²

RECOMMENDATIONS

- Evaluate the effectiveness of the juvenile justice system in providing safety, preventing recidivism, and providing pathways to future opportunity to identify areas of reform.

⁷⁵⁸ Interview 113.

⁷⁵⁹ Interview 114.

⁷⁶⁰ Interview 104.

⁷⁶¹ Interview 95.

⁷⁶² Interview 101.

EXPUNGEMENT AND AFFIRMATIVE DEFENSES

Expungement

The Minnesota Legislature recently made substantial changes to Minnesota's expungement statutes, which could alleviate longstanding barriers. Expungement is one of the main needs of people with lived experience.⁷⁶³ Clearing a victim's criminal record has required an onerous process in Minnesota. Unlike some states, Minnesota does not yet have vacatur statutes, which provide more robust post-conviction relief when a crime is related to someone's status as a victim of trafficking.⁷⁶⁴

In Minnesota, the only way for victims of sex trafficking to clear their criminal records is through expungement.⁷⁶⁵ But many observers reported that the cost and complexity of expungement has functionally barred many victims from using this remedy.⁷⁶⁶ Subject matter experts labeled it "impossible" for people with lived experience to secure expungement under the previous law.⁷⁶⁷ As a result, the demand for assistance has been high. One nonprofit offered a clinic on criminal expungements, and 30 people with lived experience attended with questions.⁷⁶⁸

The new amendments will address some of these hurdles. For instance, the amendments provide automatic expungement for certain crimes under certain conditions (e.g., exoneration; not being charged with a new offense after conviction and discharge or completion of sentence; or not being charged with a new crime for one year after completion of a stay of adjudication), and they create a registry of convictions eligible for expungement. The new law came into force on January 1, 2025.⁷⁶⁹

Other barriers will continue to persist, however. While No Wrong Door and service providers offer some assistance with expungement, more legal aid is needed,⁷⁷⁰ especially outside of metropolitan areas.⁷⁷¹ Inadequate infrastructure creates further hurdles. One subject matter expert explained that they received a stay of imposition

⁷⁶³ Interview 64.

⁷⁶⁴ For example, California P.C. § 236.14 and IN Code § 35-38-10-2 (2022).

⁷⁶⁵ Minn. Stat. § 609A (2023).

⁷⁶⁶ Consultation with Experts with Lived Experience, Session III; Rainbow Research, University of Minnesota Urban Research and Outreach-Engagement Center, The Advocates for Human Rights, *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, by Lauren Martin, Christina Melander, Katie Fritz Fogel, Beki Saito, Michele Garnett McKenzie, Rosalyn Park (2018), 77–79, Retrieved from the University Digital Conservancy, <https://hdl.handle.net/11299/226593>; Sasha Hulsey, Kshitiz Karki, Olivia Reyes, and Alyssa Scott, *Survivors Deserve a Clean Slate*, The Gender Policy Report, January 12, 2021, <https://genderpolicyreport.umn.edu/survivors-deserve-a-clean-slate>; See also Interview 93 (noting victim need for assistance paying court costs and lack of capacity for organizations to help).

⁷⁶⁷ Consultation with Experts with Lived Experience, Session II.

⁷⁶⁸ Interview 58.

⁷⁶⁹ Minn. Stat §§ 609A.015 and 609A.017, effective January 1, 2025.

⁷⁷⁰ Interview 35; Interview 48.

⁷⁷¹ Interview 64.

for their felony and successfully completed probation.⁷⁷² In some places, their offense still mistakenly appears as a felony instead of being correctly recorded as a gross misdemeanor.⁷⁷³ Moreover, these errors create an additional burden on the person to go to courts to try to fix the system's mistake.⁷⁷⁴ Indeed, the legal needs of victims with criminal records go beyond the expungement process. Victims with prostitution on their record may need assistance with exercising their parental rights.⁷⁷⁵ Furthermore, expungement will not alleviate all collateral consequences, such as immigration issues that many trafficking victims may face.⁷⁷⁶

Affirmative Defenses

Minnesota's affirmative defense does not adequately protect against conviction of trafficking victims for crimes committed as a direct result of the trafficking. Minnesota legislation provides an affirmative defense to a conviction of prostitution, if the defendant proves by a preponderance of the evidence that they committed acts of prostitution as a result of being a labor or sex trafficking victim.⁷⁷⁷ This defense, however, is narrow and fails to provide trafficking victims with affirmative defenses to other crimes committed as a direct result of the trafficking.⁷⁷⁸ Minnesota does recognize common law defenses, such as necessity, and provides an affirmative defense of duress to general crimes. A duress defense, however, is extremely limited, applying only when there is a reasonable fear of instant death for refusal to participate in the criminal activity.⁷⁷⁹

RECOMMENDATIONS

- Evaluate the impact of the new expungement provisions in terms of accessibility and impact on outcomes post-expungement, pursuing additional changes including potential vacatur statutes and a more robust affirmative defense statute to address remaining gaps.

⁷⁷² Consultation with Experts with Lived Experience, Session II.

⁷⁷³ Consultation with Experts with Lived Experience, Session II.

⁷⁷⁴ Consultation with Experts with Lived Experience, Session II.

⁷⁷⁵ Interview 4.

⁷⁷⁶ Expungement does not erase a conviction under federal immigration law. Noncitizen trafficking victims with criminal convictions, even if expunged, may still face immigration consequences, including deportation and denial of applications for immigration status. See USCIS, *Policy Manual*. Volume 12- Citizenship and Naturalization. Part F- Good Moral Character- Chapter 2- Adjudicative Factors (current as of May 22, 2024), <https://www.uscis.gov/policy-manual/volume-12-part-f-chapter-2>.

⁷⁷⁷ Minn. Stat. § 609.325, subd. 4 (2023) provides an affirmative defense to a conviction under Minn. Stat. § 609.324, subd. 6 and 7 (2023).

⁷⁷⁸ See section on forced criminality on page 110.

⁷⁷⁹ Minn. Stat. § 609.08 (2023).

SYSTEMS ACTORS' RESOURCES

International standards on effective prosecution of human trafficking call for a sustained commitment to, and allocation of, sufficient financial resources to criminal justice systems actors.⁷⁸⁰ In Minnesota, the MMIW Task Force recommended that the state “[i]ncrease funding under Minnesota Statutes [section] 299A.71 to further support the capacity of local law enforcement to conduct sex trafficking investigations.”⁷⁸¹ Although Safe Harbor increased overall funding, several criminal justice systems actors noted that they lack adequate resources to devote the time necessary for sex trafficking cases.⁷⁸² As one officer described, they “grab where ...[they] can and triage, rather than handling all the cases out there.”⁷⁸³ While some units take a proactive approach, such as through sting operations,⁷⁸⁴ many law enforcement officers tend to prioritize which cases to investigate through a more reactive approach.⁷⁸⁵ But one law enforcement agent found this reactionary tactic to be less effective in sex trafficking cases.⁷⁸⁶ Prosecution capacity and priorities also affect law enforcement investigations. One investigator spoke about having to put proactive investigations on hold to give attorneys “time to catch up.”⁷⁸⁷

Law enforcement sources reported they lack sufficient personnel to address all sex trafficking cases.⁷⁸⁸ A detective noted how departments desire more staff, but with all the staffing priorities, “recruitment can never seem to catch up to meet all needs.”⁷⁸⁹ Not all departments have a dedicated sex trafficking unit, while others have small investigative teams.⁷⁹⁰ Even in departments where officers are assigned to sex trafficking cases, needs outpace capacity. One officer described an eight-person task force and opined that, if the department had triple the number of personnel, they would still be busy.⁷⁹¹ Another stakeholder pointed out, however, that all responses need additional funding, and law enforcement requests should be weighed against the overall context of funding for other areas, especially prevention.⁷⁹²

⁷⁸⁰ United Nations Office on Drugs and Crime, *International Framework for Actions to Implement the Trafficking in Persons Protocol*, 2009, 5.

⁷⁸¹ Wilder Research, *Missing and Murdered Indigenous Women Task Force: A report to the Minnesota Legislature*, by Nicole MartinRogers and Virginia Pendleton (Saint Paul: December 2020), 126.

⁷⁸² Interview 94; Interview 13; Interview 26; Interview 32.

⁷⁸³ Interview 50.

⁷⁸⁴ Interview 13; Interview 18; Interview 94; Interview 99.

⁷⁸⁵ Interview 14; Interview 18; Interview 92; Interview 94; Interview 99; Interview 107.

⁷⁸⁶ Interview 14 (stating “sex-trafficking is not a crime you can effectively handle with a reactive strategy. Anti-sex trafficking efforts require a more proactive effort.”).

⁷⁸⁷ Interview 92.

⁷⁸⁸ Interview 13; Interview 26.

⁷⁸⁹ Interview 13.

⁷⁹⁰ Interview 14; Interview 28.

⁷⁹¹ Interview 26.

⁷⁹² Consultation with Experts with Lived Experience, Group 2.

The lack of sufficient personnel is understandable because sex trafficking cases require extensive and complex criminal investigation.⁷⁹³ A single case can take months to investigate, entailing hundreds of hours worked.⁷⁹⁴ Writing subpoenas and search warrants is time-consuming and challenging, especially when suspects frequently change mobile devices.⁷⁹⁵ Additionally, new technology and social media has made it easier for traffickers and buyers to exploit people, while making it more challenging to investigate and prosecute sex trafficking cases.⁷⁹⁶ One subject matter expert observed problems with keeping law enforcement personnel for the long-term in these cases. They perceived that law enforcement agencies tend to work “one person to the bone” until that officer burns out and leaves that position.⁷⁹⁷ When another officer replaces them, the transition can be challenging. Although some information is stored electronically, other knowledge is held personally by each individual officer. They questioned why law enforcement actors have not created a more sustainable system in which a new officer can be assigned to a case and more efficiently grasp its details.⁷⁹⁸

Like police, prosecutors also find sex trafficking cases to be complex, time-consuming, and require more prosecutors and resources than are generally available.⁷⁹⁹ One federal prosecutor described them as “not easy” cases that take a significant amount of time, especially with a victim-centered approach.⁸⁰⁰ At times, prosecutors’ statements implied these cases are a hardship for them. A state prosecutor explained that these cases often go to trial and “are really challenging to investigate and burdensome.”⁸⁰¹ Another prosecutor noted that, with investigators and prosecutors already facing large caseloads, “it is a challenge to tackle so large of a case.”⁸⁰² One investigator described how he had cases where county attorneys from other counties refused to charge defendants from their jurisdictions, and he speculated it was because they did not have enough funding.⁸⁰³

Multiple stakeholders noted how the complex nature of these cases leads to high turnover within the criminal justice system, further delaying investigation and

⁷⁹³ Interview 26.

⁷⁹⁴ Interview 27; Interview 50.

⁷⁹⁵ Interview 42.

⁷⁹⁶ Interview 25; Interview 31; Interview 55.

⁷⁹⁷ Consultation with Experts with Lived Experience, Session II.

⁷⁹⁸ Consultation with Experts with Lived Experience, Session II (also noting the need to train more officers to investigate sexual exploitation cases and provide them with respite breaks to heal from the trauma entailed in the work).

⁷⁹⁹ Interview 32; Interview 42; Interview 18.

⁸⁰⁰ Interview 94 (the prosecutor noted that traffickers and buyers are the “most manipulative and narcissistic of our defendants,” requiring more resources to investigate and prosecute the case).

⁸⁰¹ Interview 20.

⁸⁰² Interview 42.

⁸⁰³ Interview 92.

prosecution.⁸⁰⁴ An interviewee described officers working these cases as “subject to term limits” because of the mental toll.⁸⁰⁵ It can be difficult for these actors to address vicarious trauma and other challenges of working in long-term relationships with victims when employee assistance is under-resourced.⁸⁰⁶ One detective suggested that adequately preparing officers for what to expect on the job may help them cope and develop strategies to solve problems.⁸⁰⁷

Turnover also affects how victims perceive and experience the system. One person explained that, when systems actors turn over, it leads to delays and further burdens victims who must put their lives on hold from moving forward.⁸⁰⁸ When victims do not come to trial or are unreachable as a result of such delays, the victims are then portrayed as uncooperative.⁸⁰⁹ Subject matter experts stressed the need for a backup plan to better protect and support victims, particularly after the public becomes aware that they will be testifying.⁸¹⁰

Furthermore, police turnover affects community partners, including service providers. One nonprofit employee explained that their organization spends time building relationships with law enforcement, but when significant turnover occurs within the force, they have to start anew with training and rebuilding relationships.⁸¹¹ In turn, subject matter experts expressed their frustration over systems actors’ grievances and urged actors to look for solutions and to work more closely with them.⁸¹²

Finally, some law enforcement officers and prosecutors still do not see these cases as priorities. One officer reported how an agent asked, “[w]hy can’t people just sell themselves and make money?”⁸¹³ That same officer recalled how the county attorney’s office stated that they lack the time and “don’t care” to prosecute sex trafficking or online solicitation of minors.⁸¹⁴

⁸⁰⁴ Additionally, high turnover amongst prosecutors has led to less consistency in pursuing cases. Interview 110.

⁸⁰⁵ Interview 12.

⁸⁰⁶ Interview 96.

⁸⁰⁷ Interview 13.

⁸⁰⁸ Consultation with Experts with Lived Experiences, Session III.

⁸⁰⁹ Consultation with Experts with Lived Experiences, Session III.

⁸¹⁰ Consultation with Experts with Lived Experiences, Session III.

⁸¹¹ Interview 24.

⁸¹² Consultation with Experts with Lived Experience, Session IV.

⁸¹³ Interview 92.

⁸¹⁴ Interview 92.

Online Investigations

Effective prosecution requires zealous investigations, including on the internet where 40 percent of sex trafficking victims are recruited in the U.S.⁸¹⁵ Stakeholders noted how traffickers capitalize on social media to identify, establish contact with, and groom potential victims.⁸¹⁶ Advocates described the ease with which traffickers can learn information about youth and younger people online, including what they post on social media, to help identify vulnerable individuals.⁸¹⁷ Social media also makes it easier for traffickers to contact potential victims. As a Regional Navigator explained, traffickers can send out messages “en masse,” using the internet or social media, then “kids who respond are victimized.”⁸¹⁸ Technology has also facilitated sex trade transactions for buyers. Law enforcement officers noted that buyers can post ads themselves for the trafficked person to meet at the buyer’s location of choice or call to arrange for “a young girl to be delivered.”⁸¹⁹

In April 2018, two key events changed law enforcement’s approach to investigating potential sex trafficking cases. First, federal authorities shut down Backpage.com; and second, federal legislation enacted the bills known as the Fight Online Sex Trafficking Act and the Stop Enabling Sex Traffickers Act (“FOSTA-SESTA”), which allowed third-party websites to be held liable for sex trafficking crimes.⁸²⁰ As the bill moved through Congress, Craigslist removed its personal ads section.⁸²¹ Between 2014 and 2020, the Department of Justice charged at least 11 criminal cases on the basis of these two laws, including against people associated with Backpage.⁸²²

Many interviewees noted an unintended consequence of closing Backpage and other online sites was to make it harder to track traffickers.⁸²³ Cases are now driven by

⁸¹⁵ United Nations News, “Traffickers abusing online technology, UN crime prevention agency warns,” October 30, 2021, <https://news.un.org/en/story/2021/10/1104392>.

⁸¹⁶ Interview 6; Interview 30; Interview 31; Interview 51; Interview 114.

⁸¹⁷ Interview 5; Interview 6.

⁸¹⁸ Interview 51.

⁸¹⁹ Interview 31 (“the game changer is cell phones – you can call and ask for a young girl to be delivered On the social media side – look it up, find what you want, make an appointment and we’ll come to you”); Interview 18.

⁸²⁰ United States Government Accountability Office, Sex Trafficking: Online Platforms and Federal Prosecutions, (June 2021), <https://www.gao.gov/products/gao-21-385>. To read more about FOSTA-SESTA, see The Gender Policy Report, Reducing the Harms of FOSTA Through Participatory Policymaking by Lauren Marteen (December 2, 2019), <https://genderpolicyreport.umn.edu/reducing-the-harms-of-fosta-through-participatory-policymaking/>.

⁸²¹ Merrit Kennedy, Craigslist Shuts down Personals Section after Congress Passes Bill on Trafficking, NPR, March 23, 2018, <https://www.npr.org/sections/thetwo-way/2018/03/23/596460672/craigslist-shuts-down-personals-section-after-congress-passes-bill-on-trafficking>; Interview 72.

⁸²² United States Government Accountability Office, Sex Trafficking: Online Platforms and Federal Prosecutions, (June 2021), <https://www.gao.gov/products/gao-21-385>.

⁸²³ Interview 50; Interview 27; Interview 64; Interview 66; Interview 72.

technology, and “hundreds of hours are spent reviewing cell phone data and web histories.”⁸²⁴ A nonprofit employee opined that law enforcement is “behind in technology,” but law enforcement lacks the resources to stay at the cutting-edge of technology developments.⁸²⁵ One prosecutor spoke about changes in technology that make investigations more difficult because “[f]olks are using devices we can’t as readily exploit.”⁸²⁶ Even with a warrant, this change has an impact. Specifically, companies are turning to end-to-end encryption which disallows third party access.⁸²⁷ As one interviewee explained, “[i]t’s going to hamper our investigations because a lot of times we’ve been able to rescue victims by getting into a phone.”⁸²⁸ Subject matter experts highlighted other channels to track buyers and questioned whether law enforcement are investigating them, such as OnlyFans or sites where buyers post reviews of the people from whom they bought sex.⁸²⁹

Many interviewees noted that while Backpage was generally accommodating to law enforcement investigations, buying and selling transactions have now migrated to international platforms that are not required to comply with federal law and other platforms that do not maintain the records critical to investigation and prosecution of traffickers.⁸³⁰ When Backpage.com was taken down, a law enforcement officer described how many offshore websites arose and made it more difficult to track specific traffickers and buyers.⁸³¹ As a result, interviewees reported that some counties have seen a reduction in sting investigations of sex trafficking and enforcement actions.⁸³²

The shutting down of Backpage and Craigslist personal ads and the adoption of the federal laws FOSTA-SESTA had other unintended consequences: they pressured online sex workers to begin working in riskier conditions.⁸³³ A nonprofit worker reported this change led more sex workers to work on the street, where it is even less safe than online.⁸³⁴ The nonprofit employee continued, “sex worker communities previously had ‘bad date’ lists, which were online and were used by sex workers to avoid particularly

⁸²⁴ Interview 27.

⁸²⁵ Interview 25.

⁸²⁶ Interview 94.

⁸²⁷ Interview 94.

⁸²⁸ Interview 94.

⁸²⁹ Consultation with Experts with Lived Experience, Session III (also suggesting identifying indicators on online sites that would flag signs of grooming).

⁸³⁰ Interview 21; Interview 37; Interview 50; Interview 55.

⁸³¹ Interview 50.

⁸³² Interview 64; Interview 72.

⁸³³ Interview 21.

⁸³⁴ Interview 21.

dangerous people. These lists were then removed so they couldn't be accessed anymore."⁸³⁵

RECOMMENDATIONS

- Focus on mental health supports and training to retain experienced law enforcement officers and prosecutors and reduce turnover.
- Analyze existing resources available to law enforcement and prosecutors at the state, county, and municipal levels to address sex trafficking along with other serious violent crimes and explore innovative programming and funding models that maximize the effectiveness of available resources.
- Identify the resources needed for online investigations and any potential collaborations to improve access to those resources.
- Analyze how to measure a successful outcome in the criminal justice system and propose reforms to incentivize those outcomes.
- Strengthen current collaborations between law enforcement, survivors, and victim support organizations and ensure geographic coverage.

COLLABORATION ACROSS JURISDICTIONS ON CRIMINAL PROSECUTIONS

Successful sex trafficking prosecution requires cross-jurisdictional collaboration among stakeholders in the criminal justice system. Collaboration between federal agents and state and local law enforcement helps ensure proper detection and appropriate victim-centered responses by the police.⁸³⁶ Presenting evidence early in an indictment can have a snowball effect, drawing out other evidence and witnesses that substantiate human trafficking and complementary charges that ensure the trafficker's sentence is proportional to the gravity of their crimes.⁸³⁷ Finally, collaboration and coordination between jurisdictions and agencies can potentially enhance victim confidence in the system and help fill gaps when resources are scarce.⁸³⁸

Because traffickers often work across multiple counties, states, and countries, trafficking transcends jurisdictions.⁸³⁹ A law enforcement officer noted, "[a] case could

⁸³⁵ Interview 21.

⁸³⁶ Amy Farrell, Meredith Dank, Ieke de Vries, Matthew Kafafian, Andrea Hughes, and Sarah Lockwood, *Failing victims? Challenges of the police response to human trafficking*, *Criminology & Public Policy* (2019), 18, 625, 662.

⁸³⁷ National District Attorneys Association Women Prosecutors Section, *National Human Trafficking Prosecution Best Practices Guide White Paper*, January 2020, 42.

⁸³⁸ Alicen Rodolph and Tyler Dunman, *Charging Ahead: Prosecuting Human Trafficking Cases Without Victim Cooperation*, *Crim. Law Bulletin ART* (2022), 58, 4; Consultation with Experts with Lived Experience, Session IV (stating that systems actors can partner with other community groups to help close gaps).

⁸³⁹ Interview 73; United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons* (Vienna: UNODC, 2009) 57, https://www.unodc.org/documents/Global_Report_on_TIP.pdf,

be prosecuted in Ramsey County, but the crime happened in Anoka [County]. Multiple counties could be working the same trafficker. [Information needs to be] shared statewide or with a regional group, [and] the grant funding doesn't pay for [that]. ...There needs to be more state and federal buy in."⁸⁴⁰ A child protection employee explained, if a child lives in their county, but the assault happened in another city or county, then they collaborate and coordinate interviews.⁸⁴¹ In the case of Indigenous individuals, the MMIW Task Force flagged the importance of improving "coordination and collaboration between tribal and state law enforcement agencies and courts" and "strengthen[ing] education and awareness of who is the responsible authority for the investigation when a missing person crosses jurisdictions, and [creating] a mechanism to resolve any jurisdictional disputes."⁸⁴²

Consequently, interviewees emphasized the need for law enforcement from different jurisdictions to consistently communicate with each other about sex trafficking. For example, a case being worked in Duluth might involve connections to the state's southern border or into Iowa or Wisconsin. Sharing information across jurisdictional boundaries often requires fostering communication via regular meetings among different agencies that may not see the connections or may not have the personnel to deal with the issue. This, in turn, calls for agency willingness to share such information.⁸⁴³ For example, when investigating a trafficker from another area, investigators will contact the trafficker's original jurisdiction "to access more 'homegrown information' from local law enforcement who often know the trafficker's past."⁸⁴⁴ In these cases, information "as simple as what type of vehicle a trafficker has recently driven can be essential to a case."⁸⁴⁵

Indeed, cross-jurisdictional collaboration is especially important for smaller jurisdictions that do not have dedicated teams of experts working exclusively on sex trafficking cases. Many operate with few resources.⁸⁴⁶ In those jurisdictions, tips might come in from state or nationwide trafficking hotlines or task forces, and the city, town, or county then must investigate. Cross-jurisdictional collaboration is then essential to solving crime. As one interviewee noted, his department has conducted successful

(acknowledging that the data collected for the report "allows for the identification of three dimensions of the flow of trafficking in persons: trans-regional trafficking, intra-regional trafficking and domestic trafficking").

⁸⁴⁰ Interview 27.

⁸⁴¹ Interview 105.

⁸⁴² Wilder Research, *Missing and Murdered Indigenous Women Task Force: A report to the Minnesota Legislature*, by Nicole MartinRogers and Virginia Pendleton (Minneapolis: Wilder Research, December 2020), 125, <https://dps.mn.gov/divisions/ojp/Documents/missing-murdered-indigenous-women-task-force-report.pdf>.

⁸⁴³ Interview 32.

⁸⁴⁴ Interview 77.

⁸⁴⁵ Interview 77.

⁸⁴⁶ Interview 50.

sting operations where the county sheriff's office cooperated with police departments in several towns and cities.⁸⁴⁷

The Minnesota Bureau of Criminal Apprehension works to address the challenges of cases that cross jurisdictional lines through its Human Trafficking Investigators Task Force.⁸⁴⁸ The task force is staffed with agents from several major jurisdictions, including the St. Paul and Minneapolis police, the Anoka, Hennepin, and Ramsey County sheriffs' offices, and federal agents. Other jurisdictions are affiliates of the task force and receive its support for sex trafficking investigations in their communities. This approach has helped centralize actions and helps familiarize those working on the case with emerging data.⁸⁴⁹ Despite these resources and collaborative approach, some jurisdictions resist working with the Bureau. As one officer explained, challenges have arisen in some jurisdictions because of misunderstandings.⁸⁵⁰ They elaborated that “[people] think we’re bringing sex trafficking to their area. [We] want to do a sting, they say no because they think that we’re bringing the sex traffickers to their jurisdiction when in fact they were already in that jurisdiction and [we are] trying to get rid of the sex trafficker.”⁸⁵¹

Finally, collaboration with law enforcement on the national level is imperative because trafficking networks often operate nationally. A law enforcement representative explained how they work with the National Center for Missing and Exploited Children. Although the Center was initially created for missing children, it also works with exploited children. The officer noted the Center’s “very robust tip line” on Facebook, Snapchat, and other social media platforms. When there is suspected child pornography, the Center strives to determine its origins, then refers the leads to law enforcement agencies to develop the case further.⁸⁵²

The National Center for Missing and Exploited Children (NCMEC or the Center) is a private, nonprofit 501(c)(3) corporation whose mission is to help find missing children, reduce child sexual exploitation, and prevent child victimization. The Center works with families, victims, private industry, law enforcement, and the public to assist with

⁸⁴⁷ Interview 72.

⁸⁴⁸ The Task Force was initially funded with a grant from the Minnesota Office of Justice Programs, but the funding did not cover its full operations, so in 2023, the Bureau of Criminal Apprehension requested and received state funding from the legislature.

⁸⁴⁹ Interview 66.

⁸⁵⁰ Interview 32.

⁸⁵¹ Interview 32.

⁸⁵² Interview 73.

preventing child abductions, recovering missing children, and providing services to deter and combat child sexual exploitation.⁸⁵³

RECOMMENDATIONS

- Continue to provide resources to support collaborations among jurisdictions and provide training on effective cross-jurisdictional work.

COLLABORATION BETWEEN LAW ENFORCEMENT AND OTHER SECTORS

An effective response in victim protection requires a multi-disciplinary, holistic approach that involves people with lived experience, police officers, prosecutors, public defenders, victim advocates, medical personnel, child protection services, advocates, and nonprofit organizations. As described by the MMAAW Task Force, coordination is fundamental to reducing barriers for people with lived experience or who are at risk, including addressing fears and frustrations, and increasing success in navigating systems that carry different “set[s] of rules and expectations.”⁸⁵⁴ People with lived experience come from different places and present in a multitude of situations. As a prosecutor explained:

Previously [before No Wrong Door], the team from the prosecutor’s office would only get involved when the case had been investigated by law enforcement and sent in for review. Now, the team from the prosecutor’s office gets in on the investigative end and helps the investigator, guides the investigator, and has more input on how the case is handled. We thought it was a good way to work with officers and find information needed to put the case together.⁸⁵⁵

Prosecutors described how they similarly work with experts and engage others to be more victim centered. Prosecutors reported using a victim assistance team that works well with law enforcement and other partners. A prosecutor described the benefits the team brings and explained, “[w]hen we went to trial in the past, it was often my job to get the victim to court, get them a hotel and food and clothing. Now that I have a team to take care of that, I can really focus on getting the conviction.”⁸⁵⁶ Prosecutors also partner with nonprofits and, importantly, follow their lead and complete their training on trauma and interacting with victims.⁸⁵⁷

⁸⁵³ Excerpted in full from: National Center for Missing & Exploited Children, “About Us,” <https://www.missingkids.org/footer/about>.

⁸⁵⁴ Research in Action, *Missing and Murdered African American Women Task Force: Final Report*, by Dr. Catherine Squires, Dr. Brittany Lewis, Dr. Lauren Martin, Ariana Kopycinski, and Ayize James (Saint Paul: Minnesota Department of Public Safety Office of Justice Programs and Research in Action, December 2022), 56, <https://dps.mn.gov/divisions/ojp/forms-documents/Documents/Documents/MMAAW%20full%20report%20final.pdf>.

⁸⁵⁵ Interview 66.

⁸⁵⁶ Interview 94.

⁸⁵⁷ Interview 94.

In one example, Ramsey County has created a multi-disciplinary team to address sex trafficking issues that meets weekly. Because many victims start out as runaways, truants, or youth in Child Protection, representatives from social services, Child Protection, the County Sheriff's office, the police, the juvenile missing persons unit, the BCA (including a tech expert), public health, two County Attorneys (one from juvenile, one from adult), and a victim assistance coordinator constitute the team. Interviewees agreed that the Task Force's cross-disciplinary approach promotes communication and information sharing. As one law enforcement officer explained:

[The] multi-disciplinary approach gives us greater insight into a case, greater insight into what is going on in a particular area and provides for better camaraderie between agencies. Strained relationships between agency employees and partners are more likely to be repaired when individuals are forced to meet with each other regularly and collaborate on these larger cases. I always tell people that collaboration across agencies is a huge part of what we need in order to be successful in our anti-sex trafficking mission.⁸⁵⁸

The goal of the multi-disciplinary Ramsey County Task Force is that “no matter what door [the youth] comes through, [local actors] can all be on the same page. ... This brings everyone in one room.”⁸⁵⁹ One interviewee recounted a youth who asked to vacation in Florida and said she would be staying with her sister. The interviewee explained, “[b]ehind the scenes, the trafficker was posting her on Backpage.com and had ads for her on Facebook. [The team was] able to make that connection and stop it from happening” through open information sharing between Task Force members.⁸⁶⁰ Another stakeholder elaborated the Task Force's goals are to address supply and demand.⁸⁶¹ In addition, it strives to recognize all possible cases, including cases that present as domestic violence but are actually sex trafficking.⁸⁶²

Individual agencies alone cannot meet all the needs of people with lived experience in sex trafficking – services must work together.⁸⁶³ Many law enforcement agencies have shifted to working closely with social services. As one law enforcement officer noted:

There is now an expectation [in my department] to work with county social services, and this has fostered a closer relationship during case investigations, especially those involving kids. There has also been an increase in partnerships with advocates by bringing advocates early on in an investigation to make sure victims' needs are met.⁸⁶⁴

⁸⁵⁸ Interview 73.

⁸⁵⁹ Interview 75.

⁸⁶⁰ Interview 75.

⁸⁶¹ Interview 74.

⁸⁶² Interview 74.

⁸⁶³ Interview 78.

⁸⁶⁴ Interview 77.

Collaborative approaches extend beyond law enforcement agencies. One advocate described how her organization jointly works with child protection on trafficking cases by serving as the expert on those cases and supplementing child protective services' work without taking over the victim's case entirely.⁸⁶⁵ Subject matter experts pointed out, however, the need for providers to improve their case communications, as well as their cooperation around wraparound services.⁸⁶⁶ They added that competitiveness among service providers can hinder greater collaboration.⁸⁶⁷

The state invested resources in formalizing this cooperative approach in the Safe Harbor Protocol Guidelines, developed by the Ramsey County Attorney's Office and the Minnesota Coalition Against Sexual Assault. The guidelines "were originally developed and published in 2017 with the input of over 200 professionals from a wide variety of disciplines including the judiciary, education, law enforcement, child protection, health care, juvenile corrections, advocacy, and more."⁸⁶⁸ Funding from the Minnesota Department of Health launched an initiative for multi-disciplinary teams in regions around the state to use the Safe Harbor Protocol Guidelines for developing local protocols specific to each community. More than a dozen regions have participated in this protocol development process.⁸⁶⁹

Another crucial relationship is that between advocates and law enforcement. As an officer summarized, "[l]aw enforcement and advocacy need to work together. They have the same goals."⁸⁷⁰ With law enforcement's priority being the investigation and efficient use of limited resources, police recognize that advocates fill a crucial gap⁸⁷¹ and appreciate having an advocate on the scene.⁸⁷² Officers described how they depend on advocates to support victims and help prepare them to speak with officers.⁸⁷³

Interviewees admitted that the relationships between law enforcement actors and advocates vary, with both beneficial and challenging dynamics that depend on the individuals.⁸⁷⁴ Several factors shape these relationships. An interviewee stressed how

⁸⁶⁵ Interview 67.

⁸⁶⁶ Consultation with Experts with Lived Experience, Session III.

⁸⁶⁷ Consultation with Experts with Lived Experience, Session III (explaining how one provider would not want to give their client certain resources if another program already provided them).

⁸⁶⁸ Ramsey County Attorney's Office and the Sexual Violence Justice Institute at the Minnesota Coalition Against Sexual Assault, *Safe Harbor Protocol Guidelines*, 2020, 2, <https://mncasa.org/wp-content/uploads/2022/06/Safe-Harbor-Protocol-Guidelines.pdf>.

⁸⁶⁹ Minnesota Coalition Against Sexual Assault, "Safe Harbor Protocol Teams," accessed June 20, 2024, <https://mncasa.org/our-work/systems-change/trafficking/safe-harbor-protocol-teams/>.

⁸⁷⁰ Interview 28.

⁸⁷¹ Interview 14.

⁸⁷² Interview 50; Interview 12.

⁸⁷³ Interview 50; Interview 99.

⁸⁷⁴ Interview 28; Interview 50.

advocates and law enforcement officials need time to build their relationship,⁸⁷⁵ but that Safe Harbor has helped this interaction.⁸⁷⁶ Involving advocates in strategic discussion is an important first step. For example, 2014 represented a watershed moment as the first time that advocates were invited to the statewide trafficking conference.⁸⁷⁷ How law enforcement treats victims impacts officers' relationships with advocates. When officers place victims' needs first, it can have a positive outcome on those relationships and interactions. For example, one detective makes clear to advocates that, "I'm going to give you access to this person. I don't expect anything in return."⁸⁷⁸ Officers also recognize that their very presence can affect the way advocates work with victims, and at least one officer described their readiness to give victims time alone with advocates present in the room.⁸⁷⁹

When officers fail to use a victim-centered approach, however, it can jeopardize their relationships with advocates.⁸⁸⁰ One officer explained that law enforcement's past lack of compassion for people with lived experience "left a bad taste" for advocates and damaged their working relationships.⁸⁸¹ Also, police may be seeking to convince victims to testify, whereas advocates are striving to create a safe space for the victim so that they will testify only when ready.⁸⁸² Without a victim-centered approach, those two styles can clash at the expense of the relationship. A navigator recalled a 15-year-old trafficking victim who began to show distress after an hour of talking to the police.⁸⁸³ When the advocate suggested a break, the victim stated her desire to be finished, at which point the law enforcement officer "blew up" and called the advocate's supervisor to berate them, as well.⁸⁸⁴ Since then, the navigator has worried about their relationship with that department.⁸⁸⁵

Differences in the understanding of sex trafficking can also impact the relationship. A navigator recalled how tenuous the relationship can be when both sectors are not aligned on objectives,⁸⁸⁶ such as whether to arrest the victim. For example, one interviewed police officer expressed the viewpoint that arrests of victims enhance their

⁸⁷⁵ Interview 24 (explaining how turnover means that relationship building has to start over with newcomers).

⁸⁷⁶ Interview 114; Interview 13.

⁸⁷⁷ Interview 13.

⁸⁷⁸ Interview 13.

⁸⁷⁹ Interview 12.

⁸⁸⁰ Cross-reference to Trauma-informed Response section.

⁸⁸¹ Interview 28. Others have expressed a desire for law enforcement to have "more of a human inclusive, compassionate space for people and their truths." Interview 22; Interview 28; Interview 95.

⁸⁸² Interview 34 (stating that advocates want a "safe place for victims" and that it is "best for [victims] not to be pressured by law enforcement" until they are ready to share).

⁸⁸³ Interview 43.

⁸⁸⁴ Interview 43.

⁸⁸⁵ Interview 43.

⁸⁸⁶ Interview 43.

safety because it provides them services for mental health and addictions.⁸⁸⁷ Advocates, however, expressed their disinclination toward arresting victims, explaining that arrests do not aid recovery and undermine any trust victims may have in police.⁸⁸⁸ Another stakeholder described the challenges when services are provided to victims during a prosecution, then get dropped when the case is over and the prosecutor no longer needs the victim:

You still have workers assisting that victim, but that is not the same impact as the law enforcement and county attorney backing that individual and getting those resources in place.... Once the case closes, half of that support for victims gets cut off, and it is the part that has much more resources and influence compared to a victim services office.⁸⁸⁹

Given these differences, stakeholders agreed it takes dialogue to sustain a working relationship between the two sectors.⁸⁹⁰ When differences do arise, it “becomes a conversation with the advocates,” where they agree or not.⁸⁹¹ At times, it calls for law enforcement actors to find compromise. For example, compelling victims’ testimony can foster disagreement between advocates and police.⁸⁹² When law enforcement officials are willing to modify their desired legal outcome in line with the victim’s interests, such compromise better aligns the officials with advocates. In one case, had law enforcement arrested and charged the victim, they could have obtained her testimony against the pimp through a plea deal and possibly secured a 25-year sentence.⁸⁹³ Ultimately, after considering the victim’s interests, officials chose not to prosecute the victim, and they obtained a five-year sentence for the pimp on a gun charge.⁸⁹⁴

RECOMMENDATIONS

- Expand the sex trafficking Multi-disciplinary Team model and the use of the Sex Trafficking Protocol Guidelines to jurisdictions not yet using them.

VICTIM-ABSENT PROSECUTION

Prosecution is a priority, but many prosecutors often depend on victim testimony to secure a conviction. In one study, nearly all interviewed federal prosecutors reported their inability to proceed with a trafficking case absent victim and witness

⁸⁸⁷ Interview 26.

⁸⁸⁸ Interview 48; Interview 95. See also Interview 107 (“If law enforcement wouldn’t transport victims in handcuffs it would help establish a better basis of trust for the victims”).

⁸⁸⁹ Interview 103.

⁸⁹⁰ Interview 13; Interview 12.

⁸⁹¹ Interview 13.

⁸⁹² Interview 13.

⁸⁹³ Interview 13.

⁸⁹⁴ Interview 13.

cooperation.⁸⁹⁵ Such reliance on victim cooperation does not consider the nuances of trafficking. Many factors affect and hinder victims' involvement in the investigation and prosecution of trafficking. Lengthy investigations and prosecutions jeopardize the victims' participation and their credibility as they may become frustrated and decide to no longer engage with the procedures.⁸⁹⁶ An appropriate evaluation of victims' cooperation in criminal investigations and processes will take into account underlying dynamics, such as their lack of trust in authorities, fears of a criminal conviction, retaliation by the traffickers or the pimps' contacts, loss of basic needs, and loss of immigration status or immigration consequences.⁸⁹⁷ Moreover, scholars and practitioners have found that certain victims may be reluctant to acknowledge their involvement in the commercial sex trade, even if it was coerced. Victims may be concerned about losing social connections, damaging their reputation within their community, and suffering professional repercussions due to stigma.⁸⁹⁸ Loss of basic needs leads many to fall victim to trafficking. Traffickers often wield coercive control by providing—and then threatening to take away—housing, food, and other essentials.

Given these deterrents to victims' testifying, scholars emphasize that a victim-centered prosecution is crucial to investigating, prosecuting, and convicting, as it shifts dependence on victim cooperation and testimony to a more active role by investigators and systems actors.⁸⁹⁹ Importantly, prosecution should “be victim-centered, but not victim-built” and not place any onus on the victim.⁹⁰⁰ It focuses on

⁸⁹⁵ Urban Institute Justice Policy Center, Northeastern University Institute on Race and Justice, *Identifying challenges to improve the investigation and prosecution of state and local human trafficking cases*, by Amy Farrell, Jack McDevitt, Rebecca Pfeffer, Stephanie Fahy, Colleen Owens, Meredith Dank, and William Adams (Washington, DC: National Institute of Justice, June 2012), 202, <https://www.urban.org/sites/default/files/publication/25526/412593-Identifying-Challenges-to-Improve-the-Investigation-and-Prosecution-of-State-and-Local-Human-Trafficking-Cases.PDF>.

⁸⁹⁶ Gerassi, Lara B., Andrea J. Nichols, Ashley Cox, Kei K. Goldberg, and Cliff Tang, “Examining commonly reported sex trafficking indicators from practitioners' perspectives: Findings from a pilot study,” *Journal of Interpersonal Violence* (2021), 36:11-12, 13; see also Consultation with Experts with Lived Experience, Session III.

⁸⁹⁷ Consultation with Experts with Lived Experience, Session III; United States Department of Justice, *National Strategy to Combat Human Trafficking*, January 2022; Farrell, Amy, Meredith Dank, Ieke de Vries, Matthew Kafafian, Andrea Hughes, and Sarah Lockwood, “Failing victims? Challenges of the police response to human trafficking,” *Criminology & Public Policy* (2019), 18:3, 651, 653, 664.

⁸⁹⁸ National District Attorneys Association, Women Prosecutors Section, *National Human Trafficking Prosecution. Best Practices Guide (White Paper)*, January 2020, 26, <https://ndaa.org/wp-content/uploads/Human-Trafficking-White-Paper-Jan-2020.pdf>.

⁸⁹⁹ Rodolph, Alicen, and Tyler Dunman, Charging Ahead: Prosecuting Human Trafficking Cases Without Victim Cooperation, 58 *Criminal Law Bulletin* 2, (2022); Smith, L., Vardaman, S. H., & Snow, M. (2009). *The National Report on Domestic Minor Sex Trafficking*. Vancouver, WA: Shared Hope International; The Advocates for Human Rights, “Prosecutorial Reform Efforts,” *StopVAW*, Feb. 2019, https://www.stopvaw.org/prosecutorial_reform_efforts.

⁹⁰⁰ National Justice Institute, “Emphasizing a Victim-Centered Approach in Human Trafficking Prosecutions,” accessed June 20, 2024, <https://nij.ojp.gov/topics/articles/emphasizing-victim-centered-approach-human-trafficking-prosecutions#citation--0>

the prosecution of traffickers without victim testimony or cooperation to promote the victim's interests and still achieve justice.⁹⁰¹ To do so effectively, investigation must reflect an understanding of the “unique elements” of trafficking by using other techniques of evidence sourcing and gathering, including “victim cell phone contents, hotel receipts, and surveillance recordings to augment investigations... [and] evidence related to components such as advertising, renting of real estate, transportation methods and documents, communication methods, and financial transactions.”⁹⁰²

Many prosecutors in Minnesota reported using a victim-absent approach and relying on other evidence as the norm. One prosecutor reported they “do as much as they can to corroborate what the victim has said, so the victim does not need to testify.”⁹⁰³ A prosecutor described how they work with law enforcement to circumvent victim testimony, acknowledging that with limited cooperation, “we have trained investigators to [develop] cases that we can prove with no victim cooperation by using things that we can put into evidence, e.g., text history, messages.”⁹⁰⁴ In another case, the police secured statements from the buyers to remove the burden of testifying from the victim.⁹⁰⁵ Subject matter experts corroborated the importance of this approach, noting that it reduces the trauma and could enhance safety for victims.⁹⁰⁶

By anticipating that the victim will not cooperate and building their case accordingly, these prosecutors neither expect nor depend on victim testimony.⁹⁰⁷ One prosecutor underlined the importance of working early on with law enforcement because “come trial, they won't have the victim. So they need to have sufficient evidence without the witness.”⁹⁰⁸ Assuming they would be proceeding without a victim witness seemingly alleviated the frustrations that plague those who expect and rely on victim testimony. A prosecutor added, “[i]f the victim cooperates, it's more akin to a cherry on top.”⁹⁰⁹

RECOMMENDATIONS

- Provide additional training resources dedicated to victim-absent prosecution.

⁹⁰¹ Rodolph, Alicen, and Tyler Dunman, Charging Ahead: Prosecuting Human Trafficking Cases Without Victim Cooperation, 58 Criminal Law Bulletin 2, 3 (2022).

⁹⁰² Rodolph, Alicen, and Tyler Dunman, Charging Ahead: Prosecuting Human Trafficking Cases Without Victim Cooperation, 58 Criminal Law Bulletin 2, 7 (2022).

⁹⁰³ Interview 82.

⁹⁰⁴ Interview 66.

⁹⁰⁵ Interview 82.

⁹⁰⁶ Consultation with Experts with Lived Experience, Session III (but noting that it is also important for victims to be able to testify if they choose, with understanding from systems actors of the risk that victims face in doing so).

⁹⁰⁷ Interview 55.

⁹⁰⁸ Interview 55.

⁹⁰⁹ Interview 66.

LAW ENFORCEMENT AND PROSECUTOR INTERACTION WITH VICTIMS

Attitudes and understandings of sex trafficking victims have changed considerably in the past several years. For example, a police officer described how “prostitution” was initially viewed as a “victimless crime,” where all involved were willing participants.⁹¹⁰ The officer stated that, 20 years ago, an officer would either have arrested both parties, or moved on without further investigation, thereby dismissing the case without screening for consent of the person selling sex.⁹¹¹ Another nonprofit worker recalled, “[s]everal years ago, nobody [in law enforcement] wanted to acknowledge sex trafficking. There was aversion and victim blaming.”⁹¹² In an extreme example, a nonprofit director who works with Indigenous communities recounted how law enforcement officers previously viewed women who sell sex as “preying” on others.⁹¹³

Best practices in a law enforcement response to sex trafficking require a victim-centered, trauma-informed, culturally competent approach.⁹¹⁴ Findings show that much of law enforcement has since progressively shifted toward such an approach in Minnesota.⁹¹⁵ Several interviewees identified the change in attitude as stemming from Safe Harbor, additional funding, and increased investment in education and relationships.⁹¹⁶ One of the most remarkable changes is officers’ recognition that the sale or trading of sex may involve a trafficking dimension and that officers need to assess consent when evaluating potential interventions. In addition, several interviewees noted that this attitude shift is reflected in language, with law enforcement actors no longer using the term “prostitute.”⁹¹⁷ Officers instead act on their understanding of “the victimhood of the person being sold.”⁹¹⁸

Police department training has played a pivotal role. Such training strives to instill “an overall awareness of the depth and magnitude” of the crime and frame investigations with a focus on the victim.⁹¹⁹ One investigator spoke of a change in perspective due to training. He recalled online “problem” cases when officers were taught to instruct victims to block and ignore their harasser until they went away. Now they are trained to investigate and prosecute.⁹²⁰ Changed police attitudes impact relationships with

⁹¹⁰ Interview 100.

⁹¹¹ Interview 100.

⁹¹² Interview 56.

⁹¹³ Interview 15.

⁹¹⁴ Minnesota Department of Health, *Human Trafficking and Exploitation. Information for Law Enforcement*, 2020

<https://www.health.state.mn.us/communities/safeharbor/documents/infoguidelawenforcement.pdf>; The White House, *The National Action Plan to Combat Human Trafficking*, Dec. 2021, 27.

⁹¹⁵ See Interview 5; Interview 15.

⁹¹⁶ Interview 15; Interview 22; Interview 23; Interview 32; Interview 66.

⁹¹⁷ Interview 15; Interview 5.

⁹¹⁸ Interview 15.

⁹¹⁹ Interview 100.

⁹²⁰ Interview 92.

other stakeholders. Today, the local police department has become a “very good ally” for one community organization due to increased education and broader training for governmental actors.⁹²¹ A health care worker credited a shift in service awareness to strengthened collaborations between the health care sector and police.⁹²²

Arrest and charging practices have also shifted. Ten years ago, a law enforcement officer noted how “sex workers” were arrested for prostitution and brought to jail.⁹²³ Now, the officer stated that their task force had not charged any people of any age for prostitution for two years.⁹²⁴ Another officer confirmed this impression, noting that Safe Harbor’s decriminalization of prostitution for minors has reduced arrests of sellers not just within but above the Safe Harbor age group.⁹²⁵ Some stakeholders noted a recent shift toward targeting demand—arresting buyers instead of victims.⁹²⁶ Those with lived experience, however, differed in their perceptions of adult arrests and reported that, although buyers might get a ticket, the people selling sex are the ones likely to face criminal charges.⁹²⁷

Treatment by police of underage victims of trafficking similarly shifted, with broader effects reported on people involved in the sale and trading of sex. Victims under the age of 18 are not charged but instead are offered resources and treated differently compared to older victims.⁹²⁸ One prosecutor added, that for younger victims, “there is a victim-centered approach versus them being treated as part of a criminal enterprise.”⁹²⁹

Research shows that investigation approaches must recognize that interviews with trafficking victims may require more time and the provision of safe and comfortable locations.⁹³⁰ Stakeholders corroborated that building relationships requires patience to allow and foster the exercise of agency by the victims to tell their story in their own preferred manner and time.⁹³¹ When actors realize this, their practices reflect a victim-centered approach that meets the victim where they are.

⁹²¹ Interview 56.

⁹²² Interview 57.

⁹²³ Interview 32.

⁹²⁴ Interview 32.

⁹²⁵ Interview 28.

⁹²⁶ Interview 28.

⁹²⁷ Consultations with Experts with Lived Experience, Session III (elaborating that when police pull a car over, “we’re the ones [getting charged]”).

⁹²⁸ Interview 55.

⁹²⁹ Interview 55.

⁹³⁰ Farrell, Amy, Meredith Dank, Ieke de Vries, Matthew Kafarian, Andrea Hughes, and Sarah Lockwood, *Failing victims? Challenges of the police response to human trafficking*, *Criminology & Public Policy* (2019), 18:3, 649-673, 666-67.

⁹³¹ Interview 26; Interview 77.

Regarding victim cooperation in court, one judge stated that traumatized victims may not recall or cooperate and that they may distrust government and law enforcement, attitudes that the judge believed were instilled by traffickers.⁹³²

Police also concede that it takes more than the first contact to create trust and to provide the necessary information and resources for victims to leave a trafficking situation. At least one BCA officer acknowledged, “[i]f victims are not ready, they’re not ready.”⁹³³ One officer described how he often attends the initial interviews with the expectation that he will not get much information.⁹³⁴ Another officer recalled that it can take four or five encounters, with repeated assurances they will not be arrested, before a person who is potentially experiencing trafficking is willing to trust law enforcement.⁹³⁵ In some cases, it takes months, sometimes years, to provide support and build a relationship with victims.⁹³⁶ A shift in language and attitudes toward victims are key factors in building that relationship.⁹³⁷ A law enforcement officer recalled an experience where a victim returned to talk nine months after the first meeting, which the officer attributed to those shifts.⁹³⁸ To address and meet a victim’s pace, subject matter experts suggested creating a national database to track victims to help officers “catch up” and know who are vulnerable people.⁹³⁹

When law enforcement understands the importance of cultural competency and demonstrates greater empathy for victims,⁹⁴⁰ their interactions with victims can improve and facilitate an exit when each victim is ready.⁹⁴¹ One officer pointed out the importance of understanding cultural factors in building that trust:

Investigators must be careful to show victims respect and sensitivity at all times because the Native American community as a whole is used to not being respected by law enforcement. Investigators must show that they are there to help and the members of the reservations must “feel it” from them.⁹⁴²

Nevertheless, findings highlighted areas where law enforcement needs to improve its understanding of people who buy and sell sex and their interactions. As one nonprofit worker described, “[W]e still have law enforcement that haven’t moved much.”⁹⁴³ One nonprofit director shared their perceptions that “many police have the mentality that

⁹³² Interview 39.

⁹³³ Interview 73.

⁹³⁴ Interview 26.

⁹³⁵ Interview 12.

⁹³⁶ Interview 28; Interview 46.

⁹³⁷ Interview 27.

⁹³⁸ Interview 27.

⁹³⁹ Consultation with Experts with Lived Experiences, Session III.

⁹⁴⁰ Interview 22.

⁹⁴¹ Interview 50.

⁹⁴² Interview 77.

⁹⁴³ Interview 6.

these girls are at the lowest form of humanity.”⁹⁴⁴ Subject matter experts noted, however, that there is a need for law enforcement to undertake further action to address sex trafficking holistically.⁹⁴⁵ Another agreed: “[u]ntil we change the culture of law enforcement to look at youth and not see criminals but see humans who are reacting to something or something has happened to them – we’re still pigeon-holing, and those are the kids we’re doing the most disservice to.”⁹⁴⁶

Several criminal justice actors still view arrests as an intervention tool to achieve their goals. Several members of the criminal justice system endorsed selectively arresting or even charging people to separate them from their traffickers, pressure them to testify, or persuade them to go through chemical dependency or other programs.⁹⁴⁷ But others pointed out the futility of that approach as “victims are so dug into the tricks the [trafficker] played, they’re willing to take the fall for them, which is disturbing.”⁹⁴⁸

Mistrust of police persists. For instance, one interviewee explained how children may not want social workers to call police due to mistrust of law enforcement.⁹⁴⁹ In the most extreme cases, interviews also revealed instances of police officers engaging in sexual exploitation and abuse of power that could jeopardize a victim’s agency and cause them to distrust the institution. A researcher shared:

Almost all the survivors that I’ve interviewed have reported at one point in time having been coerced by a police officer to engage in sexual activity, not all police officers obviously, but enough. I mean, I literally can’t think of a person I’ve interviewed who hasn’t mentioned something about that. That creates substantial breach of trust between people who trade sex and law enforcement.⁹⁵⁰

One law enforcement officer expressed his frustration that, although the Safe Harbor program has developed training and protocols for law enforcement agencies on best practices, there is no accountability to ensure agencies use them.⁹⁵¹

Similar to the attitudes of those in law enforcement, prosecutors’ views of people who sell or trade sex have shifted since Safe Harbor.⁹⁵² Overall, findings show that

⁹⁴⁴ Interview 59.

⁹⁴⁵ Consultation with Experts with Lived Experiences, Session IV.

⁹⁴⁶ Interview 44.

⁹⁴⁷ Interview 72; Interview 77; Interview 92.

⁹⁴⁸ Interview 66.

⁹⁴⁹ Interview 44.

⁹⁵⁰ Interview 117; Interview 1.

⁹⁵¹ Interview 81.

⁹⁵² Interview 66; Interview 5.

Minnesota's decriminalization of youth sellers of sex has altered how prosecutors treat these youth.⁹⁵³ One prosecutor summarized:

I think for my office and for law enforcement, the Safe Harbor law made a big shift in the way we view the cases. It made everyone focus on the victims being victims and treating them as victims instead of as criminals. We focused on going after the traffickers and the buyers instead. This is definitely a positive. Having met a number of women who have gone through this, it is clear they are not criminals, but victims.⁹⁵⁴

When authority figures take a public stance, it can have a ripple effect in bringing about change. In February 2011, five months before Safe Harbor was signed into law, Ramsey County Attorney John Choi announced that his office, along with five other county attorney offices in Minnesota, would no longer treat youth victims of sex trafficking as criminals.⁹⁵⁵ A former MDH official noted this announcement as a perfect example of how social norms change.⁹⁵⁶

RECOMMENDATIONS

- Use protocols that include steps on building rapport with victims and advocates through a victim-centered approach.
- Enhance training on trauma-informed interviewing and investigations for all law enforcement agencies and prosecutors.
- Develop guidance on trauma-informed interaction with victims that avoids relying on arrest and pressure to testify.

COURT-ORDERED COMPENSATION FOR VICTIMS

International standards call for court-ordered compensation upon conviction of a trafficker in criminal proceedings.⁹⁵⁷ Any such remedies should be inclusive, sensitive to age and gender, and provide conditions for filing complaints without fear of

⁹⁵³ Safe Harbor's legal changes were another genesis point. A prosecutor noted the law previously did not treat youth sellers of sex as victims, but "[t]he statute changed. Kids can't be charged. Now we can't charge them because it's not a crime." Interview 5.

⁹⁵⁴ Interview 66.

⁹⁵⁵ Mark Olson, Child prostitutes now treated as victims, Chaska Herald, Mar. 2, 2011, https://www.swnewsmedia.com/chaska_herald/news/public_safety/child-prostitutes-now-treated-as-victims/article_ef3080d3-6467-5be1-b0be-21c60a4da79a.html (The press conference spearheaded by Ramsey County Attorney John Choi also included County Attorneys for Hennepin, Carver, Dakota, Washington and Anoka Counties).

⁹⁵⁶ Interview 36.

⁹⁵⁷ UN Committee on the Elimination of Discrimination against Women, General recommendation No. 38 on trafficking in women and girls in the context of global migration. UN DOC. CEDAW/C/GC/38, ¶¶ 92, 100, 101.

consequences.⁹⁵⁸ Remedies should be affordable, timely, and accessible, and they should not be dependent on confiscation of traffickers' assets.⁹⁵⁹

Federal law mandates criminal restitution for trafficking victims,⁹⁶⁰ including the “full amount of the victim's losses.”⁹⁶¹ The law also requires that, upon conviction, traffickers forfeit assets involved or used in, or that are proceeds from, or derived from proceeds traceable to, the trafficking.⁹⁶² Research shows that, despite this provision, federal court-ordered restitution to survivors of trafficking is rare. Even when federal courts do order restitution, survivors “rarely receive these funds.”⁹⁶³ Federal law does provide victims with a civil cause of action against their traffickers for damages and reasonable attorneys' fees.⁹⁶⁴

In Minnesota, restitution is not mandatory in trafficking cases, and the law requires survivors to take the additional step of applying for general criminal restitution.⁹⁶⁵ In addition, civil remedies are available through a civil cause of action.⁹⁶⁶ Victims are also eligible for general crime victim reparations through the Crime Victim Reimbursement Program.⁹⁶⁷ Yet several subject matter experts acknowledged that they were unaware of the program's requirements, how to access it, or qualification bars for reimbursement.⁹⁶⁸

Although both state and federal law provide for civil remedies, several barriers deter survivors from seeking them. Even though federal law allows for civil actions, findings show that survivors are not generally filing these actions. In some cases, this reticence may be due to a lack of resources to bring the case, lack of awareness of the right to a

⁹⁵⁸ UN Committee on the Elimination of Discrimination against Women, General recommendation No. 38 on trafficking in women and girls in the context of global migration. UN DOC. CEDAW/C/GC/38, ¶ 100.

⁹⁵⁹ UN Committee on the Elimination of Discrimination against Women, General recommendation No. 38 on trafficking in women and girls in the context of global migration. UN DOC. CEDAW/C/GC/38, ¶ 101.

⁹⁶⁰ Mandatory Restitution, 18 U.S.C. § 1593 (2008).

⁹⁶¹ Mandatory Restitution, 18 U.S.C. § 1593 (2008).

⁹⁶² Mandatory Restitution, 18 U.S.C. § 1594 (2008).

⁹⁶³ The Human Trafficking Legal Center, *United States Federal Courts' Continuing Failure to Order Mandatory Criminal Restitution for Human Trafficking Victims*, by Alexandra F. Levy (Washington D.C.: The Human Trafficking Legal Center, 2018), <https://htlegalcenter.org/wp-content/uploads/2018-Mandatory-Restitution-Report.pdf>.

⁹⁶⁴ Trafficking Victims Protection Reauthorization Act of 2003, 18 U.S. Code 1595 (2007); see also Jennifer S. Nam, *The Case of the Missing Case: Examining the Civil Right of Action for Human Trafficking Victims*, 107 Columbia Law Review 1655 (2007) (trafficking victims have filed few civil lawsuits against their traffickers under this cause of action).

⁹⁶⁵ Minn. Stat. § 611A.045 (2023).

⁹⁶⁶ Minn. Stat. § 611A.81 (2023).

⁹⁶⁷ Minn. Stat. § 611A.51 to 611A.68 (2023). Formally known as the “Minnesota Crime Victims Reparations Program” modified in 2023 by Chapter 52–S.F. No. 2909.

⁹⁶⁸ Consultation with Experts with Lived Experience, Session III.

case, as well as challenges in finding an attorney to take the case.⁹⁶⁹ Private attorneys may be generally unwilling to take on such cases, because it may be impossible or else challenging to recover damages from a trafficker. For example, subject matter experts explained how pimps often put their assets, such as cars, in other people's names.⁹⁷⁰ Moreover, the framework essentially creates de facto requirements that the plaintiff be "in the right place to do it," given the many factors that can deter a victim, such as the trauma of testifying, defendants who lack sufficient financial resources to make a lawsuit worthwhile, and the challenge of building a successful case before the statute of limitations runs.⁹⁷¹ Subject matter experts agreed the process is far too lengthy and "way too much work for a victim to have to go through [the law] to get compensated for the crime done to them."⁹⁷² Moreover, until that court compensation is ordered, victims remain in a precarious position where they may lack money and their own cell phone; in other words, "victims have to wait for the outcome, and that means they will have no money until that's done, to live or survive."⁹⁷³ Until a victim does have the financial means, the pimp is likely to be the one to own her cell phone and have access to everything she does on it.⁹⁷⁴

RECOMMENDATION

- Allocate resources to ensure victims have access to free or low-cost legal counsel and representation that would provide advice and support on accessing criminal restitution and civil remedies.

⁹⁶⁹ Interview 1; see also Jennifer S. Nam, *The Case of the Missing Case: Examining the Civil Right of Action for Human Trafficking Victims*, 107 *Columbia Law Review* 1655 (2007).

⁹⁷⁰ Consultation with Experts with Lived Experience, Session III.

⁹⁷¹ Interview 1.

⁹⁷² Consultation with Experts with Lived Experience, Session III.

⁹⁷³ Consultation with Experts with Lived Experience, Session III.

⁹⁷⁴ Consultation with Experts with Lived Experience, Session III.

CONCLUSION

Although Minnesota has made tremendous strides in its response to sex trafficking, there is ample room for improvements in its approaches to protection, prevention, and prosecution. Of these three core strategies, the state has placed a greater focus on strengthening the protection of persons with lived trafficking experience once identified, particularly through its widespread implementation of the Safe Harbor laws and the No Wrong Door Policy. Protection for some is still limited because many people with lived trafficking experience do not qualify for services due to age restrictions or not displaying the trafficked person stereotype. As a result, the state needs to create more inclusive legislation and policies so that every person who has experienced trafficking can have access to resources.

Throughout the last decade, Minnesota has yet to prioritize the use of prevention strategies to combat sex trafficking. Although there has been positive momentum in changes of attitudes toward victims of sex trafficking, it is a first step of many. Prevention of sex trafficking implies a need for a substantial investment of resources to reduce complex structural inequalities, such as homelessness, hunger, and unemployment. The state often defers these battles to civil society and service providers instead of scrutinizing its own commitment and capacity to implement solutions that tackle the overarching issues of poverty, homelessness, and hunger. When the state limits itself to downstream solutions, the root causes and effects of discrimination and inequality will continue to push people into sex trafficking.

Since the decriminalization of sex trafficking victims, the focus has shifted to seeking increased accountability and punishment of the sex traffickers. Although Minnesota has increased the penalties for sex trafficking, sex traffickers have at times found ways to plead down their charges. As a result, many victims perceive their quest for justice as incomplete and reliance on their trafficker's criminal justice outcome can make a victim's pursuit of restitution more onerous. When it comes to addressing the victim's role in trafficking in the criminal justice system, the affirmative defense's limited capacity allows a victim only to prove their innocence related to the crime of prostitution. As a result, a victim can be charged for all other crimes they committed while being trafficked. In sum, although reforms have been achieved to address sex trafficking in the criminal justice system, substantial barriers remain before victims of trafficking can achieve justice.

Moving forward, The Advocates will work with others to build a community roadmap on sex trafficking prevention that prioritizes meeting people's basic needs, fulfilling their aspirations, and giving them the ability to live free from discrimination and violence. By using a human rights approach, The Advocates commits to collaborating with communities most affected by the human rights violations. We will prioritize and focus on the experiences of people affected by policies that create, or fail to address,

vulnerability to sex trafficking and exploitation, with a view to developing concrete, actionable recommendations for systems change to prevent this human rights violation. By addressing next the many different systems, programs, policies, and laws that increase vulnerability to sex trafficking and exploitation, the Advocates intends to help build communities where all people can enjoy their rights and live with dignity, well-being, safety, and support.