

DEMANDING JUSTICE

REPORT
2014



Hickey Family
Foundation



College of
Public Programs
ARIZONA STATE UNIVERSITY

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Printed in the United States of America.

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Dear Reader,

We have been talking about the problem of demand for a long time now... too long. The problem is well recognized by spokespersons at every level—even by buyers themselves. Is it possible to contain demand? As a society have we even seriously contended with the question? The Demanding Justice Project proposes to engage in that process.

Shared Hope International conducted qualitative research on demand in 2006 under a grant from the U.S. Department of State. That project gave us good information about the problem of demand but also insight into how much remained to be researched. There has been little quantitative data available against which the impact of the problem can be measured...and without good measures, solutions are elusive.

The area in which we chose to expand our research on demand is that of criminal justice consequences for buyers of sex with children. This undertaking, the Demanding Justice Project, consists of two phases. The first phase was a national desk review, while the second phase conducted targeted research in four sites where there has been active enforcement of anti-demand laws. The goal of the research is to provide clear, quantifiable, national and regional data on the criminal justice consequences for those who create the demand for sex trafficked minors. To assist in that goal, we collaborated with the Sex Trafficking Intervention Research Office at Arizona State University to analyze and document the consequences for those buyers identified in the study.

In looking at consequences for arrested buyers, we cannot avoid the more insidious symptom of the demand problem, a culture of tolerance for demand that allows buyers of sex with children to go home to their families while the children they exploited are denied justice. As the Demanding Justice research sheds light on this tolerance for demand, Shared Hope's Defenders—men who have taken a pledge to fight this injustice and change the minds of their peers—will continue demanding justice by changing men's attitudes about commercial sex.

It is my hope that our research will inspire people across the country to demand justice for the individuals who shop for the innocence of children. We hope this research will encourage others to undertake further research to quantify the problem of demand with the goal of measuring the impact of this devastation on our nation's children so that it can be ended once and for all.

Sincerely,

A handwritten signature in blue ink that reads "Linda Smith". The signature is fluid and cursive.

Linda Smith
President and Founder, Shared Hope International
U.S. Congress 1995-99, Washington State Senate/House 1983-94

ACKNOWLEDGMENTS

Shared Hope International thanks the law enforcement officers and prosecutors who are on the front lines of combatting demand and whose advice and comments provided crucial guidance for the Demanding Justice Project research: Amanda Walker-Rodriguez, former Assistant State's Attorney for Maryland and Human Trafficking Coordinator at Maryland Governor's Office of Crime Control and Prevention; Sgt. Kenneth Penrod, Montgomery County Maryland Police Department; Patrick Mays, Assistant State's Attorney for Maryland; Dione Ludlow, Deputy Attorney for Pierce County; Commander George Burke and Sergeant Michael Geiger at the Portland Police Bureau; Captain Eric Sano, Sgt. Ryan Long and victim advocate Stefanie Thomas all at Seattle Police Department; Commander James Gallagher and Sgt. Christopher Bray, both of the Phoenix Police Department; Valiant Richey, Prosecuting Attorney for King County, WA; Mike Mitchell, Deputy Attorney for Maricopa County; Sheila Polk, Yavapai County Attorney; Kara Franker, former Assistant State's Attorney for Miami-Dade County; and Sylvia Conchos at the Federal Bureau of Investigations in Phoenix. Special thanks to our project partner Professor Dominique Roe-Sepowitz, PhD, director of the Sex Trafficking Intervention Research Office at Arizona State University for her tremendous expertise in research design and quantitative analysis of the data collected through both phases of the Demanding Justice Project research. Shared Hope also thanks Colleen Owens, Research Associate with the Urban Institute's Justice Policy Center, for providing guidance in developing the research methodology, Kathleen Winn at the Office of the Arizona Attorney General for ongoing support and advocacy around this issue, and Sgt. Andrew Conner at Genesis Project for victim-centered guidance on the research. Several criminal justice agencies contributed directly to the research by identifying cases of arrested buyers of sex with minors—thanks to Portland Police Bureau, Montgomery County Police Department, City of Vancouver Police Department, Orlando Metropolitan Bureau of Investigation, U.S. Attorney's Office for the District of Maryland, and U.S. Attorney's Office for the District of Columbia. Shared Hope also thanks Dawn Lew and Ben Friedman at Children at Risk in Houston, Texas for their contribution of data relating to human trafficking prosecutions in Texas, and the volunteers and Ambassadors of Hope who assisted with accessing court records around the country to help track the cases identified in this study. We were also honored to have four excellent groups of thought leaders participate in roundtables on this issue and enrich the research.

The Demanding Justice Project research was implemented under the direction of Samantha Healy Vardaman, Esq., and Christine Raino, Esq. and was greatly assisted by: pro bono counsel Elizabeth Holt; pro bono counsel Ralph Caccia and Christen Price at Wiley Rein LLP; researcher Sally Stoecker; Shared Hope Legislative Consultant Joel Shapiro, Esq.; Shared Hope law fellows Carla Halle, Rebecca Lawrence, Cindy Ko and Keziah Dutchak; Shared Hope interns Katelyn Shaver, Jessica Garber, Jessica Dance, Rachael Pinguelo, Marissa Montalvo, Melanie Mah, Nicole Richardson, Elizabeth Clapp, Heather Messer, Nicole Heller, Marisa Shannon, Kristen McCoy and Eion Oosterbaan. Taryn Offenhacher directed report production and design and all Shared Hope staff members have been involved in key ways in the Demanding Justice Project research and report.

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Introduction & Purpose



America's youth are at risk because of a simple economic principle—demand for sex acts with children drives the market of exploitation. Little has been done to address the culture of tolerance or confront the obvious conclusion that penalizing buyers is essential to protecting our youth from becoming prey. Unfortunately, attempts to find answers to the problem of demand have been scarce. In a very limited number of cases a buyer has been convicted federally under a provision of the Trafficking Victims Protection Act,¹ and this needs to be developed for greater applicability at the state level. Enactment of good laws at the state and federal level are essential but just the beginning. Enforcement of these laws will be the deterrent necessary to stem demand for commercial sex acts.

Therefore, the purpose of this report is to measure criminal justice outcomes. Nonetheless identifying buyers of sex acts with minors was a crucial preliminary step in the research and lent itself to a prevalence review by default. One overarching challenge encountered in studying demand is the anonymity of buyers. Similarly, the anonymity of buyers presents one of the greatest challenges to investigation and arrest. Victims often do not know or remember the buyers' real names, addresses, or other identifying information. This can be due to the trauma of the sexual exploitation or to the evasive techniques of traffickers in orchestrating the commercial encounter with the buyer. Prostitution is done on a cash basis and buyers frequently use false names, leaving law enforcement with limited evidence.²

Given the challenges law enforcement face in identifying and arresting buyers, the number of buyers who have come into contact with law enforcement reflects a small subsection of those who are buying sex acts with minors. Within that subset are the cases that were reported by the media with sufficient information to clearly identify the case as involving commercial sexual exploitation of a minor by a buyer, narrowing the field of cases even further. Since prosecutions of traffickers for the offense of sex trafficking of minors are more prevalent³ and generally carry more serious penalties than prosecutions of buyers of sex acts with minors,⁴ trafficker cases are more often identified in media articles as sex trafficking and more often reported.

The conduct of traffickers is increasingly referred to as human trafficking in the media, but there is little consistency in the language used to refer to the conduct of buyers. In some instances, the offense of buying sex acts with a minor is viewed as a type of

- 1 Trafficking Victims Protection Act (TVPA) of 2000, Pub. L. No. 106-386, 114 Stat. 1464, 1466 (codified in scattered sections of 18 and 22 U.S.C.).
- 2 National Report, *supra* note 49, at 20 (citing MELISSA SNOW, SALT LAKE CITY ASSESSMENT: IDENTIFICATION OF DOMESTIC MINOR SEX TRAFFICKING VICTIMS AND THEIR ACCESS TO SERVICES 45 (2008), available at http://sharedhope.org/wpcontent/uploads/2012/09/SaltLakeCity_PrinterFriendly.pdf).
- 3 Amy Farrell, Ph.D., Jack McDevitt, Ph.D., Rebecca Pfeffer, M.A., Stephanie Fahy, M.A., Colleen Owens, Meredith Dank, Ph.D., William Adams, M.P.P., *Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases*. Washington, DC: The Urban Institute, Justice Policy Center and Northeastern University, Institute on Race and Justice School of Criminology and Criminal Justice for National Institute of Justice. ("In none of the cases we reviewed for this study were 'Johns' or customers of sex trafficking prosecuted under federal or state trafficking laws. In some sites, customers were charged with solicitation of a minor or other offenses, but as will be noted in the latter section on prosecution, these charges were often dropped or lessened in exchange for the cooperation of the customer during the prosecution of a case (to corroborate the victim's story and show that a sex act did occur...") *Id.* at 49, n. 15).
- 4 See Case Study #3 pg 94.

prostitution case. The desk review phase of this research identified 407 relevant cases largely through media sources; 25 of those media outlets referred to a minor victim as a prostitute, reflecting the attitudes that prevent these cases from being reported as serious offenses of commercial sexual exploitation of a child.⁵

Prevalent misunderstanding of a buyer's role in the sex trafficking of minors perpetuates another set of challenges in identifying these offenders. Lower penalties for buying sex acts with a minor discourage law enforcement from aggressively investigating the buyer as they focus efforts on traffickers who face more substantial penalties and are perceived as more culpable. Media's focus is also on these more serious offenses, promoting public perception that traffickers are the only offenders that warrant attention. While substantial penalties for traffickers have been a legislative focus for many years, a shift toward focusing on buyers as culpable parties in the sex trafficking of children has only begun to take root.⁶

Despite the trend for law to treat the purchase of sex acts with a minor as a crime of sex trafficking, public perception continues to allocate some blame to the older minor and this is reflected in state legislation that minimizes penalties when a buyer purchases or solicits sex acts with an older minor. While many states have clarified their laws in the past couple years to clearly define a sex trafficking victim as any minor under the age of 18 used for commercial sex,⁷ buyers may enjoy a lower standard of culpability when their victim is older than 14 or 15, and may avoid serious penalties entirely by claiming mistake of age.⁸ Meanwhile, offenses against younger minors are often recognized and charged as sex offenses, regardless of whether there was an exchange or offer of compensation for illegal sex acts, leading to substantial variation in the treatment of buyers depending on the age of the victim.

These perceptions about buyers influenced this demand research in two primary ways. First, there is substantial lack of clarity on how to define and describe buyer cases—the same case could be treated very differently under different state laws, or very differently depending on the age of the minor victim. This impacts how the case is reported by the media, the source of a substantial number of the buyer cases identified for the desk review phase of the study. As a result, search terms used in the study had to anticipate the range of terms that may be used to describe the offense and the range of offenses that may be charged against a buyer. Despite carefully selected search terms, close inspection of the resulting articles was necessary to find cases that fit the parameters of this study, specifically, commercial sexual exploitation of a minor by a sex consumer.⁹ These perceptions about buyers also impacted the target site research, which tracked 119 cases from arrest through prosecution to sentencing, and demonstrated a strikingly diverse array of sentencing alternatives and leniency factors afforded the defendants in these cases, suggesting a reticence to enforce existing penalties to the fullest extent of the law.

5 The desk review research also showed that cases involving buyers of commercial sex acts with minors are often prosecuted as sex offenses which fail to reflect the commercial element of buying a child for sex acts, further engraining media's perception of buyer offenses as unrelated, or tangentially related, to the offense of child sex trafficking.

6 See page 17 for timeline of anti-demand developments under state and federal law.

7 See Shared Hope Int'l, 2013 Protected Innocence Challenge Progress Report, *available at* <http://sharedhope.org/what-we-do/bring-justice/reportcards/>.

8 See Appendix: State Law Survey of Prohibition on Mistake of Age Defense for Buyers of Sex Acts with a Minor, analyzing state commercial sexual exploitation and sex trafficking laws that prohibit a buyer from asserting a mistake of age defense.

9 See page 7 for search terms flowchart showing sample results of searches for media reports of buyer cases.

Research Design & Methodology

Building upon three years of research on state legislative efforts to combat demand under the Protected Innocence Challenge, Shared Hope International undertook this study of the criminal justice consequences faced by buyers of sex acts with children to explore the barriers that prevent law enforcement and prosecutors from bringing buyers to justice. Through quantitative research that analyzes the outcomes of federal and state arrests of buyers of sex acts with minors, and qualitative research through case studies and thought leader roundtables, this study seeks to identify challenges and trends in anti-demand enforcement, including changes stemming from recent case law holding buyers of sex acts with a minor accountable under the federal sex trafficking law. The Demanding Justice Report captures information on the features of demand for sex acts with children, and criminal justice enforcement outcomes of the cases that are pursued as commercial sexual exploitation of children (CSEC), while exploring the challenges and successes of implementing anti-demand enforcement methods.

The scope of analysis for the Demanding Justice Report focuses on enforcement of laws that specifically combat demand for commercially sexually exploited minors. Restricting the analysis to minors provides clear parameters for identifying demand for this group of sex trafficking victims because any minor engaged in a commercial sex act is a victim of sex trafficking under federal law.¹⁰ Given the broad gaps in penalties between age-neutral prostitution offenses and the felony offenses that generally criminalize purchasing sex acts with minors,¹¹ focusing on minor victims facilitates a clear assessment of when sex trafficking cases are misperceived as prostitution offenses, as well as other persistent misperceptions of the offenses that buyers commit. The goal of providing clear, quantifiable data on the criminal justice outcomes for those who create the demand for sex trafficked minors was accomplished through two research methods conducted in two phases.

Phase 1: The National Desk Review

The first phase of research for the Demanding Justice Project was a four-month desk review of cases from across the nation identified as occurring within a five year timeframe (2008–2013).¹² Data collected during this four month period came from a variety of sources, including Lexis Advance, Meltwater News, Google Advanced and Proquest Newstand, as well as law enforcement press releases and direct law enforcement referrals. Most buyers were identified through media reports, official press releases and other news sources.

In order to identify buyers, strict parameters were established to define commercial sexual exploitation of a minor by a sex buyer.¹³ The parameters needed to be broad enough to capture the various circumstances under which a minor could be exploited by a sex consumer, but narrow enough to distinguish cases of commercial sexual exploitation of a minor by a sex consumer from non-commercial sex offenses. Identifying cases for inclusion required close inspection to determine which cases involved the essential

¹⁰ See 18 U.S.C. § 1591(a).

¹¹ See Appendix: State Law Survey of Criminal Liability for Buyers of Sex Acts with a Minor.

¹² The five year timeframe aligns with the 2008 effective date of the demand-related provisions contained in the 2005 Trafficking Victims Protection Reauthorization Act as well as the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008. See William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044 (codified at various sections of 22 U.S.C., 8 U.S.C. and 18 U.S.C.); Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164, § 104(b)(2), 119 Stat. 3558, 3564 (2006) (codified at 22 U.S.C. § 7106).

¹³ The term “buyer” as used in this report refers to a buyer of sex acts with a minor, unless otherwise indicated.

elements of *commercial* sexual exploitation of a minor by a sex *buyer*. Unless a commercial element was clearly present from the available facts, the case was not counted in the study.¹⁴ When reviewing sources for cases that met the criteria of commercial sexual exploitation of a minor by a sex buyer, the following definitions were applied to establish the parameters for cases to be included in the study:

- » **Buyer:** A person who solicits or engages in, or attempts to engage in commercial sex acts with a minor under the age of 18. This includes buyers arrested as part of a sting operation who believed they were attempting to buy sex acts with a minor, buyers who directly solicited a minor to engage in commercial sex, and buyers who purchased or attempted to purchase sex acts with a minor through a third person.
- » **Commercial Sex:** Any exchange of sex acts, including sexual performance, for something of value.
- » **Something of Value:** Includes, but is not limited to, money, drugs, alcohol, legal representation, paying for travel, food, bills, or a place to stay or a coveted opportunity or advantage where sex replaces currency as a bribe. Since this study focuses on commercial sexual exploitation of minors, cases in the latter category are distinguished from cases of sexual abuse by a person in a position of authority or trust by limiting these cases to sex acts that were clearly requested or provided in exchange for the opportunity or advantage provided by the defendant.

To the extent possible,¹⁵ buyers of sex acts with minors identified through the desk review were then tracked through the courts to determine the criminal justice outcomes they faced, including whether they faced prosecution, and if so, the outcome of the prosecution. By using a range of sources and search terms that account for the disparate treatment of these cases by the criminal justice process and the media, a broad variety of cases were captured within the four month study period, providing a national cross-section of arrested buyers and criminal justice outcomes.

¹⁴ It is possible therefore that a case may have involved a commercial exchange but was not counted if the facts available through the media source or public record did not clearly identify that commercial element.

¹⁵ Since Phase 1 is a desk review, the ability to track cases was limited by availability of online court records and the time limits of the study period. In some instances, court records that were not available online were requested in-person depending on staff and volunteer capacity, but a small number of records were accessed in this manner.

Google search:

“sex trafficking arrests”

Page 1 Results:

10 out of 10 links relate to arrested traffickers
0 cases relate to arrested buyers



Google search:

“sex trafficking arrests buyer or john”

Page 1 Results:

2 out of 10 links relate to arrested buyers
1 of these relates to a buyer of sex with minors
(article refers to victims as “teen prostitutes”)



Google search:

“sex trafficking arrests buyer or john sex with minor or child”

Page 1 Results:

1 out of 10 links relates to arrested traffickers
0 out of 10 relates to arrested buyers of sex with minors



Google search:

“exchange + sex + minor or child”

Page 1 Results:

1 out of 10 links results in a buyer case
One other is a non-commercial sex offense



Google search:

“exchange + sex + minor or child”

Page 1 Results:

4 out of 10 links relate to arrests for “child prostitution”
3 of these were trafficking arrests
1 of these related to arrest of the minor victim
0 of these related to arrests of the buyers



Cases that were not included:

- ♦ Adult prostitution and/or commercial sexual exploitation of adults.
- ♦ Sexual exploitation of a minor that did not involve an exchange of value in order for that minor to engage in sexual conduct.
- ♦ Cases where a defendant engaged in sexual conduct with a minor, or attempted to engage in sexual conduct with a minor for the purpose of filming that conduct, unless the filming was incidental to the purchase of commercial sex acts with a minor.
- ♦ Cases where a defendant engaged in sex acts with a minor, filmed the sex acts, and then threatened to expose the film or photos to coerce the minor into continuing to engage in sex acts with the defendant.
- ♦ Cases involving a defendant who induces a minor to engage in commercial sex acts with a third person (i.e., trafficker cases).
- ♦ Cases arising from sting operations that targeted online child predators but did not include the element of payment or exchange of value for the sexual conduct solicited by the defendants. Where these sting operations were identified through news articles, this does not preclude the possibility that the sting may have included commercial aspects, but if the articles reporting on the arrests arising from the sting did not address the commercial element, then the cases were excluded from the study.
- ♦ Cases where a person in a position of authority or trust coerces a minor into engaging in sex acts with that person in exchange for refraining from an action that would be detrimental to the minor in some way.
- ♦ Possession of child pornography.
- ♦ Disseminating pornography or obscene matter to a minor, with or without the intent to induce that minor to engage in sexual conduct with the defendant or another person.

Phase 2: Target-Site Research – Quantitative Methods

Through a formal collaboration between Shared Hope International and the Sex Trafficking Intervention Research Office at Arizona State University, quantitative data regarding criminal justice consequences for buyers of sex acts with minors was collected in four target sites:

- ♦ DC-Baltimore Corridor (Montgomery County and Baltimore County, Maryland)
- ♦ Phoenix Metro Area, Arizona
- ♦ Portland Metro Area, Oregon
- ♦ Seattle Metro Area, Washington

The primary criterion for selecting the four sites was that the jurisdictions were actively engaged in anti-demand enforcement. This was critical in order to ensure that a reasonable data set could be collected in each location. Shared Hope International also has long established relationships in these regions that helped researchers access needed data and facilitated the effort to bring key stakeholders together for the thought leader roundtable discussions. Regional diversity¹⁶ and comparable population sizes¹⁷ were also factors in selecting the target sites.

In all four target sites, a multi-prong approach was employed to identify buyers of sex with minors and obtain public and non-public governmental agency records. These agencies included police departments, courts and prosecutors' offices. A limited number of cases were identified through media sources, including some cases that were initially captured in the Phase 1 desk review research. Some cases were identified initially through fact narratives that described the elements of an offense involving commercial sexual exploitation of a child by a buyer; other cases were identified based on charges at the time of arrest or prosecuted charges.¹⁸ Since both public and non-public data was collected for the target-site research,

¹⁶ Seattle and Portland/Vancouver represent the northwest region of the United States, Phoenix represents the southwest region of the United States, and the DC-Baltimore Corridor, comprised primarily of Montgomery and Baltimore Counties, represents the East Coast.

¹⁷ See target site overviews at 64, 66, 68, and 70.

¹⁸ When cases were identified by the charges brought against the arrestee or defendant, statutory analysis conducted under the Protected Innocence Challenge was used to identify the offenses which clearly indicate the conduct of a buyer in order to account for the variation in the circumstances under which buyers are identified and arrested, and the differences in state laws in each jurisdiction.

Phase 2 of the Demanding Justice Project research was approved by the Arizona State University Institutional Review Board, and statistical analysis of the data for both phases of the research was conducted by the Sex Trafficking Intervention Research Office at Arizona State University.

To be included in the Phase 2 research, case records had to relate to buyers arrested between 2008 and 2013 and only cases that had already concluded at the trial court level were collected.¹⁹ Appeals, motions for post-conviction relief and probation violations were not tracked. The lowest number of cases was collected in Portland, with the second lowest in Phoenix. The highest number of cases was collected in Seattle followed by the DC-Baltimore Corridor. Seattle and the DC-Baltimore Corridor represent regions where extensive and long-running sting operations have been conducted. While the Phoenix metro area has seen a recent increase in sting operations,²⁰ resulting in a substantial increase in buyer arrests, many of these cases had not reached disposition or sentencing by the time the target site research concluded. Since Portland had not been using sting operations to target buyers of sex with minors (although stings were being used to target buyers of sex with adults), far fewer buyer arrests were identified for this site. However, as a result of obtaining broad access to police records in Portland, identification of non-arrested buyers as well as arrested buyers was possible. For purposes of comparing the circumstances under which buyers were and were not arrested, the data regarding non-arrested buyers was included, but these cases were excluded for purposes of comparing criminal justice outcomes since these buyers did not enter the criminal justice process.

These features of the target site research distinguish it from the national desk review, while complementing and supplementing that research in two primary ways:

- 1.) Restricting the targeted reviews to closed cases allowed for more consistent data relating to case outcomes; and
- 2.) Reviewing source documents, such as local law enforcement records and court records at the city or county level, allowed for a richer data set to be collected and avoided the media bias inherent in collecting cases primarily from media sources.

Phase 2: Target-Site Research – Qualitative Methods

Two types of qualitative research were employed to provide context for the quantitative research and further expand understanding of the challenges faced by law enforcement, prosecutors and advocates who are actively engaged in combatting demand.

Thought leader Roundtables

To inform the Demanding Justice Project research, Shared Hope International brought together key anti-demand thought leaders to discuss emerging topics related to combatting demand in a series of four thought leader roundtable discussions in each of the target research sites. The goal of the roundtables was to advance understanding of anti-demand enforcement while providing an opportunity for collaboration among stakeholders to maximize the impact of their anti-demand efforts. Roundtable participants included law enforcement, prosecutors, service providers, legislators, advocates and survivors. Each roundtable had a topic with regional significance and specific goals were set for the discussions.

An important operating assumption for the roundtable discussions was that enforcement of demand laws promotes deterrence and combats demand as the driving force behind sex trafficking. This assumption enabled the roundtable discussions to focus on ways to address the practical challenges encountered in the day-to-day enforcement of anti-demand

¹⁹ Pending appellate activity was not a factor, unless the sentence or outcome of the case had been overturned or stayed as a result of an appellate decision.

²⁰ For example, the Maricopa County Sheriff's Office conducted a sting operation in December 2013 that resulted in 30 buyer arrests (<http://www.abc15.com/news/region-phoenix-metro/central-phoenix/maricopa-county-investigation-nets-111-arrests>) and the Tempe Police Department ran a sting operation in April 2014 that resulted in 14 arrests (<http://www.foxcarolina.com/story/25333611/tempe-pd-multiple-arrests-made-in-child-prostitution-sting>). Stings in neighboring counties, such as Yavapai County where an April 2014 sting operation resulted in 7 arrests (<http://www.ycsoaz.gov/wp-content/uploads/2014/04/042814-Spec-Operation-Child-Pros.pdf>), indicate increased use of sting operations in the region, and a resulting increase in the number of arrests for attempting to purchase sex with a minor.

laws, as well as the policies and cultural norms underlying a shift toward focusing on anti-demand enforcement. Each of the roundtable themes took a different perspective ranging from lack of research and understanding of the problem to shifting cultural norms to fighting online exploitation.

Phoenix	
Topic:	Leveraging demand-related research to support anti-demand advocacy and identify barriers to enforcement.
Goals:	<ol style="list-style-type: none"> 1.) Consider ways research can be used to promote public awareness and advance anti-demand advocacy. 2.) Inform the Phase 2 research questions and methodology by assessing the research needs of stakeholders in the fight against demand. 3.) Generate ideas that will fuel more demand-related research.

Seattle/Puget Sound	
Topic:	Anti-Demand Enforcement Methods: Challenges & Promising Practices
Goals:	<ol style="list-style-type: none"> 1.) Learn about the methods of anti-demand enforcement used in Puget Sound and the surrounding areas and the challenges and successes of using those methods. 2.) Discuss the systemic and cultural barriers to anti-demand enforcement and how those barriers impact the choice or availability of anti-demand enforcement methods. 3.) Collaboratively propose and consider solutions for addressing barriers, including legislative and resource barriers.

Portland	
Topic:	Assessing the Role of Online Advertising in Combatting Demand for Commercial Sex with Minors
Goals:	<ol style="list-style-type: none"> 1.) Learn about the challenges and successes of addressing cultural tolerance for demand in the Portland metro area. 2.) Discuss how a culture of tolerance for adult prostitution impacts the choice and availability of anti-demand enforcement methods. 3.) Identify and analyze methods of shifting cultural norms relating to demand through advocacy, legislation and enforcement.

DC-Baltimore Corridor	
Topic:	Overcoming Roadblocks to Combatting Demand: Addressing the Culture of Tolerance for Buyers of Commercial Sex
Goals:	<ol style="list-style-type: none"> 1.) Learn how online advertising websites, such as Backpage.com, are used in Montgomery and Baltimore Counties to investigate demand. 2.) Learn about the challenges and successes of anti-demand enforcement methods that involve online advertising websites. 3.) Identify and analyze the viability of alternative methods to investigating demand online.

Case Studies & Case Narratives

Throughout this report case studies and case narratives have been used to highlight enforcement methods, outcomes and trends. Since the buyers of sex acts with a minor identified in this study vary dramatically, the case studies do not typify buyers of sex with a minor. Rather, several of the case studies break with commonly held norms about how buyers come into contact with minor victims, what buyers exchange for sex with minors and how buyers come into contact with law enforcement. One goal of the case studies is to demonstrate the breadth of circumstances in which minors are commercially sexually exploited by buyers. Another goal is to develop a greater understanding of how these cases are investigated and to demonstrate the need for committing resources to these investigations. A third goal of the case studies is to reflect the impact of social tolerance for buying commercial sex on the criminal justice outcomes for buyers of sex with minors and the impact on the victims of those offenses. While the case studies contain in-depth discussions of cases drawn from both phases of the research, the case narratives are case excerpts drawn from the target site research and are used to shed light on particular aspects of the enforcement process.

Background of Anti-Demand Efforts

1

Demand has been recognized as a critical component of the sex trafficking crime. The United States and international bodies have recognized that demand for commercial sex acts with children presents a serious danger to these child victims. Early in the federal response to human trafficking, demand reduction was understood to be imperative to countering the sex trafficking of children. In September 2003, at the United Nations, President George W. Bush spoke of the role of demand in the global sex trade by stating, “Those who patronize this industry debase themselves and deepen the misery of others.”²¹ Again, in remarks delivered before the first national training conference on human trafficking in the United States hosted by the Justice Department, the President stated, “we cannot put [human traffickers] out of business until and unless we deal with the problem of demand.”²²

The U.S. Department of State Office to Monitor and Combat Trafficking in Persons has included demand as a factor in evaluating the efforts of countries to combat trafficking in persons.²³ Highlighting the demand present in foreign countries, the department stated,

Law enforcement responses to the commercial sexual exploitation of children often reflect popular perception, leading to a lack of efforts to focus on local demand for child prostitution... Governments must ensure that in targeting sex tourists, they are not also ignoring sources of local demand.²⁴

On the international front, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of the United Nations Convention Against Transnational Organized Crime is the first international treaty to address the demand side of prostitution and sex trafficking.²⁵ Article 9, Clause 5 calls for parties to “adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”²⁶

The World Congress Against the Commercial Sexual Exploitation of Children and Adolescents in the Preamble of the Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents found that “[t]here is an insufficient focus on measures to reduce and eliminate the demand for sex with children and adolescents, and in some States inadequate sanctions against sexual abusers of children.”²⁷ The document calls on all members to “[a]ddress the demand that leads to children being prostituted by making the purchase of sex or any form of transaction to obtain sexual services from a child a criminal transaction under criminal law, even when the adult is unaware of the child’s age.”²⁸

In 2007, Shared Hope International researched sex trafficking markets in four distinct countries under a grant from the U.S. Department of State, Office to Monitor and Combat Trafficking in Persons. The resulting report and documentary were called DEMAND, because without a buyer there would be no market.²⁹ Further, the buyer has been identified as committing the crime of sex trafficking when engaging a victim of trafficking in commercial sex acts.³⁰ This holding is

21 George W. Bush, Address to the United Nations, New York, (September 23, 2003), *available at* <http://www.presidentialrhetoric.com/speeches/09.23.03.html>.

22 Press Release, White House Office of the Press Sec’y, President Announces Initiatives to Combat Human Trafficking, (July 16, 2004), *available at* <http://georgewbushwhitehouse.archives.gov/news/releases/2004/07/20040716-11.html>.

23 2011 U.S. Department of State, Trafficking In Persons Rep. 20.

24 *Id.*

25 See United Nations Human Rights, <http://www2.ohchr.org/english/law/protocoltraffic.html>

26 *Id.*

27 See World Cong. Against Sexual Exploitation of Children and Adolescents III, The Rio De Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents 3 (2008), *available at* http://www.unicef.org/protection/Rio_Declaration_and_call_for_Action.pdf.

28 *Id.* at 7.

29 Shared Hope Int’l, Demand: A Comparative Examination of Sex Tourism and Trafficking in Jamaica, Japan, the Netherlands, and the United States 7 (2007) [hereinafter Demand], *available at* <http://sharedhope.org/wp-content/uploads/2012/09/DEMAND.pdf>.

30 Samantha Healy Vardaman & Christine Raino, *Prosecuting Demand As A Crime Of Human Trafficking: The Eighth Circuit Decision In United States v. Jungers*, 43

appropriate given the research done on buyers demonstrating the victimization, force, coercion, and brutality of buyers of commercial sex. A study of prostitution based in Oregon found that 84% of prostituted women were victims of aggravated assault, 78% were victims of rape, 53% were victims of sexual torture, and 49% were kidnapped.³¹ A study of women and girls in street prostitution in San Francisco found that 82% had been physically assaulted, 83% had been threatened with a weapon, and 68% had been raped by buyers.³² Another earlier study in the San Francisco area involving 200 women and girls in street prostitution (70% were under twenty-one, almost 60% were sixteen or under) reported that 70% had been raped or sexually assaulted by a man an average of 31 times, and 65% had been physically abused or beaten by men an average of four times.³³

Data on the number of men engaging or seeking to engage in commercial sex acts with trafficking victims (adults subject to force, fraud, or coercion, as well as minors) is limited; however, a substantial portion of men in the U.S. admit to having purchased sex at some point in their lives, with most surveys finding between 10% and 20% admitting to this crime.³⁴ Additionally, the proliferation of online sex advertisements suggests even greater demand and estimates of online sex buyer populations show equally high percentages. A recent study by the Office of Sex Trafficking Intervention at Arizona State University estimated the population of online sex customers in 15 target cities, finding conservative estimates as high as 21.4% in Houston, Texas. The study also tracked the number of Backpage.com advertisements posted in a 24-hour period spanning a Friday to Saturday afternoon. In Chicago, Illinois over 518 Backpage.com ads were posted in 24 hours.³⁵

Distinguishing between demand for commercial sex acts with an adult and demand for commercial sex acts with a minor is often an artificial construct. Unless the offender is

Victimization

“Every day I was witness to the worst of men. Their carelessness and grand entitlement. The way they can so profoundly disconnect from what it is they’re having sex with, the way they think they own the world, watch them purchase a female. I was witness to their deep delusions.”

- Perspective of a woman in prostitution, Melissa Farley, “Renting an Organ for Ten Minutes”: What Tricks Tell us about Prostitution, Pornography, and Trafficking, in *Pornography: Driving the Demand for International Sex Trafficking 4* (Captive Daughters Media 2007).

Commoditization

“It’s the world of prostitution, you never know what you’re going to get. If it’s a pretty girl an ugly girl or whatever it’s going to be.”

- Pro football player Lawrence Taylor interview

U. Mem. L. Rev. 917 (Summer 2013) (citing *United States v. Jungers*, 702 F.3d 1066, 1072 (8th Cir. 2013), “Had Congress intended to exclude purchasers from §1591(a)(1)’s blanket prohibition of sex-trafficking acts or limit its application to suppliers, it could have done so expressly...We do not lightly assume that Congress has omitted from its adopted text requirements that it nonetheless intends to apply, and our reluctance is even greater when Congress has shown elsewhere in the same statute that it knows how to make such a requirement manifest.”) (Internal citations and quotes omitted). The Eighth Circuit decision in *United States v. Bonestroo* and *United States v. Jungers* contemplates various roles that a buyer may play in a child sex trafficking case and provides hypothetical situations to demonstrate the types of buyer conduct that not only violate the statute’s prohibition on obtaining a child for commercial sex, but also violate the prohibition on enticing, harboring, transporting, obtaining or maintaining a minor “knowing she would be caused to engage in a commercial sex act.” *Jungers*, 702 F.3d at 1072.

31 Janice G. Raymond, *Legitimizing Prostitution as Sex Work: UN Labour Organization (ILO) Calls for Recognition of the Sex Industry*, Coalition Against Trafficking in Woman (July 12, 1999), <http://www.catwinternational.org/Home/Article/61-legitimizing-prostitution-as-sex-work-un-labour-organization-ilo-calls-for-recognition-of-the-sex-industry> (citing Susan Kay Hunter, *Prostitution is Cruelty and Abuse to Women and Children*, 1 Mich. J. Gender & L. 91 (1993)).

32 Jessica Ashley, Ill. Criminal Justice Info. Auth., *The Commercial Sexual Exploitation of Children and Youth in Illinois* 10 (2008) (citing Hunter, *supra* note 14 at 94-95), available at <http://www.icjia.state.il.us/public/pdf/researchreports/csec%202008%20icjia%20report.pdf>.

33 Mimi H. Silbert & Ayala M. Pines, *Occupational Hazards of Street Prostitutes*, 8 Crim. Just. & Behav., 395, 397, available at <http://cjb.sagepub.com/content/8/4/395.full.pdf>.

34 Michael Shively, et al., Nat’l Inst. of Justice, *Developing a National Action Plan for Eliminating Sex Trafficking* 2-52 (2010), available at http://www.demandabolition.org/wp-content/uploads/2011/07/2000_abtnactplan.pdf.

35 Arizona State University, *Invisible Offenders: A Study Estimating Online Sex Customers* (August 2013), available at https://copp.asu.edu/college-news/research-docs/invisible-offenders-a-study-estimating-online-sex-customers-research-report/at_download/file.

Exploitation

“The 14-year-old in prostitution eventually turns 18 but she has not suddenly made a new ‘vocational choice.’ . . . Women who began prostituting as adolescents may have parts of themselves that are dissociatively compartmentalized into a much younger child’s time and place.”

- Melissa Farley, *Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder 2 J. Trauma Prac.* 33, 36 (2003).

a pedophile or has another specific sexual preference causing him³⁶ to seek out minors specifically,³⁷ then a buyer may be indiscriminate on age but be drawn to healthier and younger appearing individuals.³⁸ This draw is reinforced through societal representation of youth as sexually appealing. The law, however, has made a strong distinction between buying sex with a minor and buying sex with an adult in prostitution statutes as well as human trafficking statutes. This aligns with the child protection mindset of policymakers across the nation. This also aligns with research indicating that most prostituted adults were first exploited in prostitution as a minor.³⁹ Once exploited through prostitution, it is very difficult to exit this victimization.⁴⁰

³⁶ Research and crime statistics, including the results of this study discussed below, show that the buyer of commercial sex acts is almost always a male, so the buyer is referred to as male throughout this report.

³⁷ See Blanchard, R.; Lykins, A. D.; Wherrett, D.; Kuban, M. E.; Cantor, J. M.; Blak, T.; Dickey, R.; Klassen, P. E., *Pedophilia, Hebephilia, and the DSM-V* (2009), *Archives of Sexual Behavior* 38 (3): 335–350. (“The term pedophilia denotes the erotic preference for prepubescent children. The term hebephilia has been proposed to denote the erotic preference for pubescent children (roughly, ages 11 or 12–14), but it has not become widely used.”) While Blanchard’s proposal to include hebephilia in the DSM-V has been controversial, (see Green, R., *Sexual preference for 14-year-olds as a mental disorder: you can’t be serious!! (letter to the editor)* (2010), *Archives of Sexual Behavior* 39 (3): 585–586.), the controversy centers around hebephilia as a clinical disorder rather than the term’s use for research purposes.

³⁸ See *Adolescent Girls in Georgia’s Sex Trade: An In-Depth Tracking Study* (2008, September) at 10. Juvenile Justice Fund. (Men of all types in this study were equally likely to state a preference for “young” females, suggesting that young age is equally important to men of all ages and backgrounds who purchase sex.)

³⁹ Melissa Farley, *Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder 2 J. Trauma Prac.* 36 (2003). (“A qualitative distinction between prostitution of children and prostitution of adults is arbitrary and it obscures the lengthy and extensive history of trauma that is commonplace in prostitution. For example the 5-year-old incested by her father and used in child prostitution and pornography may become partially amnesic for these traumas and at adolescence may find herself drifting into prostitution and other savage relationships. The 14-year-old in prostitution eventually turns 18 but she has not suddenly made a new ‘vocational choice.’”)

⁴⁰ According to the research of Dr. Melissa Farley, 89% of women in prostitution stated they would leave it if they could. *Id.* at 51, Table 8.

Development of Anti-Demand Laws in the United States

2

Comprehensive laws are critical to combatting demand and addressing the broad scope of the trafficking crime while providing protection for the victim. While the Mann Act, passed in 1910, brought certain buyer-related prostitution crimes that involved interstate commerce into the federal jurisdiction,⁴¹ and child pornography laws began to be passed to stem the growing numbers of producers and buyers of child abuse images,⁴² it was the federal TVPA passed in 2000 that set the foundation for our nation's laws on human trafficking. Demand became a recognizable feature in the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA 2008") with the incorporation of certain features of the End Demand Act.⁴³ In 2010, the first indictments of buyers for crimes of sex trafficking of a minor were brought in the U.S. Attorney's Office for the Western District of Missouri, stemming from Operation Guardian Angel, a sting operation designed and implemented by the joint federal and local human trafficking task force.⁴⁴ These indictments resulted in guilty pleas, but in 2011 a nearly identical sting operation in South Dakota led to the arrest and conviction of three buyers in separate cases. One of the defendants pleaded guilty to Traveling with Intent to Engage in Illicit Sexual Contact with a Minor while two defendants proceeded to trial and were found guilty of sex trafficking by a jury. Both defendants filed motions for acquittal, seeking to overturn the juries' guilty verdicts. District court judges granted both motions for acquittal. The U.S. Department of Justice responded by appealing to the Eighth Circuit Court of Appeals, determined to clarify that the federal sex trafficking law, 18 U.S.C. § 1591, includes the actions of buyers of commercial sex acts with trafficking victims as acts of trafficking. In 2013, the Eighth Circuit Court of Appeals confirmed that 18 U.S.C. § 1591 includes the actions of buyers under such circumstances.⁴⁵ To ensure the Eighth Circuit decision is not undermined by a future circuit split, pending federal legislation clarifies that purchasing and soliciting sex with a minor or adult victim of trafficking is indeed an offense that Congress intended to be punished as a crime of sex trafficking.⁴⁶

Criminalization

"(a) Whoever knowingly...recruits, entices, harbors, transports, provides, obtains, or maintains by any means a person... knowing, or in reckless disregard of the fact, that...the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished..."

- 18 U.S.C. § 1591(a) (Sex trafficking of children)

⁴¹ The White Slave Traffic (Mann) Act, 36 Stat. 825 (1910) (codified as amended at 18 U.S.C. §§ 2421–2424 (2006)).

⁴² Protection Of Children Against Sexual Exploitation Act Of 1977, 95 P.L. 225; 92 Stat. 7 (Feb. 6, 1978), Child Protection Act Of 1984, 98 P.L. 292; 98 Stat. 204 (May 21, 1984), Child Protection And Obscenity Enforcement Act Of 1988, 100 P.L. 690; 102 Stat. 4181 (Nov. 18, 1988).

⁴³ End Demand for Sex Trafficking Act of 2005, H.R. 1012, 109th Cong. § 2(a)(6) (2005). H.R. 1012 (stating that the purposes of the Act were: "(1) to support the development of more effective means of combating commercial sexual activities by targeting demand; (2) to protect children from the predators and exploiters who use them in commercial sexual activities; (3) to clarify that the operation of sex tours is prohibited under Federal law; and (4) to assist State and local governments in their enforcement of existing laws dealing with commercial sexual activities").

⁴⁴ See, e.g., Indictment at 2, United States v. Offyng, No. 09-00084-01-CR-W-SOW (W.D. Mo. Mar. 10, 2009); Indictment at 2, United States v. Childers, No. 4:09-cr-00079-HFS (W.D. Mo. Mar. 10, 2009); United States v. Albers, No. 4:09-cr-00078-FJG (W.D. Mo. Mar. 10, 2009); Indictment at 2, United States v. Cockrell, No. 4:09-cr-00080-DW (W.D. Mo. Mar. 10, 2009); Indictment at 1–2, United States v. Doerr, No. 4:09-cr-00031-FJG (W.D. Mo. Feb. 3, 2009); Indictment at 2, United States v. Johnson, No. 4:09-cr-00034-DW (W.D. Mo. Feb. 3, 2009); Indictment at 2, United States v. Mikoloyck, No. 4:09-cr-00036-GAF (W.D. Mo. Feb. 3, 2009).

⁴⁵ United States v. Jungers, 702 F.3d 1066, 1072 (8th Cir. 2013) ("Had Congress intended to exclude purchasers from § 1591(a)(1)'s blanket prohibition of sex trafficking acts or limit its application to suppliers, it could have done so expressly ... We do not lightly assume that Congress has omitted from its adopted text requirements that it nonetheless intends to apply, and our reluctance is even greater when Congress has shown elsewhere in the same statute that it knows how to make such a requirement manifest.") (Internal citations and quotes omitted).

⁴⁶ H.R. 3530, S. 1738 The Justice for Victims of Trafficking Act of 2014, 113th Congress (2013–2014).

While federal law was developing and solidifying the definition of trafficking to include the actions of buyers of commercial sex acts with a victim of trafficking, state human trafficking laws were being passed at the urging of the U.S. Department of Justice and Congress. Washington and Texas passed the first state human trafficking laws in 2003, followed by Missouri in 2004.⁴⁷ These first iterations were primarily concerned with the trafficking of foreign nationals into the U.S. for prostitution or labor. However, they closely model the federal TVPA language that “recruiting, harboring, maintaining, obtaining, enticing a person” for purposes of prostitution or labor was a crime of trafficking.⁴⁸ As a result, the Eighth Circuit Court of Appeals holding in *U.S. v. Jungers* has the potential to encourage these states to use their existing state human trafficking laws to prosecute the buyers of sex acts with trafficking victims.⁴⁹ In addition, 21 state sex trafficking laws have been amended or originally enacted with the intent to decisively reach the action of buyers of sex acts with minors.

In each state, a wide variety of criminal statutes are intended to reach the actions of a person who sexually exploits a child. Statutory rape, sexual exploitation, sexual abuse, and indecent liberties with a minor are some examples of state sex offenses. A critical defining element between a general sexual offense and one of sex trafficking or commercial sexual exploitation of children (CSEC) is the element of payment, in cash or in kind, to any person, including the child directly. CSEC laws criminalizing the purchase of commercial sex acts with a minor have a variety of titles, like pandering, solicitation of a minor for prostitution, contributing to the delinquency of a minor, enticement for prostitution, commercial sexual abuse of a minor and other variations. Forty-seven states and the District of Columbia have either a sex trafficking law or a CSEC law that reaches the actions of a buyer of sex acts with a minor.⁵⁰ Of those, 21 states have sex trafficking or human trafficking statutes that clearly apply to the conduct of buyers. Another 18 states have trafficking laws that contain the same prohibited actions as the federal statute that was determined to reach the action of buyers of sex acts with trafficking victims in *U.S. v. Jungers*.⁵¹ Consequently, those states could apply their human trafficking law to buyers following the precedent set in *Jungers*.⁵² Two states—California and Michigan—do not have a CSEC or trafficking statute that specifically criminalizes the actions of buyers of commercial sex acts with minors following the decision in *Jungers*. However, in 2014, both states introduced legislation that would establish a buyer-applicable CSEC law and a bill pending in Michigan would amend Michigan’s human trafficking law to reach the conduct of buyers under the precedent set in *Jungers*.⁵³ New Hampshire, the third state that does not have a trafficking or CSEC law that applies to the conduct of buyers, could have applied its human trafficking law to buyers following federal precedent as previously enacted. However, amendments to New Hampshire’s human trafficking law in 2014 had the effect of exempting buyers of sex with minors from prosecution under that law.

Without applicable trafficking and commercial sexual exploitation laws, prosecutors may be left to use the general solicitation of prostitution offense to prosecute a buyer of commercial sex acts, even though the person prostituted is a minor. Alternatively, a prosecutor may try to use one of the sex offense statutes, the elements of which often do not fit those of a sex trafficking case. Statutory rape is the offense most often referred to in such a situation. However, statutory rape was not intended to apply to the more complex case of sex trafficking where there is much more than subtle coercion to engage in sex—there is the trauma of repeatedly engaging in sex for someone else’s benefit, the trauma of being commoditized. Statutory rape offenses are intended to protect children from the consequences of their actions by holding the older person in a sexual encounter accountable for engaging in sex acts with the minor, essentially scaring the adult

47 Wash. Rev. Code Ann. § 9A.40.100(1)(a) (Trafficking) (2003 HB 1175); Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons) (2003 H.B. 8); Mo. Rev. Stat. § 566.212(1)(2) (Sexual trafficking of a child) (2004 H.B. 1487).

48 Trafficking Victims Protection Reauthorization Act of 2003 (H.R. 2620), the Trafficking Victims Protection Reauthorization Act of 2005 (H.R. 972), the Trafficking Victims Protection Reauthorization Act of 2008 (H.R. 7311), the Trafficking Victims Protection Reauthorization Act of 2013 (P.L. 113-4)

49 The End Sex Trafficking Act of 2013, H.R. 2805 and S. 1354, 113th Cong. (intro. July 24, 2013) intends to clarify through statute the holding in *U.S. v. Jungers* that the TVPA and 18 U.S.C. § 1591 includes the actions of buyers of sex acts with trafficking victims as offenses of trafficking. It further directs the U.S. Attorney General to direct the task forces and working groups around the country to investigate demand.

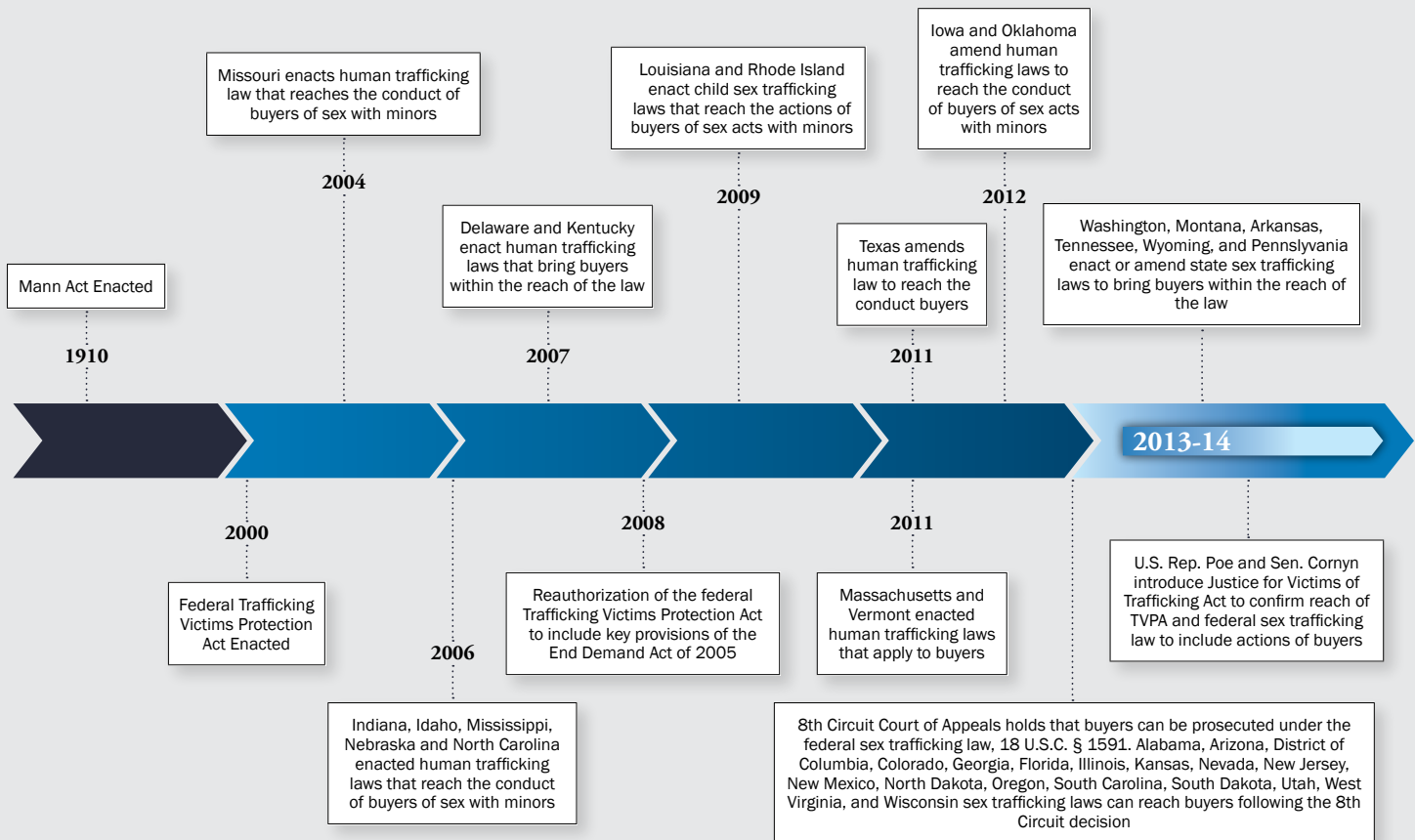
50 See 2013 Protected Innocence Challenge Report at: <http://sharedhope.org/wp-content/uploads/2014/02/2013-Protected-Innocence-Challenge-Report.pdf>.

51 See Appendix: State Law Survey—Buyer Penalties.

52 *Id.*

53 *Id.*, Michigan House Bill 4209 (2013-2014), California Senate Bill 982 (2013-2014), Michigan House Bill 5234 (2013-2014).

DMST Legislative Timeline



away from the minor.⁵⁴ This scenario does not equate to the intentional purchase of sex acts with a minor which has as the underlying basis prostitution, itself an offense in every state,⁵⁵ and often a serious offense when the person patronized is a minor.⁵⁶

Even in states with laws specifically criminalizing the commercial sexual exploitation of children, persistent confusion—and substantial debate—exist regarding the agency of a minor engaged in

Legalization

“Many Americans believe that prostitution is legal in all of Nevada, including Las Vegas, due in no small part to the highly visible, sexually-based advertising. However, this is not the case; prostitution is not legal in Clark County where Las Vegas is located. The state law prohibits the legalization of prostitution in counties with populations of 400,000 residents or more, therefore Las Vegas is excluded with a population of 1.1 million.”

- Shared Hope Int'l, Demand: A Comparative Examination of Sex Tourism and Trafficking in Jamaica, Japan, the Netherlands, and the United States 7 (2007), available at <http://sharedhope.org/wp-content/uploads/2012/09/DEMAND.pdf>.

⁵⁴ *Statutory Rape: A Guide to State Laws and Reporting Requirements*, U.S. Department of Health and Human Services, Summary of Current State Laws, Table 1 (2004), available at <http://aspe.hhs.gov/hsp/08/sr/statelaws/summary.shtml>. (“Statutory rape laws assume that all sexual activities involving individuals below a certain age are coercive. This is true even if both parties believe their participation is voluntary. Generally, statutory rape laws define the age below which an individual is legally incapable of consenting to sexual activity.”)

⁵⁵ While less populous counties in Nevada are permitted under Nevada law to license and regulate brothels, prostitution is not legal throughout Nevada, and is prohibited in more populous counties, including Clark County, where Las Vegas is located. See DEMAND, *supra* note 10, at 95. See also, Nev. Rev. Stat. § 244.345(8) (Dancing halls, escort services, entertainment by referral services and gambling games or devices; limitation on licensing of houses of prostitution) (“In a county whose population is 700,000 or more, the license board shall not grant any license to a petitioner for the purpose of operating a house of ill fame or repute or any other business employing any person for the purpose of prostitution.”) and Nev. Rev. Stat. § 201.354(1) (Engaging in prostitution or solicitation for prostitution: Penalty; exception) (“It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.”)

⁵⁶ See Appendix: State Law Survey—Buyer Penalties.

prostitution and that of a minor engaged in consensual sex, frequently resulting in the invocation of age of consent laws when considering heightened penalties for those buying sex acts with a child. A “buyer beware” caveat applies in states where knowledge of the victim’s minority is not an element of the offense or a permissible defense.⁵⁷ However, other states have approached the problem by staggering penalties, giving less severe penalties when the minor is closer to the age of majority.⁵⁸ Other states have used the age of consent laws rather than the age of majority to draw the line between general prostitution offenses and commercial sexual exploitation of a minor.⁵⁹ These unique factors lead to different approaches to identifying, reporting and responding to the buyers of commercial sex acts with minors by law enforcement and prosecutors, and also impact social perceptions of commercial sexually exploited children.

⁵⁷ See Appendix: State Law Survey of Prohibitions on Mistake of Age Defense for Buyers of Sex Acts with a Minor, analyzing state commercial sexual exploitation and sex trafficking laws that prohibit a buyer from asserting a mistake of age defense.

⁵⁸ See Appendix: State Law Survey of Base Penalties for Buyers of Sex Acts with a Minor, analyzing state commercial sexual exploitation and sex trafficking laws that provide lower penalties for offenses involving older minors.

⁵⁹ *Id.*

The Role of Law Enforcement

The establishment of good law is the first step. Enforcement is the next. Crime statistics cited by Congress in support of the End Demand for Sex Trafficking Act of 2005⁶⁰ revealed that eleven females engaged in commercial sex acts were arrested in Boston for every one arrest of a male purchaser, nine to one in Chicago, and six to one in New York City.⁶¹ These numbers relate to the enforcement of prostitution laws that should not include cases in which the victim solicited was a minor. However, arrests of the minor engaged in prostitution do occur. For example, 25 juveniles were charged with prostitution in Tarrant County, Texas (Fort Worth) from 2000 to 2007; 27 were charged in the Pinellas and Pasco County, Florida circuit court; and in Utah five juveniles were arrested for prostitution activities in the first half of 2006, affirming that a minor engaged in prostitution is not always identified as a victim of a more serious crime.⁶²

When law enforcement agencies are trained to identify minors engaged in prostitution as victims of sex trafficking, and prostitution laws have been amended to clarify that commercially sexually exploited minors are victims of trafficking, law enforcement efforts have historically centered on the rescue of the prostituted minor and the prosecution of the person selling the minor for sex acts, the trafficker.⁶³ The reasons for this are multifold.

Misidentification

“One story is particularly revealing. Police in Las Vegas approached a parked truck after observing it pick up a girl. The police report reflects that the 50-year-old man was observed with \$45 in cash hanging from his pocket and lotion on his hands. The 12-year-old girl stated that he was paying her for sexual services. The police arrested the girl for prostitution and sent the man on his way.”

- Smith, Snow & Healy Vardaman, Shared Hope Int'l, THE NATIONAL REPORT ON DOMESTIC MINOR SEX TRAFFICKING: AMERICA'S PROSTITUTED CHILDREN 18 (2009), available at http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf.

Key Research Stats

Phase 1

- ♦ 407 arrests for buying or attempting to buy sex with a minor
- ♦ 107 cases involved law enforcement decoys; 96 were stings
- ♦ 294 cases involved actual victims, with a total of 347 known victims
- ♦ In 115 cases, the buyer responded to an online advertisement
- ♦ Buyers solicited a minor directly in 238 cases, through a third party in 199 cases

Phase 2

- ♦ 60.5% sting cases
- ♦ 15.1% on-view arrests
- ♦ 18.5% arrests from specific buyer investigations
- ♦ 3.4% buyers arrested as part of larger investigation
- ♦ 2.5% of buyers cited in lieu of arrest
- ♦ 39.5% actual victim cases
- ♦ 58 total victims identified
- ♦ 57% involved property seizure at arrest

⁶⁰ End Demand for Sex Trafficking Act of 2005, H.R. 2012, 109th Cong. § 2(a)(6) (2005).

⁶¹ *Id.*

⁶² Smith, L., M. Snow & S. Vardaman Healy, THE NATIONAL REPORT ON DOMESTIC MINOR SEX TRAFFICKING: AMERICA'S PROSTITUTED YOUTH (Shared Hope Int'l: 2009), pgs. 52-3, available at http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf.

⁶³ See page 7 for search terms flowchart showing prevalence of media reports relating to trafficker cases as compared with media reports of buyer cases.

First, it is the primary law enforcement response to remove the victim from harm. However this can have the effect of preventing police from surveilling the crime and identifying the buyers, or from gathering the evidence necessary to prosecute the buyers identified. Where the transaction is managed by the trafficker, victims rarely know anything about the buyers exploiting them. In other cases, law enforcement may be able to glean buyer information from the victim's cell phone records, but tracing large amounts of numbers to determine the identity of the callers is a labor-intensive effort fraught with evidentiary challenges in linking the numbers to the offense of buying sex acts with the minor victim. However, despite these challenges, technology and new investigational techniques are making investigations of buyers based on collateral evidence a viable approach.⁶⁴

Second, law enforcement has limited resources and much is involved in investigating buyers. Despite the time and cost necessary to investigate buyers, the penalties that apply to buyers are often substantially lower than the penalties that apply to traffickers, creating an incentive to go after a single defendant who could face serious jail time rather than several defendants who may never serve a day in jail. Similarly, getting the trafficker off the street could mean he (or she) cannot recruit other victims, while taking one buyer off the street is viewed a "drop in the bucket." However, this rests on an inaccurate perception of the buyer as a one-time or occasional offender and the belief that taking a pimp off the street actually reduces supply.⁶⁵ Increasingly, a reverse scenario is proving to be more likely – many buyers are "hobbyists" who buy sex regularly,⁶⁶ and when a pimp goes to jail, another pimp will quickly fill the supply gap, or the arrested pimp will continue to operate the "business" while incarcerated.⁶⁷

Third, while victims of trafficking may identify influential authorities and businessmen as buyers, the victims themselves face a persistent cultural perception of prostitution that vilifies the sex "seller" and ignores or even forgives the sex buyer. Antiquated prostitution laws further engrain this perspective into each aspect of the criminal justice response, providing additional disincentive to direct resources and effort toward combatting demand. For this reason, promoting community awareness and addressing cultural norms is an essential component of focused law enforcement efforts to combat demand.

Despite the many challenges faced by law enforcement in combatting demand, many law enforcement agencies across the United States are using a variety of enforcement and non-enforcement methods to address demand. In jurisdictions where demand is a priority, including the target sites for the Demanding Justice research, approaches to identifying and investigating buyers fall into four primary categories: reverse stings, on-view arrests, working with identified victims and investigating buyers within larger sex trafficking investigations.

"The term 'reverse sting' is an artifact of the historic gender inequity in the enforcement of prostitution."

- Shively, M., Kliorys, K., Wheeler, K., Hunt, D., Abt Associates, Inc., & United States of America. (2012). A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts, Final Report. Prepared by ABT Associates for the National Institute of Justice, Office of Justice Programs, US Department of Justice at 37.

⁶⁴ See Case Study 33, pg 102.

⁶⁵ See *New York v. Taylor*, No. 11-CV-08753 (S.D.N.Y July 2, 2012) ("the statute extends to the traffickers who habitually enslave children, not the one-time purchaser of the trafficked person's services" citing *United States v. Bonestroo*, 2012 WL 13704, at *4.) See also, Shively, M., Kliorys, K., Wheeler, K., Hunt, D., Abt Associates, Inc., & United States of America. (2012). A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts, Final Report. Prepared by ABT Associates for the National Institute of Justice, Office of Justice Programs, US Department of Justice, pg 20. ("We have encountered no evidence to suggest that tightening enforcement against distributors of commercial sex will solve the problem, although it is a necessary complementary piece within a comprehensive strategy.").

⁶⁶ Janson, A. L., Durchslag, R., Researchers, A., Mann, H., Marro, R., & Matvey, A. *Our Great Hobby*. Chicago Alliance Against Sexual Exploitation, 36 (2013).

⁶⁷ Shively, M., Kliorys, K., Wheeler, K., Hunt, D., Abt Associates, Inc., & United States of America. (2012). A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts, Final Report. Prepared by ABT Associates for the National Institute of Justice, Office of Justice Programs, US Department of Justice, pg iv. ("Distribution is also difficult to contain: since the markets are highly profitable, arrested traffickers and pimps are soon replaced. Distribution requires relatively little skill, and supply is plentiful and easily acquired, presenting few barriers to entry or startup costs for pimps and traffickers.")

Decoy and Reverse Sting Operations

Due to the dangers and impossibility of employing a real minor as an undercover informant or as an agent of law enforcement in order to expose those seeking or willing to buy sex with minors, law enforcement operations targeting buyers of sex acts with minors often employ reverse stings, sometimes using young-looking adult undercover officers and/or age-regressed photos. These stings are most often accomplished through the Internet with law enforcement posting a fake advertisement for commercial sex acts with a minor on one of the main classified websites, like Backpage.com, and waiting for the buyers to call or email. A date is arranged and the buyer is arrested when he appears for the date. In some jurisdictions, the buyer must take an additional step in furtherance of the agreement to exchange something of value (usually money) for sex with the fictional minor.⁶⁸ In these jurisdictions, young-looking undercover agents are critical to the success of the operation since the buyers must actually meet with the undercover officer. This type of operation presents a substantial commitment in terms of law enforcement officers involved in the operation, the costs of setting up the meetings with putative buyers at a hotel or house, in addition to the time spent posting ads and responding to the calls and emails (which are a critical source of evidence) from buyers seeking to employ the services of the advertised “minor.”

In three of the target sites for Phase 2 of the Demanding Justice Project research, Internet stings were a substantial source of buyer arrests. At the Seattle thought leader roundtable, Captain Eric Sano of the Seattle Police Department discussed the methods of enforcement used by Seattle Police Department to investigate demand which included Internet sting operations, on-view arrests of buyers caught attempting to buy sex and working with victims to identify their buyers. He explained that the most successful method for identifying a large number of buyers had been Internet sting operations. The fictional minor in these sting operations is generally no older than 15 years. Val Richey, a prosecuting attorney for King County, explained that this age limitation avoids issues with the age of consent, which is 16 years of age in Washington State.

One shortcoming of the reverse sting approach is that no live victims are rescued from trafficking because there is no real victim involved, but it does take intended perpetrators of child sex trafficking off the Internet and off the streets. To

REVERSE STING OPERATION:

A **reverse sting operation** involves a law enforcement officer posing as a minor victim, generally by posting an advertisement on Backpage or another venue for advertising commercial sex. Buyers respond by phone or email to set up a “date.” During communications with a law enforcement decoy, the buyer is informed that the person they think they are buying sex with is a minor. The buyer is generally arrested when they show up for the “date.”

Online Facilitation

“For the first time, the estimated 12-month revenue generated on five websites tracked by the AIM Group has exceeded the \$44.6 million a year that Craigslist alone made from selling ads for escorts and body rubs, which are both euphemisms for prostitution. Most of the \$45 million generated from June 2012 through May – 82.3 percent – has been generated by Backpage.com, a general classifieds site that has succeeded Craigslist as the nation’s leading publisher of online prostitution advertising. The 12-month total for all five sites, however, still falls short of the estimated \$71 million the AIM Group expected Craigslist and other sites to generate in 2010.”

- AIM Group June 2013 Monthly Report, *Online prostitution-ad revenue crosses Craigslist benchmark*, available at <http://aimgroup.com/2013/07/10/online-prostitution-ad-revenue-crosses-craigslist-benchmark/>, accessed Oct. 23, 2013.

68 See Case Study #1, pg 90.

address the need to identify and rescue victims, Captain Sano explained that the Seattle Police Department also ran sting operations that allowed them to identify minor victims. In these operations law enforcement set up “dates” with minor victims who respond to online advertisements posted by law enforcement; those victims can then be recovered and referred to services. In some cases, law enforcement decoys may also be involved in identifying and arresting buyers who target an actual victim when the victim reports an attempted solicitation of commercial sex. Law enforcement decoys step in to take over communications with the offender, enabling law enforcement to gather the evidence necessary to make an arrest and prosecute the case.

CASE EXAMPLES: Decoy and Reverse Sting Operations

Phoenix: The defendant called the phone number on the Backpage.com decoy ad and attempted to solicit sex from undercover officer who answered the call. The defendant told officer that he wanted to buy “straight up sex.” When the undercover officer told defendant that she was 17, the defendant said that he wanted to continue to transaction. Defendant arrived at the motel and undercover officer again told him that she was 17. Defendant said that he wanted to continue the transaction, at which point officers entered the room and arrested the defendant.

Seattle: A law enforcement officer placed an online advertisement stating, “Student looking for older men.” The defendant contacted the officer and agreed to have sex with a person whom he believed to be a 15-year-old girl for \$100.

DC-Baltimore Corridor: A detective placed an ad on Craigslist pretending to be a 13-year-old girl. The defendant answered the ad requesting that the child perform sexual acts on him in exchange for a Boost Mobile Card. The defendant, communicating with the detective, made arrangements to meet the detective, who he believed was a 13-year-old child, at a McDonalds. The defendant was arrested when he arrived at the McDonald’s where he had agreed to meet the child.

Seattle: The defendant posted an ad saying “daddy here” and “daddy here and wanting to role play!!!,” to which an undercover officer responded. The officer posed as a father attempting to sell his 13-year-old daughter for sex. The officer also used a second undercover profile to contact the defendant as a fictitious 15-year-old girl offering sex for cash. The defendant arranged to meet with the undercover officer purporting to sell his 13-year-old daughter, but fled upon arrival because he saw a police officer at the restaurant. Over a week later, the defendant arranged to meet with the undercover officer posing as a 15-year-old and was arrested on arrival.

DC-Baltimore Corridor: An undercover officer participating in an intra-agency initiative targeting online sexual exploitation of minors posted an ad on Backpage.com. Defendant requested pictures from the undercover officer, insisted that she was too young (15), and then asked, “so how much u want?” The officer said the price was \$150 for the hour and that included everything. Defendant negotiated the price down to \$65.00 for half an hour and stated, “I love car sex.” The defendant arrived at an agreed upon location where he was arrested. He admitted to willingly and knowingly negotiating a price for a sexual encounter with a 15 year old.

On-View Arrests

In jurisdictions such as Portland, where sting operations were not being used to investigate buyers of sex with minors,⁶⁹ buyers often come to the attention of law enforcement when they are caught engaging in illegal conduct, such as soliciting a minor on “the track” or picking up a minor who law enforcement know is a commercially sexually exploited youth. In some cases an arrest may follow a traffic stop, such as when a minor is seen getting into a car on or near the “track,” giving law enforcement reason to believe the minor has been picked up for purposes of prostitution. While this approach is employed in Seattle as well, Captain Eric Sano explained that this enforcement method is not as common and results in fewer arrests than the online sting operations.

ON-VIEW ARREST:

An **on-view arrest** is an arrest made after a law enforcement officer observes a person engaging in conduct that the law enforcement officer has reasonable cause to believe is illegal conduct.

Challenges arise with on-view arrests since victim cooperation is unlikely and efforts to produce sufficient evidence of the buyer’s intent may put minor victims at risk. Therefore, in some cases an on-view arrest may not be possible, or may not result in prosecution if law enforcement’s duty to protect the victim supersedes the collection of evidence against the buyer. However, one strong argument for this enforcement approach is the fact that victims can be recovered in the process of identifying a suspected buyer. Even if an arrest cannot be made at the scene, a victim may be more willing to identify their buyers than their traffickers, as discussed further in the next section.

CASE EXAMPLES: On-view Arrests

Portland: Officers were doing a prostitution detail during which they observed what they believed to be a prostitution transaction; two girls got into a vehicle after what the police believed to be solicitation. Based on a traffic violation, they initiated a traffic stop on the vehicle and the two minors in the vehicle were identified and their ages were discovered to be 15 and 17. The girls admitted to be engaged in prostitution and although they did not admit to having a pimp, the officers believed they had one based on investigation (“daddy” listed in their phones). The defendant admitted to physical contact with the two girls and the girls admitted that they had been solicited for prostitution by the defendant and agreed to \$50 for oral sex and \$100 for intercourse.

Seattle: Patrol officer saw a young girl wearing tight clothing in a “chronic area of prostitution activity.” Officer surveilled the girl until she entered defendant’s vehicle, then followed the vehicle until it stopped. Police observed for a few minutes before approaching the vehicle and finding defendant with his pants partially down. Defendant stepped out of vehicle and a condom fell to the ground. The young girl in the vehicle was 17 years old and the defendant admitted he had solicited her for prostitution.

Seattle: Patrol officers identified two suspected CSEC youth and followed one who had been detained twice in the same week for suspected prostitution activity. Officers observed the 15-year-old minor victim entering the defendant’s car at which point the officers stopped the vehicle and arrested the defendant. The defendant initially claimed he was giving the victim a ride, but later admitted that he intended to pay her \$40 for sex.

⁶⁹ Cases collected for the target site research included cases that commenced between 2008 and 2013. During this time, Portland was not using sting operations to identify and arrest buyers of sex with minors, although it was using sting operations to arrest and prosecute buyers of sex with adults. At the Portland roundtable, participants expressed interest in using sting operations to specifically target buyers of sex with minors and discussed previous success in using a sting operation to arrest and prosecute offenders seeking to sexually exploit children, albeit without a commercial exchange. See Portland target site overview at 66.

Working With Identified Victims

Although many challenges and barriers are associated with identifying buyers based on information from victims, such as cell phone data and online communications, some jurisdictions⁷⁰ have had success with identifying buyers in this manner. The primary reason for not pursuing buyers identified by victims is the fact that many victims do not know, recall or maintain information about their buyers. An important reason for working with minor victims to identify their buyers as well as their trafficker is that in some cases it may not be possible to connect the minor victim to a pimp. In those cases buyers would be the sole exploiters against whom justice could be pursued for these victims. Similarly, information about buyers gleaned from minor victims would be the only way to bring their exploiters to justice. In Pierce County, Washington, the City of Lakewood's highly trained law enforcement officers have been successful in identifying buyers based on information gleaned from victims. The investigations required a commitment of resources and time as well as law enforcement officers who were very well trained on detecting and investigating sex trafficking, but these efforts resulted in the arrest of at least one buyer for every recovered victim, and in one case, the investigation of the buyer led to the recovery of a second victim.

Working with recovered victims who often are disinclined to cooperate with law enforcement can make it difficult to secure incriminating statements about the buyers, but victim statements are not the only way to glean information about buyers. While law enforcement work with recovered victims to build rapport, they may be able to obtain records about buyers from the victim's phone even if the recovered victims are unwilling to disclose information about their trafficker. At the Seattle Thought Leader Roundtable, Rebecca Bender, a survivor-leader explained that victims who are unwilling to give up their trafficker due to trauma-bonding may be willing to give up their buyers' contact information and incriminating text messages. Ms. Bender warned that this data could be easily lost since many victims carry "burner" phones that get thrown in the trash, in which case the opportunity to get that incriminating data is lost. She noted that it is important to get these records at the first encounter. In some cases, a victim may be willing to forward a text message conversation with a buyer or share a buyers' phone number, providing leads that could be developed into a case even without information about the trafficker or further cooperation from the victim.

"I know personally that we, as victims, hold an extreme amount of disdain toward 'tricks.' We will 'roll on a john quick before we roll on our man,' or so each victim is taught."

- Rebecca Bender, Survivor-Leader

Another reason for collecting cell phone and other electronic data about buyers from victims early in the process is the possibility that the victim will be unwilling or unable to participate in the prosecution. Since victim testimony is often considered necessary to proceed with prosecutions of buyers, lack of cooperation from victims was specifically cited as a reason for non-arrest in two cases in Portland. These case narratives help to illustrate the challenges involved in working from victim tips as well as the need to develop unique enforcement approaches in demand investigations.

In one case, a female minor who had immigrated from Somalia had been referred to law enforcement by a service provider because she was being trafficked for commercial sex by members of her community. After meeting with her parents, law enforcement interviewed the female victim and in the course of obtaining information about her traffickers she identified a man who regularly paid for sex with her as well as her traffickers. However, the case was not pursued because she and her family chose to resolve the situation within the community and she ceased communicating with law enforcement. In another case, a commercially sexually exploited male minor was identified by law enforcement through a tip made by his friend who saw online postings indicating he was being advertised for commercial sex. After interviewing the friend who made the report, law enforcement interviewed the victim and obtained access to his email account through which they accessed detailed email communications with one of his buyers and identified another possible buyer. However, no one was arrested for buying sex with this minor victim because he declined to press charges.

⁷⁰ See Case Study #7, pg 102.

The decision not to arrest the buyer unless the victim pressed charges—even though there were extensive incriminating statements in the email exchange between the victim and his buyer—seems to correspond to statements in the police reports that the victim was “advertising himself” and reflects how the commercial sexual exploitation of boys often looks very different from commercial sexual exploitation of girls. As a result of perceived agency by male victims, they are often overlooked as victims and those who buy sex with boys may enjoy even greater anonymity than those who buy sex with girls.⁷¹ Research on the commercial sexual exploitation of boys indicates that the primary exploiters of boys are their buyers, not a trafficker.⁷² Therefore, identifying buyers and bringing this exploitation out of the shadows is crucial to reaching this population of sex trafficking victims.⁷³

CASE EXAMPLES: Working with Identified Victims

Portland: Chronic runaway is interviewed regarding the possibility of her involvement in human trafficking. She denies being trafficked but admits to having sex with the defendant twice and being paid 30 dollars. The first time was at the defendant’s apartment and the second time was at the restaurant where he worked. The two met through a mutual friend.

DC-Baltimore Corridor: The minor victim told law enforcement that she met the defendant near a local high school, that the defendant offered to give her a ride to the high school in another town, but after she got into his vehicle he drove to a parking lot and told her that he would give her a ride if she provided him with sex. She agreed and had intercourse with the defendant after which, the defendant gave the victim \$60. The defendant told the victim to call him again if she needed a ride. The victim stated that she had sex with the defendant in exchange for money on several different occasions and that the defendant knew she was only 15 years old.

The defendant solicited sex from a 14-year-old girl in exchange for private soccer lessons. The victim’s father alerted police to the incident and detectives took over communications using the victim’s phone. The defendant was arrested after arriving at the store where he anticipated meeting the victim. He admitted to communicating with the 14-year-old victim but denied he “meant it.”

Investigating Buyers in Sex Trafficking Investigations

While sex trafficking investigations generally center on the trafficker, some buyers are identified in the course of these investigations. Buyers may be identified in phone records, wiretap transcripts, email exchanges with victims and other evidence gathered to build evidence for the trafficker’s prosecution. However, even though buyers are identified additional evidence may be required in order to build the case against the buyer. Two primary barriers stand in the way of taking that additional step: (1) a lack of resources to commit to an expanded investigation, and (2) concern about subjecting the victim to multiple trials. The fact that buyers are likely to face minimal penalties provides an additional disincentive for expanding the investigation to include buyers.

“The problem on the law enforcement end is making it a priority to go back and do the buyer end of it. Our emphasis on going back after the buyers is limited. We have our hands full.”

- Sgt. Clay Sutherlin, Phoenix Police Department, Vice Unit

71 Willis, B., Roberts, N., & Friedman, S. A. *And Boys Too: An ECPAT-USA discussion paper about the lack of recognition of the commercial sexual exploitation of boys in the United States*. ECPAT-USA, (2013). <https://d1qkyo3pi1c9bx.cloudfront.net/00028B1B-B0DB-4FCD-A991-219527535DAB/1b1293ef-1524-4f2c-b148-91db11379d11.pdf>.

72 “For the most part, boys appear to be largely recruited by friends and peers and do not commonly have ‘pimps’... The majority of buyers are men, mostly white and middle or upper class, professional and married, although some are women. They find boys in many of the same places as girls: on the street, on the Internet, call services and in clubs and bars. Boys are also bought and sold in male-specific venues, such as gay bars, and male transit areas, including truck stops and conventions as well as on Internet sites such as rentboy.com and the male escort section of backpage.com.” Willis, B., Roberts, N., & Friedman, S. A. *And Boys Too: An ECPAT-USA discussion paper about the lack of recognition of the commercial sexual exploitation of boys in the United States*. ECPAT-USA, (2013) at 7-8.

73 “Boys and young men represent a small percent of minors who enter the criminal justice system on prostitution charges. They are rarely identified as people arrested for prostitution or victims of human trafficking by law enforcement agencies—whether local, state or federal.” *Id.* at 9.

Nevertheless, law enforcement has had some important successes in pursuing buyers alongside traffickers in a sex trafficking investigation. In Case Study #3, page 94, Hossein Sharifi purchased sex acts with a minor victim and was successfully prosecuted under the state human trafficking law alongside the trafficker. By prosecuting the sex buyer alongside the trafficker, this case is an excellent example of a state prosecution clarifying the role of a buyer in the sex trafficking crime, but it also demonstrates the sentencing disparities that remain between convicted traffickers and buyers. In this case, the prosecution resulted in notably higher sentences for the traffickers (25 years to life), than Sharifi who was sentenced to five years.

A further reflection on the disparate approaches to sentencing buyers in sex trafficking investigations is the Dean Sacco case which reflects the impact of pornography charges on the outcomes of buyer cases. Sacco received a life sentence under the human trafficking law because he both purchased sex with a 14-year-old child and photographed his sexual encounters with the minor victim. The difference between this sentencing outcome and the Sharifi sentence, as well as most buyer sentencing outcomes in this study, seems at least partly explained by the fact that Sacco created child pornography in addition to giving the child's mother free rent in exchange for sex with her daughter. Nevertheless, the egregiousness of Sacco's offenses due to the frequency and prolonged and coercive nature of Sacco's exploitation of the minor victim, as well as his prior criminal history, also appear to have been factors in the unusual outcome of this case.

CASE EXAMPLES	Investigating Buyers in Sex Trafficking Investigations
	<p>Seattle: During an extensive investigation of rape, trafficking, and commercial sexual abuse cases, police learned defendant's identity and contacted several victims and defendants in other cases for information. Police identified two individuals as traffickers and the defendant as a customer after investigating one of the traffickers' phones. Officers showed the victim a photo montage and she identified the defendant. Police used the positive identification and phone records to make the arrest.</p>
	<p>Seattle: Acquaintance of victim received phone call from victim saying that "something really bad had happened to her." The victim, 16, reporting having been raped and threatened with guns. The victim explained that she had agreed to "sell herself" for drugs and cash, then rescinded but was forced to perform sexual acts by the defendant in a motel room. Detective took statements from the victim and a friend of the victim. The investigation led to the defendant's van and he was arrested after a planned traffic stop. Police later learned that the victim's "friend" and purported co-victim had trafficked the victim. In this case, the investigation of the buyer led to the arrest of the trafficker.</p>

The Role of Prosecutors

Prosecutors must make choices weighing the evidence against the outcomes. When presented with a trafficking victim they must consider the trauma of testifying in multiple trials in order to prosecute the trafficker and one or more buyers. Since buyers typically face minimal penalties compared to the penalties traffickers face, that decision will inevitably weigh in favor of prosecuting the trafficker over the buyers. Evidentiary issues and limited resources also pose challenges for prosecutors who learn of buyers while investigating traffickers but lack sufficient resources or available evidence to proceed with a prosecution.

Although some victims will share information about buyers, there are many barriers to relying on victim reports for evidence relating to buyers. A victim advocate may advise the prosecutor that the victim would suffer emotional harm if required to testify, particularly when state laws do not provide victim witness protections such as the rape shield law in prosecutions of commercial sexual exploitation.⁷⁴ Fear of reprisal by the trafficker or the buyers who may have a community reputation and family to protect can silence a victim.⁷⁵ A desire to put it behind and move forward can lead to a victim's choice not to pursue justice against the perpetrators. Even where victim testimony is available in a buyer prosecution, victims may be unreliable witnesses. Minor victims may have difficulty remembering key events due to the trauma they suffered and may not fully comprehend the nature and extent of their own victimization.⁷⁶

In the Seattle thought leader roundtable discussion, which focused on challenges and promising practices in anti-demand enforcement, many of the challenges in prosecuting buyers focused on the need for victim testimony due to a defendant's constitutional right to confront the witnesses against him. The resulting "he-said, she-said" scenario presents evidentiary challenges when prostituted minors must testify against buyers who may be pillars of their community, and the fact that the protection of the rape shield law⁷⁷ is often not available means victims face re-traumatizing cross examination about the subject of their victimization. These challenges associated with prosecuting actual victim cases highlighted one of the strengths of a well-run sting operation—no need to rely on victim testimony. Not only do sting operations have the potential to deter buyers by making online venues for commercial sexual exploitation such as backpage.com, less anonymous and riskier for buyers, they also remove buyers who would have exploited a child. However, not all jurisdictions have the resources to conduct reverse stings and state entrapment laws⁷⁸ may create additional hurdles for law enforcement and prosecutors using stings as an enforcement method.

Key Research Stats

Phase 1

- ♦ Most common initial charge was sex offenses; the second most common charge was CSEC/Trafficking.
- ♦ 25 out of 55 state CSEC cases concluded as a non-CSEC offense; All federal CSEC cases remained CSEC upon conviction.
- ♦ Cases involving a victim age 14 and under were more likely to be charged as a sex offense. Cases involving a victim age 15 or older were more likely to be charged as a CSEC offense.

Phase 2

- ♦ Most common initial charge was CSEC
- ♦ Second most common initial charge was child sexual abuse
- ♦ Most common final charge was CSEC
- ♦ Second most common final charge was prostitution solicitation
- ♦ 66 (of 113) defendants were required to register as a sex offender

⁷⁴ See Appendix: State Law Survey of Rape Shield and Closed Captioned Testimony Protections for Domestic Minor Sex Trafficking Victims.

⁷⁵ Smith, L., Vardaman, S., & Snow, M. (2009). *The National Report on Domestic Minor Sex Trafficking*. Arlington: Shared Hope International, 61.

⁷⁶ Seattle Thought Leader Roundtable discussion

⁷⁷ See Appendix: State Law Survey of Rape Shield and Closed Captioned Testimony Protections for Domestic Minor Sex Trafficking Victims.

⁷⁸ See Phoenix target site overview at 68.

Despite the success of reverse stings in identifying and prosecuting buyers, prosecutions of actual victim cases cannot and should not be avoided since victims need justice and resources to fund their recovery—both of which can be pursued through criminal prosecution of buyers in addition to, or instead of, traffickers. The Seattle thought leader roundtable considered various alternatives to victim testimony including the use of text messages and chat room transcripts to establish the buyer's illegal conduct. Although case-specific, this approach could replace victim testimony where a victim was unable to testify. Service providers at the thought leader roundtable also felt they could play a role in working with victims who seek to pursue justice against their buyers. For victims who are not ready to identify their trafficker, pursuing an action against their buyers would provide an opportunity to pursue justice for their exploitation and restitution for their injuries.

Several components of the prosecutorial process impact the direct and collateral consequences faced by prosecuted buyers of sex with minors and access to justice for victims. These range from the choice of charges to the terms of pre-trial release to the financial penalties imposed at conviction. In order to understand the impact of the process on prosecuted buyers and to assess the potential for deterring prosecuted buyers from reoffending the following components of the process warrant consideration: initial charging decisions, pre-trial release availability and terms of release, the role of plea negotiations (including final charges and alternative sentencing agreements), victim restitution and sex offender registration.

Charging Decisions

Various charges are available to prosecute buyers of sex with minors including offenses under sex trafficking, commercial sexual exploitation of children, general sex offense and age-neutral prostitution laws. Other types of charges seen in these cases include contributing to the delinquency of a minor, online enticement, luring, kidnapping and rape. These types of charges range from low level misdemeanors to serious felonies carrying minimum jail sentences of 10–15 years. With such a broad range of offenses that are potentially applicable to the conduct of buyers of sex with minors, there is considerable risk of disparate outcomes for buyers and the initial charging decision can impact the entire process by establishing the tone for how seriously the offender's conduct should be treated.

“As a john, you are participating in human trafficking.”

- Detective Trivett, Baltimore County Police Department

However, limitations in existing law may contribute to this problem. CSEC and sex trafficking offenses accurately reflect the nature and seriousness of buying sex with a child but several states lack a CSEC law that applies to buyers of sex with minors and the sex trafficking law presents a substantial evidentiary burden. Even in states that do have CSEC laws that apply to the conduct of buyers the penalties under these laws often align more closely with the penalties under age-neutral prostitution laws rather than the penalties under the sex trafficking law. In some cases, this leads prosecutors to rely on sex offense laws in order to get adequate penalties for buyers of sex with minors, leaving older minors with less protection from commercial sexual exploitation since sex offense laws often provide reduced penalties for offenses against minors who are approaching the age of majority.⁷⁹

⁷⁹ While the states where the four target sites are located all had a state CSEC law that applied to buyers, the protections for older minors remained an issue, both statutorily and in practice. In Arizona, buyers of sex with minors are generally prosecuted under the child prostitution law (Ariz. Rev. Stat. § 13-3212(B)) which criminalizes “engaging in prostitution with a minor.” However the penalty for violating this law with a minor aged 15–17 drops from a Class 2 felony to a Class 6 felony (which may be sentenced as a misdemeanor at the discretion of the court) if the prosecution fails to prove that the defendant knew or had reason to know the victim was a minor. Another issue relating to age arose in Seattle, Washington where the age of consent is 16. Even though the state CSEC law, Wash. Rev. Code § 9.68A.100 (Commercial sexual abuse of a minor) applies to all offenses involving a minor under 18, most sting operations advertise the fictional victim as 15 years or younger to avoid confusion with the age of consent.

Plea Negotiations

Ninety-seven percent of federal criminal prosecutions that reach disposition end in a guilty plea rather than proceeding to trial.⁸⁰ Substantially more resources are required on the part of both parties in order to proceed to a jury trial, and therefore plea negotiations are a fundamental and necessary part of the prosecutorial process. The laws available to prosecutors become especially important in this phase of the process, allowing them the flexibility to negotiate without minimizing the offense and losing important deterrent value while settling the case under a negotiated plea.

A variety of sentencing factors may be negotiated in a plea agreement ranging from the offense to which the defendant pleads guilty to a sentencing agreement that allows the defendant to avoid a conviction as well as other leniency factors such as work release and community service in lieu of jail time. How these factors are negotiated all have a potential impact on deterrence and protection of the community from a potential reoffender. The type of charge to which the defendant pleads impacts not only the sentence the defendant faces but also the requirement to register as a sex offender, potentially allowing an offender to be released into the community without putting the community on notice of the risk posed by that offender. Leniency factors, discussed in more detail below, potentially impact the deterrent value of the sentence often by allowing a defendant to remain employed and continue working or face no jail time due to a suspended sentence.

Leniency Factors in Sentencing

Convicted buyers of sex with minors face a variety of sentencing consequences but two consequences are most often associated with deterring the criminal conduct: jail time and a felony conviction. A jail sentence can have serious consequences beyond the loss of liberty, including loss of employment or impact on a defendant's business as a result of being unable to perform job duties. Similarly, a felony conviction generally carries more serious consequences than a misdemeanor conviction. It is more likely to be a barrier to future employment or to employment in particular types of jobs, and in most jurisdictions, a felony conviction results in automatic loss of certain civil rights such as the right to vote and the right to carry a firearm. These rights may be restored upon application after a set number of years, but this can be a lengthy process. However, defendants can avoid either or both of these sentencing consequences through plea negotiations and/or leniency in sentencing terms.

A defendant may be able to avoid a conviction entirely through an alternative sentencing agreement.⁸¹ This type of agreement between the defendant and prosecutor generally allows the defendant to enter a guilty plea but later have the charges dismissed after complying with agreed upon terms imposed by the court. The terms set by the court could include a jail term, probation, and/or victim restitution and other financial penalties. Once the terms are satisfied, the charges may be dismissed and in many cases the entire court record may be expunged after a few years.

Other leniency factors may minimize the impact of a jail sentence and in some cases allow a defendant to avoid serving any portion of the jail sentence. While the court may impose a jail sentence, the court may also have discretion to suspend the sentence and/or give credit for any time the defendant served prior to sentencing, a situation that could result in no jail time to be served after sentencing. For example, if the court sentenced the defendant to 120 days in jail and suspended all but 10 days the defendant would only be required to serve 10 days in jail. If the court also gave the defendant credit for 10 days served prior to sentencing, this defendant who had been sentenced to 120 days in jail would not be required to actually serve any of that time. Defendants are able to avoid some of the collateral consequences of incarceration through work release or home detention. Under work release programs the defendant is committed to jail but allowed to leave

⁸⁰ See "Federal Guilty Pleas Soar As Bargains Trump Trials," *The Wall Street Journal*, Sept. 23, 2012, at: <http://online.wsj.com/news/articles/SB10000872396390443589304577637610097206808> ("Guilty pleas last year resolved 97% of all federal cases that the Justice Department prosecuted to a conclusion.")

⁸¹ Alternative sentencing agreement is being used here generally to describe sentencing agreements that do not result in a conviction. Different jurisdictions use a variety of terms for these agreements, such as deferred sentencing, suspended imposition of sentence, and probation before judgment.

during the day to go to work; in the case of home detention the defendant is confined to his or her home and may be able to continue work as well as maintain contact with family. Defendants may also avoid jail time with a sentence of community service.

In Phase 2 of the Demanding Justice Project research different jurisdictions employed different leniency factors or combinations of factors in sentencing buyers. In Seattle,⁸² no cases were given an alternative sentencing agreement but several cases were sentenced to jail time with work release or home monitoring, and misdemeanor convictions generally received a suspended jail sentence. In Phoenix,⁸³ the majority of cases concluded with suspended sentences, but no cases received diversion or deferred sentencing. Portland had a much smaller group of cases that reached disposition but both suspended sentences and deferred sentencing were identified as leniency factors in sentencing.⁸⁴ The DC-Baltimore Corridor, which had primarily sting cases, reflected an interesting trend in its use of leniency factors: cases involving a victim age 15 or older generally resulted in an alternative sentence called probation before judgment as well as a suspended sentence, while cases involving a minor under the age of 15 generally resulted in a conviction and a partially suspended sentence resulting in at least a year of actual jail time.⁸⁵

82 Deferred sentences in Washington state are only available for misdemeanor offenses. The crime initially results in a conviction and the judge imposes certain conditions which may include treatment, law abiding behavior, community service, legal financial obligations (including restitution if any). If the individual complies fully with the terms of the deferred sentence, he or she may come back at the end of the period of deferral and ask the judge to vacate the conviction and dismiss the charges. A suspended sentence imposes the maximum sentence available for the crime, may impose some jail time (or community service) or no time at all. The balance of the time is suspended upon condition that the individual comply with certain conditions which may include treatment, law abiding behavior, and/or payment of legal financial obligations. If the person does not comply with the terms of the suspended sentence, the judge may require them to appear for a hearing and may un-suspend some or all of the jail time that is left. At the end of the period of probation for a suspended sentence, the individual does not have the option of coming back and asking the court to dismiss the charges, even if they have fully complied with the terms of the sentence. Suspended sentences are not used in felony sentences. There are separate statutes that allow a judge to impose jail time (up to 60 days per violation) if the terms of the sentence are not complied with.

83 Under Ariz.Re. Stat. Ann. § 11-361, et al., county attorneys may establish diversion programs which allow defendants to avoid a conviction without a dismissal or acquittal. Maricopa County has diversion programs that are primarily focused on drug and low level offenses. Suspended imposition of sentence is an available sentencing alternative that allows the judge to impose probation in lieu of a term of incarceration under the Department of Corrections. If the defendant violates the terms of probation, the judge can impose the full sentence. One of the conditions of suspended imposition of sentence may be a shorter term of incarceration in the county jail in addition to probation. Defendants may also be able to avoid a felony conviction if they are sentenced to an offense that is classified as an undesignated felony, in which case the judge can designate the offense a misdemeanor at sentencing or after successful completion of probation.

84 See Or. Rev. Stat. § 135.891 (Conditions of diversion agreement) which states, "A diversion agreement carries the understanding that if the defendant fulfills the obligations of the program described therein, the criminal charges filed against the defendant will be dismissed with prejudice. It shall include specifically the waiver of the right to a speedy trial. It may include, but is not limited to, admissions by the defendant, stipulation of facts, stipulation that depositions of witnesses may be taken pursuant to ORS 136.080 (Deposition of witness as condition of postponement) to 136.100 (Filing and use of deposition), payment of costs as defined in ORS 135.705 (Satisfaction of injured person), restitution, performance of community service, residence in a halfway house or similar facility, maintenance of gainful employment, and participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services." See also Or. Rev. Stat. § 144.720 (Judge's power to suspend execution of sentence or grant probation prior to commitment) which states, "Nothing in [provisions relating to parole, post-prison supervision, work release and interstate compact for adult offender supervision] or this section shall be construed as impairing or restricting the power given by law to the judge of any court to suspend execution of any part of a sentence or to impose probation as part of a sentence to any person who is convicted of a crime before such person is committed to serve the sentence for the crime."

85 Md. Code Ann., Crim. Pro. § 6-220 (Probation before judgment) allows for a sentencing option for criminal offenses in Maryland state courts that have similar punitive ramifications to a conviction. The probation before judgment (PBJ) is rendered by a judge between the finding of guilt and conviction. In essence, the PBJ is not a conviction and is an expungeable offense, but could include treatment, fines and even a term of incarceration. A PBJ is not immediately dismissed upon the end of a probationary period; instead, if certain conditions are met the PBJ can be expunged after 3 years. One condition precedent to expungement of a PBJ is lack of prior convictions. A PBJ can be struck and a conviction imposed upon either a sentence modification or during a hearing for a violation of probation. If a PBJ is struck, the judge has discretion to sentence a defendant up to the maximum sentence allowed by the crime. An important fact about a probation before judgment is that if a probationer is ordered to register as a sex offender the length of probation is mandated by law and is not contained to the period of probation.

Pursuant to Md. Code Ann., Crim. Pro. § 6-221 (Suspension of sentence or probation after judgment), a judge may suspend the imposition or execution of a period of incarceration. A sentence may be suspended in part or as a whole. In other words, a judge may sentence a defendant to 10 years of incarceration and may suspend some or all of it. The potential for imposition of the suspended sentence lasts until the end of a probationary period. For example, if a defendant is sentenced to 10 years of incarceration, all suspended, and 3 years of probation as soon as the 3 years of probation is complete, the defendant could no longer be incarcerated for the suspended term. A judge must order a suspended period of incarceration if the defendant is to be placed on probation, which will be imposed punitively if the defendant violates the terms of probation.

Asset Forfeiture & Victim Restitution

One of the lessons learned at the Phoenix thought leader roundtable was that different types of buyers require different types of enforcement. Phoenix has a prostitution “track,” and law enforcement and diversion program providers have observed that many of the buyers arrested on the “track” are attempting to purchase sex with an adult and are low-income. These buyers are generally directed to diversion and many need a payment plan in order to pay the mandatory \$800 fee to participate. Conversely, the buyers caught in online stings, particularly stings involving minor victims, have tended to be wealthy or middle class offenders.⁸⁶

Since investigating online solicitation is more resource-intensive⁸⁷ it is harder to justify these operations, but law enforcement at both the Phoenix and Seattle thought leader roundtables identified reasons to invest in these resource-intensive sting operations. In Phoenix, where stings tend to ensnare wealthier buyers, regular use of the asset forfeiture law could create a resource for funding victim services as well as law enforcement efforts to combat demand. Washington state law contains extensive and powerful asset forfeiture laws that apply to any sex trafficking offense, and consequently the Seattle Police Department has been able to direct some of these funds toward its anti-demand work.⁸⁸

Pursuing asset forfeiture not only accomplishes deterrence but enables legislatures and agencies to direct the resulting assets to pay victim restitution and/or civil judgments as well as fund further anti-demand enforcement efforts, but prosecutors may have to seek asset forfeiture through a separate proceeding, adding to prosecutors’ already substantial caseloads. Restitution for victims often presents the same problem since many restitution laws require proof of pecuniary damages, a difficult mode of proof for domestic minor sex trafficking victims to establish.

In cases involving actual victims restitution not only requires the defendant to compensate the victim for the harm caused by the defendant’s conduct but also provides much needed funds that allow victims to access services needed for restoration. However, victims can face an uphill battle in establishing a claim for restitution as well as collecting mandated restitution payments. One way of ensuring that restitution is paid is to seek forfeiture of assets seized at the commencement of the proceeding and direct the proceeds of forfeited assets to victim restitution before directing it to other sources. However, pursuing restitution and asset forfeiture can create an added burden for prosecutors. Depending on the jurisdiction, seeking asset forfeiture may require commencement of a separate proceeding. Additionally, restitution must generally be requested by prosecutors, although it is ordered by the judge, and many state restitution laws require proof of pecuniary damages, resulting in an evidentiary hearing in addition to the prosecution itself.

⁸⁶ A similar trend was found in Kansas City in a study by the Urban Institute. Meredith, D., Khan, B., Downey, P. M., Kotonias, C., Mayer, D., Owens, C., et al. Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities. (2014, March 1). Urban Institute, 96. (“As for those individuals who advertise, or are advertised by a pimp, on the Internet [in Kansas City, MO], prices are significantly higher than what is asked for on the street... Internet prices range from \$100 to \$300 per hour.”)

⁸⁷ Since the buyer has to be identified as soliciting sex online and then law enforcement has to catch the buyer not only taking a step in furtherance of that solicitation, i.e., showing up at an agreed upon meeting place, but also engaging in the actual transaction, this generally requires conducting an online sting where the buyer solicits sex online and then goes to a location where the transaction is conducted between the buyer and a young-looking law enforcement decoy. Only then can the arrest be made.

⁸⁸ Captain Eric Sano at the Seattle Thought Leader Roundtable.

Sex Offender Registration

Depending on the final charge on which the defendant buyer is convicted or pleads guilty, the buyer may be required to register as a sex offender. Sex offender registration puts the community on notice of the risk posed by the conduct for which the defendant was prosecuted and convicted. There is also research indicating that the possibility of being required to register as a sex offender would deter potential buyers of sex with minors.⁸⁹ When prosecutors negotiate a plea deal, they have to balance the need to keep the charge in a category that will require sex offender registration, or allow the defendant to plead to another charge that avoids this requirement but accomplishes another goal, such as a longer prison sentence, victim restitution or, in some cases, avoiding trial where there are evidentiary challenges such as an uncooperative victim witness and/or a lack of corroborating evidence. This decision poses a challenging question for combatting demand since it presents a need to choose between deterrence through sentencing against deterrence and community safety through sex offender registration.

⁸⁹ Prescott, J. J., & Rockoff, J. E. (2011). Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?. *Journal of Law and Economics*, 54(1), 161-206. ("For example, the main channel by which notification laws are expected to reduce recidivism is by making the public aware of nearby sex offenders, but they may also reduce crime by raising the punishment for first-time sex offenders (whose crimes and personal information will be made public upon release if they are caught and convicted).")

The Role of Judges

The judges who preside over prosecutions of buyers of sex with minors have the potential to dramatically impact the criminal justice consequences for these defendants in various stages of the process. Some phases of the prosecution process may involve broad discretion by the judge; how judges exercise this discretion impacts several of the consequences faced by prosecuted buyers of sex with minors, in particular the availability and terms of pre-trial release, leniency factors in sentencing (including work release and suspended sentences), financial penalties, restitution, and depending on the state law, sex offender registration. While the outcomes of cases that end in guilty pleas are generally the result of negotiations between the defense and the prosecution, the presiding judge must decide whether to approve the terms of the plea agreement, including the dismissal of charges, conviction under a lesser charge that may not require sex offender registration, and any sentencing terms that may have been agreed to by the parties. In deciding whether to approve a negotiated plea agreement, the judge must also consider the efficiency of the proceedings, which is usually best served by a plea agreement.

Pre-Trial Release

A collateral consequence of arrest and prosecution for buying or attempting to buy sex with a minor is the potential for detention pending trial, or when pre-trial release is granted as it is in most cases, the terms that are imposed during release. While courts consider pre-trial release favorable to pretrial detention for constitutional as well as resource-driven reasons, courts have the right to detain charged defendants pending trial in order to protect the community and ensure the defendant's presence for the proceedings.⁹⁰ When release is ordered various terms may be set to ensure these concerns are addressed.⁹¹ Concerns about protection of the community are particularly relevant when the offense involves sexual exploitation of a minor. Some of the terms that a court may set focus on protecting the victim from further harm by requiring the defendant to stay away from the victim, the victim's home and place of work or school, and in some cases, the victim's family. Other conditions of release focus on protecting the community from the risk of reoffending while on pre-trial release including prohibiting the defendant from having contact with minors or places that minors frequent, limiting or prohibiting the defendant's use of the Internet (particularly in Internet sting cases) and prohibiting use of drugs and alcohol. The court's decision may also be influenced by prior offenses the defendant has committed and whether those offenses were sexually motivated or required sex offender registration.

90 See American Bar Association Criminal Justice Section Standard 10-1.1 (Purposes of the pretrial release decision) at: http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_blk.html ("The purposes of the pretrial release decision include providing due process to those accused of crime, maintaining the integrity of the judicial process by securing defendants for trial, and protecting victims, witnesses and the community from threat, danger or interference. The judge or judicial officer decides whether to release a defendant on personal recognizance or unsecured appearance bond, release a defendant on a condition or combination of conditions, temporarily detain a defendant, or detain a defendant according to procedures outlined in these Standards. The law favors the release of defendants pending adjudication of charges.")

91 See American Bar Association Criminal Justice Section Standard 10-1.2 (Release under least restrictive conditions; diversion and other alternative release options) at http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_blk.html ("In deciding pretrial release, the judicial officer should assign the least restrictive condition(s) of release that will reasonably ensure a defendant's attendance at court proceedings and protect the community, victims, witnesses or any other person. Such conditions may include participation in drug treatment, diversion programs or other pre-adjudication alternatives. The court should have a wide array of programs or options available to promote pretrial release on conditions that ensure appearance and protect the safety of the community, victims and witnesses pending trial and should have the capacity to develop release options appropriate to the risks and special needs posed by defendants, if released to the community.")

Sentencing & Financial Penalties

Many of the terms that allow a defendant to avoid a conviction or jail time are negotiated as part of the plea agreement, but not all sentencing terms are necessarily negotiated during a plea negotiation. The parties may agree to a reduced charge and a maximum penalty but still make separate recommendations to the court about how the defendant should be sentenced, allowing the court to sentence the defendant to a lesser term than the prosecutor desired. The court also has the discretion to reject the negotiated plea and sentence the defendant consistent with either party's recommendation. Judges also have broad discretion in assessing financial penalties. Pursuing financial penalties not only accomplishes deterrence but enables legislatures and agencies to direct the resulting assets to pay victim restitution or civil judgments as well as fund further anti-demand enforcement efforts.

A judge's role in assessing financial penalties is crucial to realizing the larger intended benefits of these penalties. Since an important source to which financial penalties can be directed is victim restitution—a critical resource for victims to fund their recovery—a judge can play a substantial role in ensuring that victims have access to needed resources, first by ensuring that victim restitution is ordered at sentencing and second, by ensuring that the defendant's assets can be used to compensate the victim for the harm caused by the defendant's conduct. Since victims often face an uphill battle in establishing a claim for restitution as well as collecting mandated restitution payments, judges can assist victims by being aware of the need to order restitution and the possibility of directing the proceeds of forfeited assets to fund victim restitution.

16	THE COURT: Thank you. And then, counsel, I know that
17	you guys have worked very hard on this case. I've reviewed all
18	of the information you've provided, including a number of very
19	well-written letters from friends and employers and employees.
20	I'm also aware of really the remarkable philanthropic things
21	that your client has done prior to this incident even
22	occurring. Is there anything else that you would like to say
23	for the benefit of your client?

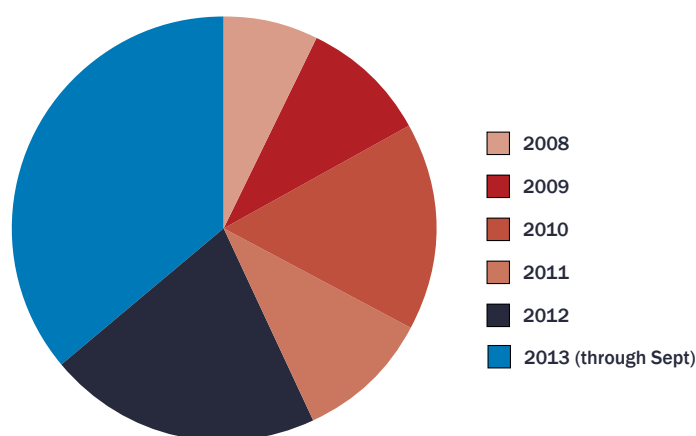
Maricopa County Superior Court Sentencing Transcript

The Role of Collaboration

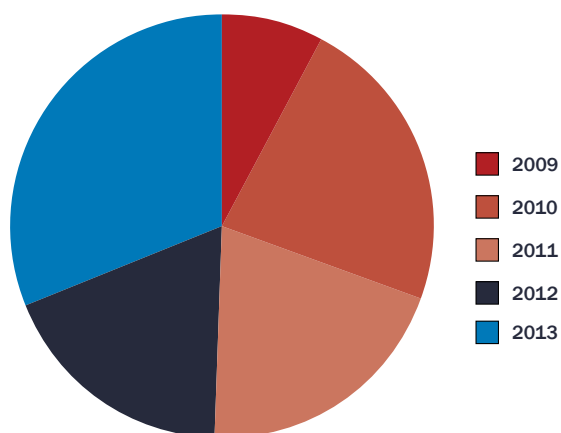
An essential component of successful anti-demand efforts is collaboration between enforcement entities, as well as the courts and the community. One of the first places collaboration is important is between law enforcement and prosecutors. Particularly in jurisdictions that run sting operations it is critical for successful operations. Similarly, collaboration between federal and state law enforcement and prosecutors accomplishes two important goals: (1) ensuring that federal prosecutions are able to bring the full force of federal sex trafficking and CSEC laws to bear in egregious cases where the buyer would not face as severe penalties under state law; and (2) ensuring that enforcement of demand laws is not left solely to federal prosecutors but instead a robust anti-demand response is in place at both the federal and state level.

While state and federal collaboration has been active in many regions around the country to address sex trafficking, addressing demand was not clearly part of the plan. Human trafficking task forces that have been bringing together a host of entities to combat sex trafficking are only recently making demand reduction a priority. Even so, semi-annual Cross Country Operations implemented by the FBI and the Child Exploitation and Obscenity Section (CEOS) of the Justice Department in partnership with the National Center for Missing and Exploited Children continue to report numbers of victims rescued and pimps arrested but do not report numbers of buyers arrested.

Phase 1 Cases - By Year of Publication



Phase 2 Cases - By Year of Arrest



Sometimes local and federal law enforcement agencies will partner on a reverse sting operation, opening the door to federal sex trafficking and Mann Act charges. Operations like Operation Guardian Angel in Missouri⁹² and Operation Crossing Guard in South Dakota⁹³ have resulted in federal sex trafficking charges *and* convictions.⁹⁴ One state where federal, state and local collaboration is changing the landscape for buyers of sex with minors is South Dakota, where the cases establishing federal appellate precedent to prosecute buyers under the federal sex trafficking law were prosecuted and won. The success of this progressive focus on buyers shows great potential to impact enforcement in neighboring states such as North Dakota. As a state facing increasing problems with addressing human trafficking in the boom towns of the Bakken Region, North Dakota is also one of the first states to use its human trafficking law to prosecute buyers of sex with minors caught in a sting operation run shortly after the Eighth Circuit issued its decision in the *Jungers* and *Bonestroo* cases. Case Study #8 examines the progress in South Dakota to combat demand and the ripple effects in its neighboring states.

Where state and federal collaboration is lacking, or state laws are failing to address demand either in the letter of the law or the enforcement of the laws, federal prosecutions can play a very important role in ensuring justice for minor victims of sex trafficking. As seen in the case studies and in the Phase 1 research results, federal prosecutions can result in substantial sentences for convicted buyers of sex with minors. State prosecutors may agree to dismiss state charges to allow federal prosecutors to prosecute in federal court or federal prosecutors may commence a prosecution concurrent with the state prosecution. In the case of concurrent prosecutions, the prosecutor must obtain approval under the federal Petite Policy⁹⁵ to proceed when a state prosecution is already pending. In addition, the Petite Policy has been used as a tool for federal prosecutors to seek justice for domestic minor sex trafficking victims by bringing a federal prosecution after a state prosecution concluded in a manner that failed to vindicate federal interests.⁹⁶

92 Press Release, Matt J. Whitworth, Office of the United States Attorney, W. Dist. of Mo., Final Defendant Pleads Guilty to Sex Trafficking of a Child (Dec. 18, 2009), available at <http://www.justice.gov/usao/mow/news2009/mikoloyck.ple.htm>.

93 Press Release, U.S. Dep't of Justice, Office of the U.S. Attorney for the Dist. of S.D., Sioux Falls Man Found Guilty of Commercial Sex Trafficking (Nov. 10, 2011), available at <http://www.justice.gov/usao/sd/pressreleases/2011/SF-2011-11-10-Bonestroo.html>; Press Release, U.S. Dep't of Justice, Office of the U.S. Attorney for the Dist. of S.D., Sioux City Man Convicted of Sex Trafficking (Oct. 26, 2011), available at <http://www.justice.gov/usao/sd/pressreleases/2011/SF-2011-10-26-Jungers.html>.

94 See *infra* Case Study #6 on pg 100 and Case Study # 8 on pg 107.

95 See PRINCIPLES OF FEDERAL PROSECUTION, USAM 9-2.031 DUAL AND SUCCESSIVE PROSECUTION POLICY ("Petite Policy").

96 See *United States v. Morgan*, 6:13-CR-00434-AA, 2014 WL 1572390 at *4 (D. Or. Apr. 17, 2014) (noting that defendant's belief that he would not have faced federal prosecution had he pled guilty to state charges was entirely speculative, as the federal prosecution would still have been justified under the Petite Policy) ("Not only is the Petite Policy unenforceable, it permits a successive federal prosecution where the federal interest remains unvindicated. It is unlikely that a 19-month sentence would have vindicated the interest of the federal government when a mandatory minimum sentence of fifteen years for the same conduct is prescribed under federal law.").

Changing Cultural Norms

While the discussion around domestic minor sex trafficking has centered in recent years on a market-based triangle-theory where sex buyers are the consumers of a “product”⁹⁷ made available by traffickers, the research in both Phase 1 and Phase 2 indicated that minor victims are often directly solicited by buyers and it is not always possible to connect minor victims with a pimp.⁹⁸ This scenario is sometimes used to raise questions about the agency of minor victims engaged in prostitution that inappropriately places a prostitution lens on conduct that the Trafficking Victims Protection Act has defined quite clearly as sex trafficking.⁹⁹ While there is no single narrative for how minors are exploited through prostitution, the reality remains that minors are exploited by prostitution regardless of apparent agency¹⁰⁰ and a pimp or trafficker is not the only party responsible for that minor’s exploitation. The need to shift the discussion from prostitution to sex trafficking is critical to shifting cultural attitudes that tend to tolerate buying sex with minors while the same conduct—sexual abuse of a minor—is socially and legally condemned in any other context, especially when the sexual abuse of the child is captured on film as child pornography.¹⁰¹

“Women are not objects to be used for a man’s pleasure. They are not a cup to be used to put water in, or a tissue to be used to wipe their noses. Until we start changing the culture to see the value in women, we can continue to make it more difficult for those that want to purchase them. No demand equals no supply.”

–Rebecca Bender, Survivor-Leader

At the Portland roundtable, an Oregon legislator, Representative Carolyn Tomei, raised the issue that buyers of sex with minors are often husbands, fathers, business leaders—not the type of people that we usually associate with criminal conduct; as a result, prosecuting them makes people uncomfortable. She pointed out that the image we have of a trafficker is more in line with who we think of as a criminal so it is more culturally acceptable to focus on prosecuting traffickers and

- 97 Harris, K. (2012). The State of Human Trafficking In California. California: California Department of Justice (pg 25) (“Victims of sex trafficking are profoundly dehumanized. Women and children – and, in some cases, men – are treated by traffickers and clients alike as expendable commodities. Clients are often free to do as they please with human beings who are seen as ‘products,’ from refusing to wear a condom to inflicting brutal beatings and other forms of degradation.”).
- 98 See Smith, L., Vardaman, S., & Snow, M. (2009). The National Report on Domestic Minor Sex Trafficking. Arlington, VA: Shared Hope International, 61, quoting remarks by C. Johnson. Shared Hope International National Training Conference on the Sex Trafficking of America’s Youth. Transcript on file with authors. (“... traffickers systematically utilize recruitment tactics that distance them from the risk of detection and prosecution by law enforcement. Traffickers use ‘bottom girls,’ who manage the details of the other girls’ exploitation. The process of ‘sending girls on automatic’ allows the trafficker/pimp to keep distant from the crime he is committing. Traffickers maintain a careful distance even from their victims, using street names so the girls never know their real names.”)
- 99 See, e.g., Thompson, E., Marcus, A., Horning, A., Curtis, R., & Sanson, J. “Conflict and Agency among Sex Workers and Pimps: A Closer Look at Domestic Minor Sex Trafficking,” *The Annals of the American Academy of Political and Social Science*, 653, 225-246. While the overarching theme of this study is that minors appear to be acting with agency since the New York CSEC study (which is the basis for most of the conclusions regarding agency of minor victims) failed to identify the role of a pimp in all but ten percent of the minor cases considered, these findings do not support the claim that the penalties established under the Trafficking Victims Protection Act derive from a “TVPA scenario of captivity and oppression,” (*id.* at 243) since the federal sex trafficking law defines any child recruited, enticed, harbored, transported, provided, obtained, or maintained for commercial sex, regardless of force, fraud or coercion, a victim of sex trafficking. See 18 U.S.C. § 1591 (a). However, this study highlights the diverse range of situations in which minors are exploited through commercial sexual activity. The complexity in trafficking relationships demonstrated by the case examples discussed in the New York CSEC study support a shift away from the triangle-theory of trafficking and the need to focus greater attention on the purchasing of commercial sex with minors as the one consistent feature in the exploitation of minors’ vulnerabilities, whether those vulnerabilities are economic, mental or emotional. The study concludes that its findings necessitate consideration of agency in order to provide appropriate services to victims, however extending this consideration to criminalization of buying sex with minors would be inappropriate and inconsistent with many other laws in place to protect minors. Under many sex offense laws, a bright line is drawn to protect minors who choose to engage in sex with an adult since it is the adult’s responsibility to recognize that the minor should not be making that choice. Similarly, the apparent agency of a minor who is engaging in commercial sex does not change the criminality of an adult buying sex with that minor.
- 100 See Alexandra Gerber, Response to “A Reluctant Rebellion.” Department of Justice, Child Exploitation and Obscenity Section. <http://www.justice.gov/criminal/ceos/downloads/ReluctantRebellionResponse.pdf> (2009); Early Intervention to Avoid Sex Trading and Trafficking of Minnesota’s Female Youth: A Benefit-Cost Analysis. Minnesota Indian Women’s Resource Center. 2012; see also, Greenbaum, J., Kellogg, N., Isaac, R., Cooper, S., DeChesnay, M., Woodward, M., et al. (2013). The Commercial Sexual Exploitation of Children: The Medical Provider’s Role in Identification, Assessment and Treatment. ASPAC Practice Guidelines. Available at: http://www.kyaap.org/wp-content/uploads/APSAC_Guidelines.pdf.
- 101 The Phase 1 research showed a strong trend to impose higher sentences for child pornography offenses than other offenses including sex trafficking and commercial sexual exploitation of children. The average sentence for cases where buyers face charges that included pornography offenses was 270 months. Compare this to the average sentence of 78 months when pornography offenses are not included. See also Alexandra Gerber, Response to “A Reluctant Rebellion.” Department of Justice, Child Exploitation and Obscenity Section. Available at: <http://www.justice.gov/criminal/ceos/downloads/ReluctantRebellionResponse.pdf> (2009).

not focus on buyers. She recounted a conversation with the wife of a man who was charged with a prostitution offense: the wife protested that the penalty her husband was facing was too high and blamed the victim, saying she had lied about her age. Participants discussed how this reflects a lack of understanding in the community about trafficking and how part of addressing cultural norms is addressing the language we use. Use of the term “prostitute” to refer to a victim raised concerns that such use is a barrier to changing the perception of prostitution from one of consensual conduct to one of exploitative conduct. Similarly, another part of the problem is the terminology used for buyers. Use of the term “john” for buyers of sex with minors was cited as undermining the severity of the offense.

Much of the conversation at the Portland thought leader roundtable indicated that the culture of tolerance for buying sex with minors is intertwined with the perception of prostitution as commercial sex between consenting adults and there is a substantial segment of the population that favors legalization of prostitution. Anti-demand enforcement efforts are often criticized as demonizing sex. This concern was borne out in an article reviewed and discussed by the group in which the author urged law enforcement to shift their resources and attention away from prostitution offenses to traffic stings: “Pull police off pot possession and prostitution details and put them in the traffic areas where the carnage is taking place. Nobody is dying from smoking marijuana or having sex...Don’t tell us victimless crimes are more important.” (“Seeing pedestrian’s body was last straw: Guest opinion,” Oregon Live Guest Opinion, February 26, 2014.) A participant described this as “a symptom of the problem, the belief that women are choosing to engage in prostitution.”

Two points of consensus arose at the Portland thought leader roundtable:

Perception of prostitution as a victimless crime is at the core of the problem. How to address this perception was the complicated question, but two alternative approaches emerged from the discussion—either educate the public on how the conduct of buyers harms minor victims and drives the industry that exploits them, or create an atmosphere of fear and shame around the offense of buying sex with minors through aggressive enforcement and undercover online strategies that eliminate the feeling of anonymity and impunity that buyers feel when purchasing sex online. Since the first strategy would deter one group of buyers who are unaware of, or not attuned to, the harm they are causing and the second strategy would be more successful in deterring the buyers who are not inhibited by fear of causing harm to victims, both strategies seem to be necessary to address the broad range of people who buy sex with minors.

We cannot prosecute our way out of this problem. The need for community awareness beyond criminal justice enforcement is necessary to address the volume of exploitation. Some potential buyers will not buy if they understand the impact their conduct has on victims while other buyers may be deterred by the “shame factor” that public awareness campaigns like anti-smoking and anti-drunk driving have accomplished. For these buyers, the “shame factor” would derive from a general shift in cultural attitudes that view buying sex with minors as a serious form of child exploitation, rather than a “mistake” or “lapse in judgment.” Some other ways that buyers’ conduct could be made more shameful are greater awareness of the criminal justice outcomes for buyers of sex with minors and greater risk that buyers’ conduct will be exposed.

While the Portland thought leader roundtable specifically focused on the issue of how cultural tolerance for buying commercial sex impacts anti-demand enforcement, cultural norms around buying sex arose as an issue in each of the thought leader roundtable discussions.

Participants at the Maryland roundtable discussed the impact that cultural tolerance for demand has on prosecutions, putting prosecutors in the position of having to educate judges and juries in

“We can’t prosecute our way out of this. There needs to be a cultural shift. We need community awareness.”

–Kelley Cloyd, Assistant District Attorney for Multnomah County

“We have to be ready to educate. I have to sell, sell, sell—I am a salesperson, I am a teacher to the bench...and to jurors. I have to sell the case to the bench that this is exploitation. For jurors, you have to show that it’s happening in their community.”

–Aaliyah Muhammad, Assistant State’s Attorney for Baltimore City

order to get penalties for buyers. Despite their efforts, the majority of cases against buyers in Maryland that involved older minor victims ended in an alternative sentencing agreement. The longest sentence imposed was 7 years, against a defendant who was on probation for a previous violent sexual assault at the time he was caught in a sting attempting to buy sex with a 15-year-old. The facts of the case indicated that he again had a violent motive; however, all but 6 months of his 7 year sentence was suspended. Otherwise, most offenders who pleaded guilty to attempting to buy sex with an older minor were given the benefit of being “first time offenders” and will be able to expunge their records,¹⁰² while the offenders convicted of attempting to buy sex with a younger minor faced conviction under the state CSEC law and at least one year in jail.¹⁰³ In King County, deferred sentencing was not used in any cases but judges eased the impact of sentences in many cases by allowing offenders to serve their terms on work release or home detention and misdemeanor charges often received suspended sentences. Phoenix cases also did not involve deferred sentencing, but many defendants pleaded guilty to a “wobbler” offense – an undesignated felony that allowed the charge to be converted to a misdemeanor, either at sentencing or after completing probation. Portland cases did not demonstrate a particular pattern with regard to leniency factors, but had the highest percentage of dismissals.

The discrepancy between prosecutors’ motivation to pursue these cases and the outcomes identified in the study may reflect the “courtroom work group”¹⁰⁴ identified by Samuel Walker in *Sense and Nonsense About Crime, Drugs, and Communities: A Policy Guide*.

Once the work group reaches a consensus about the proper “going rate” for different kinds of cases, not much actual bargaining is necessary. A National Center for State Courts report characterizes this consensus as a shared “norm of proportionality” about the seriousness and worth of different cases.¹⁰⁵

“Prosecutors, defense attorneys, judges, and...police officers make up the courtroom work group,”¹⁰⁶ and are undoubtedly influenced by cultural attitudes, including common attitudes about prostitution. In turn, these cultural norms likely impact how the work group reaches consensus on the “going rate” for prosecutions of buyers of sex with minors. “The courtroom work group has enormous power to limit, frustrate, or even block reforms in the justice system. A state legislature might pass a new law, or the Supreme Court might issue a landmark ruling, but that does not guarantee that the process will really change.”¹⁰⁷

This institutionalized approach to sentencing buyers cannot realistically be changed by prosecutors alone. One critical component of shifting the work group’s view of sentencing for buyers of sex with minors is increased understanding of the issue from the bench. The problem with the “going rate” may also be statutory. States that enact a buyer-applicable CSEC law within the prostitution law (or even within the prostitution chapter) make it difficult for prosecutors to “sell” the case as child exploitation—it is very difficult to remove the prostitution lens when the CSEC law appears to act merely as an enhanced penalty. When viewed through this lens, bargaining down to an age-neutral prostitution offense is akin to bargaining down to a lesser included offense.

102 In researching cases in the DC-Baltimore Corridor, court records for two identified cases could not be included in the study because the records had been expunged. One of the cases included in the study had a pending motion to expunge at the time the record was pulled for the research.

103 Many of these cases involved a jail sentence of 10 years with all but 12-18 months suspended.

104 Walker, S. (2001). *Sense and Nonsense About Crime and Drugs: A Policy Guide*, 6th Edition. Belmont, CA: Wadsworth Publishing; see also Abt Associates, Inc. (2010) *Developing a National Action Plan for Eliminating Sex Trafficking: Final Report*. <https://multco.us/file/24361/download>.

105 Walker, S. (2001). *Sense and Nonsense About Crime and Drugs: A Policy Guide*, 6th Edition. Belmont, CA: Wadsworth Publishing at 170.

106 *Id.* at 58.

107 *Id.* at 60.

		PRECOMPLAINT ARREST DATE 09/28/2012	INTERPRETER REQUIRED S12143 ASSTARD
FIRST FIVE OFFENSE COUNTS		OFFENSE DESCRIPTION SEXUAL CONDUCT WITH CHILD UNDER 18, PAY FOR c272 §53A	OFFENSE DATE 09/28/2012
COUNT	CODE		
1	272/53A/C	FOR A FEE X(b)	

Massachusetts court record reducing felony CSEC penalty to misdemeanor patronizing prostitution offense by changing the applicable subsection from (c) to (b).

Not only does this practice of pleading CSEC offenses down to age-neutral prostitution offenses minimize deterrence, but it harms victims. As discussed in the Portland thought leader roundtable, charging a defendant with the offense of patronizing a prostitute could be stigmatizing for the victim. Pleading a CSEC case down to patronizing prostitution would have the same effect. One of the Portland cases reflects how a victim manipulated by the defendant into sex acts in exchange for money then had to face the stigma of having engaged in prostitution when the defendant entered a guilty plea to patronizing prostitution and her name was mentioned throughout the court documents.¹⁰⁸

Potential jurors also have an important role to play. The majority of cases in both state and federal courts do not go to trial.¹⁰⁹ The primary reason for this is resources. Trials are time and resource intensive; prosecutors simply cannot try every case. Furthermore, jury nullification is sometimes raised as a concern for prosecutors, particularly when community awareness lags behind legislative change.¹¹⁰ Demand prosecutions are made even more challenging by the apparent disconnect between commercial sexual exploitation of minors and the age of consent as it applies under statutory rape laws.¹¹¹ Attempting to educate jurors once they are part of the jury pool is often too late. Law enforcement at the Portland thought leader roundtable saw this as an important reason to start including sex trafficking education in their community-based outreach.

Amongst the different topics addressed at the thought leader roundtables, two points were consistently raised by the participants: First, more resources or at least a reallocation of existing resources are necessary to more effectively tackle demand and that prosecutions alone would not address the problem of demand. As discussed further in the next chapter, thought leader roundtable participants felt that until there is greater community awareness about sex trafficking prosecutors will continue to encounter challenges created by the cultural disconnect between approaches to prostitution and commercial sexual exploitation of minors.

Participants at the Phoenix roundtable also indicated that more than community awareness is needed; there is a need for public outcry. Law enforcement participants described this as a “chicken or the egg” type of problem. Often there is no public outcry about the demand for prostitution because it is so hidden, especially in communities where there is no street prostitution and it all occurs online. No public outcry means no resources. No resources means there is a lack of will to make arrests and low arrest numbers fail to reflect the scope of the problem. This in turn makes it difficult to get support for focusing on demand.

“We need numbers. When you look at how locations are addressing demand, it needs to be quantified otherwise it will be perceived as a non-problem. Conversely, if you aren’t realizing it as a problem you won’t look for it.”

–Sgt. Chris Bray, Phoenix Police Department, Vice Unit

¹⁰⁸ In this case, the defendant contacted the victim when she was 17 and offered to give her some money for fines she had to pay. When she met with him, he gave her \$200 in return for touching her breasts which she reluctantly permitted. The victim met the defendant again a month later and he gave her \$300 for sex acts, but she was unwilling to have intercourse with him. The defendant also sent sexually oriented emails and texts to the victim asking what she would do sexually for money.” The case was charged as commercial sexual abuse of a minor but the defendant pleaded to patronizing a prostitute. The victim’s name was included throughout the court documents.

¹⁰⁹ See *supra* note 80.

¹¹⁰ See *infra* Case Study #5 on pg 98.

¹¹¹ Many state sex trafficking and CSEC laws define a minor as under 18, however, some states’ age of consent laws do not criminalize consensual sex with older minors. (See Appendix: State Law Survey of Penalties for Offenses Involving Older Minors). The difference between the offenses is potentially confusing for jurors, particularly when cultural attitudes perpetuate an understanding of prostitution as consensual sex for a fee and jurors may not understand that minors exploited through commercial sex are victims of an offense, particularly when the minor is close to the age of majority.

Quantitative Research Findings

Categories of Data Analyzed

For both phases of the research, the data was collected under the following categories:

Arrestee Information

This category tracked basic demographic information about arrestees identified through the desk review and target site research to accomplish two goals: (1) identify the buyer's name in order to track the case through the courts, and (2) better understand how buyer demographics impact case outcomes. While the demographic data collected for this subset of commercial sex consumers may contribute to existing research¹¹² that helps to profile the people who create demand, the focus was on collecting data related to case outcomes rather than creating a typology of buyers of sex with minors. The following information about arrestees was collected: Total number of identified arrestees, overall and by state (or target site), age range of arrestees, average arrestee age, percent of male arrestees, arrestees' professions and marital status.

Minor Victim Information

Information about actual and fictional (decoy) victims was collected to track the outcomes of buyer cases in relation to victim characteristics. Information about actual minor victims was tracked separately from information about fictional victims in cases where a law enforcement decoy posed as a minor. For purposes of this study, "actual minor victim" refers to cases where real minors were the target of buyers' conduct, regardless of whether the buyers engaged in sexual conduct with the minor victims.

The following information about actual minor victims was collected in both the desk review and the target site research: age, gender and number of minors victimized by the arrestee or defendant. In the desk review, which relied heavily on media sources to identify case information, data was collected to indicate whether the article or record referred to the minor victim as a "prostitute." Information was also collected regarding whether the victim was charged with prostitution, was in runaway status, or was court or child welfare involved. In analyzing the impact of age on case outcomes, cases in the desk review were categorized as cases involving children less than 11 years of age, cases involving younger minors (11–14) and cases involving older minors (15–17).¹¹³ Since the target site research enabled access to greater detail in the case reviews, age was analyzed in additional contexts that could not be accomplished for the desk review.

112 The Schapiro Grp., *Men Who Buy Sex With Adolescent Girls: A Scientific Research Study* (2009), *available at* <http://www.womensfundingnetwork.org/sites/wfnet.org/files/AFNAP/TheSchapiroGroupGeorgiaDemandStudy.pdf>; also The Schapiro Grp., *Csec Demand Study Results: Research Highlights* (2009); Michael Shively Et Al., Abt Assocs. Inc., *Developing A National Action Plan For Eliminating Sex Trafficking* (2010), *available at* http://www.demandabolition.org/wp-content/uploads/2011/07/2000_abtnatactplan.pdf; Rachel Durchslag & Samir Goswami, Chi. Alliance Against Sexual Exploitation, *Deconstructing The Demand For Prostitution: Preliminary Insights From Interviews With Chicago Men Who Purchase Sex* (2008), *available at* <http://www.salvationarmychicago.net/promise/files/2012/11/deconstructing.pdf>; Monto, Martin A., and Deana Julka. (2009). "Conceiving of sex as a commodity: A study of arrested customers of female street prostitutes." *Western Criminology Review* 10(1):1-14. (<http://wcr.sonoma.edu/v10n1/Monto.pdf>); Abt Associates, Inc. (2010) *Developing a National Action Plan for Eliminating Sex Trafficking: Final Report*. <https://multco.us/file/24361/download>.

113 The age groups of 15–17, 11–14 and under 11 were used for research purposes to delineate between older minors, younger teens (11–14) and prepubescent minors (under 11) consistent with the distinctions between hebephilia and pedophilia. *See supra* note 20.

Circumstances Of Offense & Arrest

This category tracked a variety of data relating to how buyers committed the offenses for which they were arrested and how they came into contact with law enforcement. Two primary goals of tracking this data was to determine and compare the types of commercial sexual exploitation of children committed by buyers and the circumstances under which buyers are identified and apprehended by law enforcement. Another important reason for tracking this data was to be able to distinguish between cases involving actual minor victims and cases involving a fictional victim who is actually a law enforcement decoy posing as a minor.

Information collected under this category for the desk review included the following: whether the offense involved a law enforcement decoy or an actual victim, whether there was a third party report to police or a patrol officer identification, and whether the buyer solicited the child directly or through a third party and whether the Internet was used to exploit the minor victim. Additional information collected through the target site research included: location of the encounter (or attempted encounter) with a minor victim, what amount of money or item of value was exchanged or offered for sex with the minor victim,

Charges, Prosecution & Penalties

This category tracked data relating to the prosecutorial process and enforcement outcomes. For the desk review, charges that buyers faced at the time of arrest and final charges upon conviction were tracked in order to compare prosecution consequences for those cases that reached disposition and sentencing during the research period. To account for differences in state law, charges were categorized as: (1) sex trafficking/commercial sexual exploitation of children (CSEC)¹¹⁴ consistent with Protected Innocence Challenge state law analysis, (2) prostitution-related offenses that are not specific to minors, (3) child sexual abuse offenses, (4) child abuse offenses that do not specify sexual conduct, (5) child pornography offenses, (6) technology-related offenses, (7) drug offenses and (8) other offenses that did not fall into the preceding categories. For the desk review phase, not all identified cases could be tracked through the court process for two reasons: (1) not all cases had completed the prosecution process during the data collection period, and (2) cases in jurisdictions that lacked online access to court records could not be tracked. Initial charges, however, were identified in the majority of cases for the desk review and charges for the arrest, prosecution and disposition stages were identified for all cases in the target site phase.¹¹⁵ This category also tracked where the prosecutions proceeded, including whether the defendant was prosecuted in state or federal court.

In addition to charges, both phases of research tracked final dispositions and sentencing outcomes for cases that reached those stages. Since the target site research was limited to concluded cases, more in-depth information could be collected regarding the prosecutorial process, including availability and conditions of pre-trial release, seizure and forfeiture of assets, sentencing information relating to leniency factors (work release, home detention and suspended sentence terms) and alternative sentencing agreements that allow defendants to avoid a conviction.

While each phase involved collecting data under these categories, the data sets were sufficiently different to warrant analyzing the data in two separate phases. Thanks to an excellent collaboration with the Office of Sex Trafficking Intervention Research at Arizona State University, analysis of the data collected for the Phase 1 desk review, which was initially published in the Benchmark Assessment Report released on November 7, 2013, was completed by Dominique Roe-Sepowitz, MSW, Ph.D. and Kristine Hickle, Ph.D. at the Arizona State University, Office of Sex Trafficking Intervention Research. Analysis of the data collected for the Phase 2 target site research was also completed by Dominique Roe-Sepowitz, MSW, Ph.D., James Gallagher, MAdmin and Kristine Hickle, Ph.D. at the Arizona State University, Office of Sex Trafficking Intervention Research.

¹¹⁴ Sex trafficking and CSEC charges were tracked separately for the target site research, however no cases were charged as trafficking for that phase of the research.

¹¹⁵ For a small number of cases in the target site phase that were dismissed, no final charges were tracked since the case did not result in a guilty plea or verdict.

The following research findings have been organized according to the stages of the research. The outcomes of this report, however, holistically analyze the impact of all of this data to develop a deeper understanding of how current enforcement outcomes reflect the challenges of addressing demand and where change is needed to better protect current and future victims from the exploitation that occurred, or would have occurred, in the cases identified through this study.

Phase 1: Desk Review Research Findings

Buyer Statistics

Of the 407 cases of individuals found to have purchased or attempted to purchase sex from a minor. The average age of the buyers ranged from age 18 to 89 years old with an average of 42.5 years old ($SD = 13.6$). Ninety-nine percent (402 cases) of the buyers were males. One percent (4 cases) of the buyers was female. Males ranged in age from 18 to 89 years old and the average age of male buyers was 42.6 years ($SD = 13.7$) while the age of the four female buyers ranged from 30 to 32 years old with an average age of 31 years old ($SD = 1.0$).

Of the 137 cases where this information was available, 77 (18.9% of the total buyer cases) of the buyers' professions involved working with children such as a teacher, sports coach, military recruiter, and boy scout leaders, and 88 professions (21.6% of the total buyer cases) involved a position of authority or trust, such as attorney, law enforcement, military, or minister. The identified profession of 34 cases was teacher or school employee. First responder (fire fighter, law enforcement, emergency medical technician) was the identified profession of 21 buyers and faith community leader (pastor, minister) was identified as the profession of the buyer in 5 cases.

Minor Victim Statistics

The 407 buyer cases in this study included 347 known victims from information available within 294¹¹⁶ cases that involved an actual victim rather than a decoy. Of the 294 cases involving an actual victim, 61 involved multiple victims ranging from 1 to 12 victims with an average of 1.4 victims. The victim's gender for all cases known (284 cases) was female: 221 (77.8%), male: 59 (20.8%), both male and female: 3 (.1%) and transgender: 1 (.03%). In 25 cases, the minor victim was identified by the media as a 'prostitute'.

In 247 cases, data was obtained regarding the age of 298 actual victims (some cases described the age of the victims but did not identify how many victims were involved), with victim ages ranging from 2 to 17 years old, and an average of 14.8. The age of the youngest victim in each case was placed into three categories including: less than 11 years old, age 11–14, and 15–17. Of the 247 cases where ages of the victims were provided: 29 cases (9.7% of the total known) involved a victim age 10 or younger; 124 cases (41.6%) involved victims ages 11 to 14; and 145 cases (48.7%) involved victims over the age of 15 years old. In 5 cases the victims were charged with prostitution. These cases were in: Georgia 2 (2010, 2012), Ohio 1 (2009), Kansas 1 (2011), and North Carolina 1 (2012). Of 220 cases known, victims were trafficked by a family member in 28 cases.

In seven cases, a victim was identified as a runaway; and in seven cases a victim was identified as involved in child protective services care (with one victim identified as both a runaway and in child protective services care).

¹¹⁶ Six cases lacked sufficient information to determine whether the case involved an actual victim or a decoy.

Circumstances of Offense & Arrest Statistics

Buyers appear to access their victims through a variety of means. In 119 cases, the buyer attempted to solicit a minor for sex through a third party including the minor's parent, older sibling, a pimp/trafficker, or decoy, but a larger number of cases (238), involved a buyer who directly made contact with a victim to solicit them for sex, either in person, by text message, email or phone. In 115 cases the buyer made contact with the minor through an online ad that they placed or law enforcement placed or through chat on Facebook or in chat rooms.

Law enforcement similarly employs a variety of means to identify and apprehend buyers. One hundred and seven cases involved a law enforcement decoy posing as a fictional victim. In 11 of the cases where there was not an actual minor involved, the decoy operation had originated from a tip from a potential victim or family member resulting in law enforcement action using undercover techniques to make contact with the buyer. In 53 of the decoy cases, it is known that law enforcement used a reversal or a decoy, either through an online ad or in-person.

Charges, Prosecution & Penalties Statistics

Overall Charging Trends

All 407 buyers identified through the research were arrested for their crimes and of those arrested, 368 were charged. In 355 out of 407 cases, charges could be determined at the time of arrest and/or prosecution. Where information was available regarding both the charges at the time of arrest and the charges brought by the prosecution, initial charges reflect the charges brought by the prosecution.¹¹⁷ In 52 cases, information about the charges at the time of arrest was not available because this information was not included in the news article or could not be obtained through online court records searches. Of the 355 cases where information about initial charges was available, many buyers received more than one charge for their solicitation of a minor. The most common charges against buyers identified in the desk review were sex offenses (206 cases, 51%) that do not reflect the commercial act of buying a child for sex acts. The second most common charge against buyers was the commercial sexual exploitation of children (162, 40%), followed by child abuse (39, 9%). Of cases with information about who was prosecuted (249), 194 were state prosecutions (77.9% of known cases) and 55 were federal prosecutions (22.1% of known cases).

¹¹⁷ The reason for this is two-fold. First, the official court records were a more reliable resource for accurately identifying charges and because charges brought by the prosecution were brought later, allowing time for further investigation of the case following the defendant's arrest.

Relationship Between Charges & Case Characteristics

State vs. Federal: CSEC/Trafficking Charges¹¹⁸

(using chi square analyses)

Of the 69 cases with information on state or federal prosecution and initial charges including a commercial sexual exploitation of children charge (CSEC), there was a significant difference found (using a chi square analysis, at the .01 level) between state and federal cases that started the case with a CSEC charge as the initial charge and concluded the case with a CSEC charge as the conviction charge. Cases at the state level were found to have a non-significant shift from CSEC to non-CSEC (30 remained CSEC and 25 became non-CSEC) while federal cases had no (zero) cases that shifted from CSEC initial charges to non-CSEC charges upon conviction and 14 remained CSEC charges.

Victim Age Categories

(using chi square analyses)

When the age categories were explored with the buyers' initial charges, significant differences were found. Regarding the charge of commercial sexual exploitation of children, there was a significant difference found between age groups with cases with victims 15 years and older being significantly more likely to be in that charge type. Cases with charges of a sexual offense were significantly more likely to have victims in the age categories of 10 and under and 11 to 14. Prostitution, pornography, child abuse, criminal offense and drug offense did not have any significant differences by age category.

Victim Gender Categories

(using chi square analyses)

Regarding victim gender, there were no significant differences in buyers' charges related to commercial sexual exploitation of children; however, cases with female victims were significantly more likely to involve a prostitution related charge. No other categories were significant related to gender of the victim.

Sentencing Ranges & Patterns

Jail/prison sentences ranged from no time to life in prison in the cases that could be tracked to resolution. Of cases with sentencing information (101), the sentences ranged from 1 or less months to 1200 months (100 years) ($M = 104.7$ months, $SD = 167.67$). Two buyers were sentenced to life in prison.

As part of sentencing, 31 cases required the buyer to register as a sex offender as part of their sentence. The remaining 70 cases (70% of those with sentencing data) did not indicate a requirement to register as a sex offender.

Of known cases (40) that resulted in probation sentences, seven were for lifetime probation while the others ranged from 1 to 15 years of supervision ($M = 5.4$ months, $SD = 3.3$ months).

State Highlights

While only 46.3% of the buyer cases involved a charge related to CSEC or sex/human trafficking under state or federal law, some states showed a consistent trend with using CSEC or trafficking laws to prosecute buyers. Florida, which had the highest number of buyer cases (38), used a CSEC or trafficking law in the majority of cases (55.3%). Similarly, Washing-

¹¹⁸ See Charging Trends map and chart on pages 48-49 for state-level analysis of charges.

ton and Massachusetts used CSEC charges in the majority of cases (65.2% and 57.1%, respectively). Colorado, which had 14 cases identified in the study, used CSEC charges in all 14 cases. Conversely, Pennsylvania, which had the second highest number of identified cases, also had the greatest frequency of charges across all categories with 10 trafficking, 5 prostitution (not child specific), 20 sexual abuse and 8 other child abuse charges. Aligning with the laws available under state law, the charges against buyers charged in California, which has no state CSEC or trafficking law that applies to buyers of sex with minors, were all childhood sexual abuse charges.¹¹⁹

CSEC and/or Sex Trafficking Offense = Included Charge	
NO: 47 cases, 115 months	YES: 32 cases, 85 months
Non-CSEC Prostitution Offense = Included Charge	
NO: 72 cases 103 months	YES: 7 cases 95 months
Child Sex Abuse Offense = Included Charge	
NO: 34 cases 127 months	YES: 45 cases 85 months
Child Abuse Offense = Included Charge	
NO: 74 cases 105 months	YES: 5 cases 65 months
Technology-Related Offense = Included Charge	
NO: 67 cases 107 months	YES: 12 cases 79 months
Other Criminal Offense = Included Charge	
NO: 74 cases 105 months	YES: 5 cases 76 months
Drug-Related Offense = Included Charge	
NO: 74 cases 101 months	YES: 5 cases 139 months

However, significant sentencing differences were found in those cases in which buyers faced charges that included pornography offenses.

Pornography Related Offense = Included Charge	
NO: 69 cases 78 months	YES: 10 cases 270 months

¹¹⁹ For each charge category, yes or no relates to the sentence when the offense was/was not charged; the sentence indicated is the average sentence calculated in months.



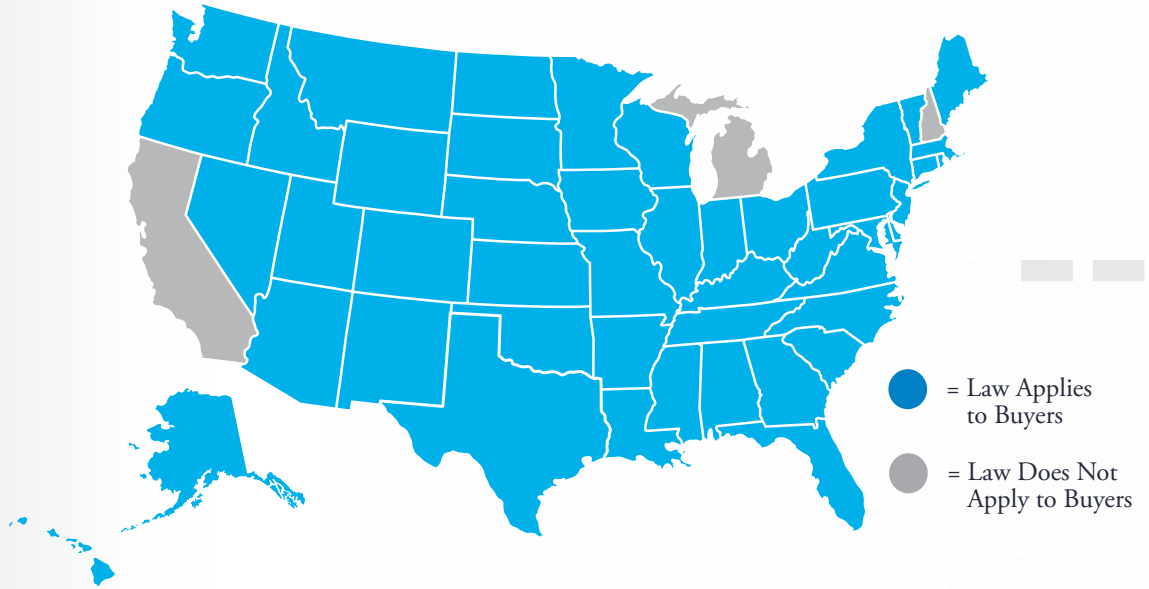
A State-by-State Comparison

A state-by-state comparison of CSEC laws

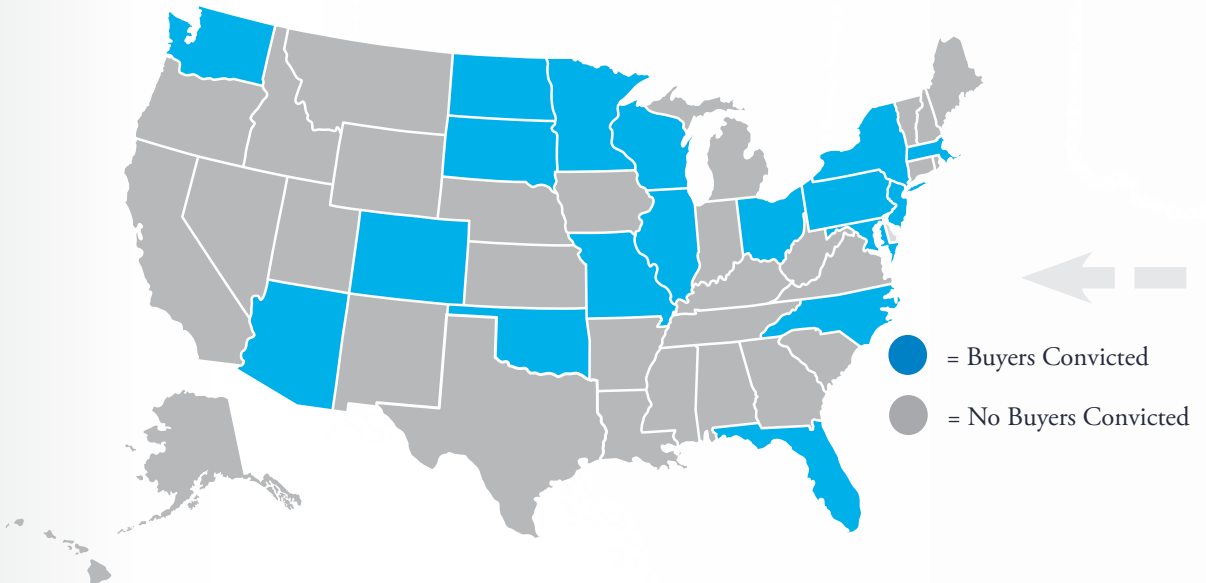
While federal CSEC and sex trafficking laws apply in any state, nearly every state also has CSEC and/or trafficking laws that can apply to buyers. Cases may start at the state level but may be referred for federal prosecution. The maps reflect both state and federal action.

The data for these maps is drawn from the Demanding Justice Benchmark Assessment State Comparison Chart in the Appendix.

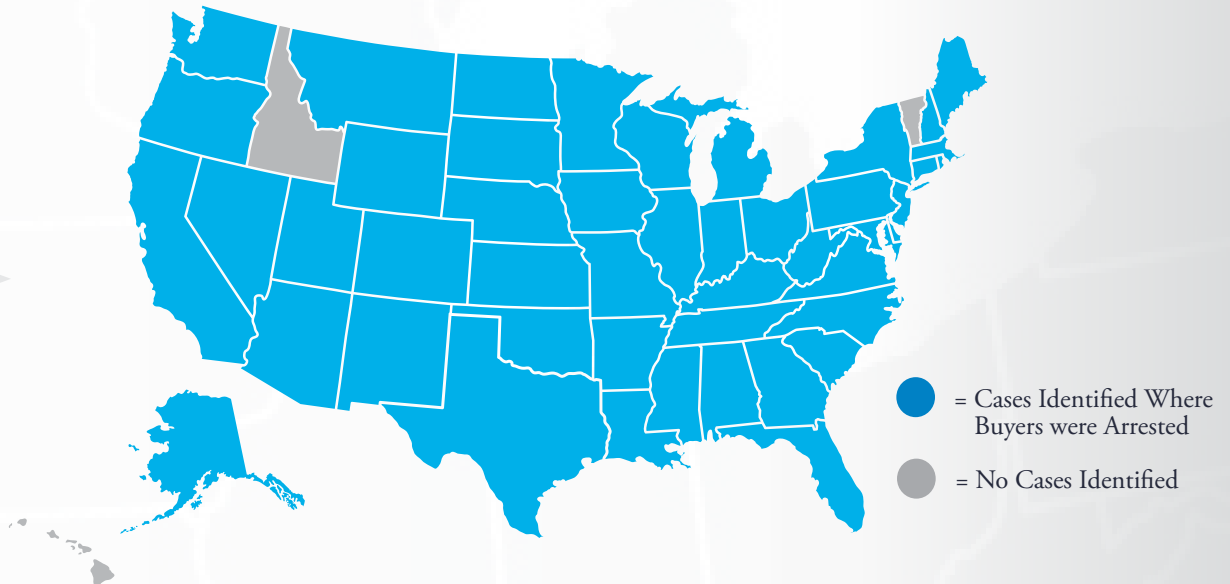
State Trafficking or Commercial Sexual Exploitation of Children (CSEC) Law Applies to Buyers



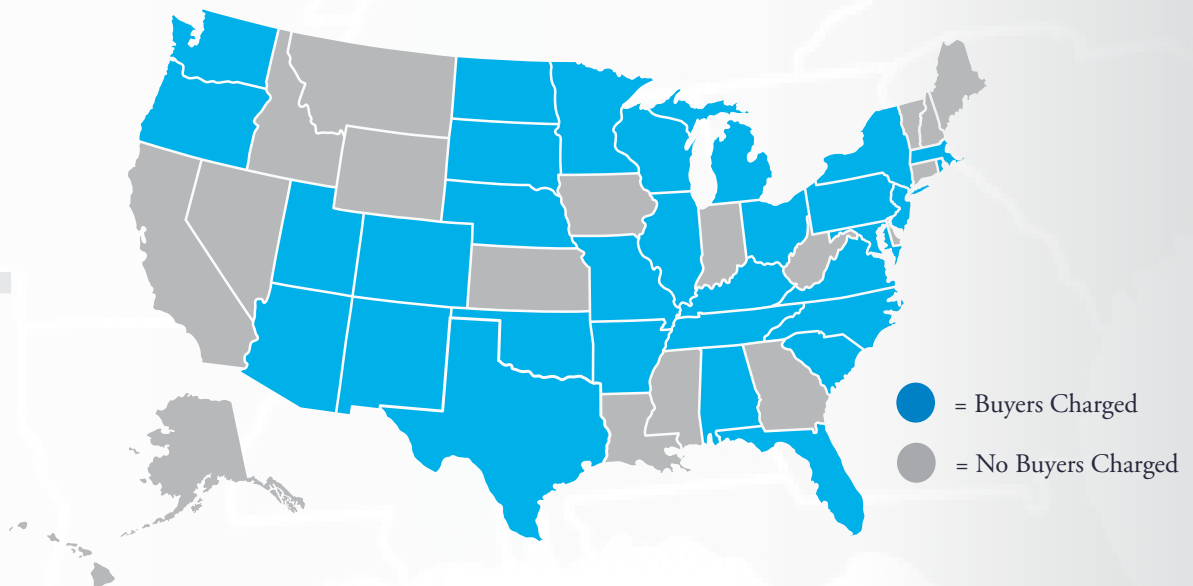
Convicted: Buyers have been Convicted Under Trafficking or CSEC Laws (State or Federal)



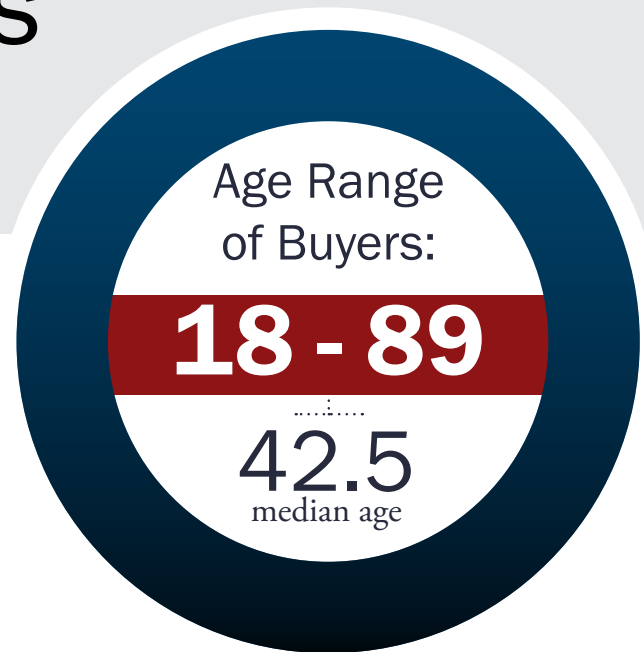
**Arrested: Identified Cases of Buyers of Sex
with Children (State or Federal)**



**Charged: Buyers have been Charged Under
Trafficking or CSEC Laws (State or Federal)**



99% of buyers
were **male**



In 137 cases,
buyer profession
was identified...

18.9%

**of total buyer cases involved direct
contact with minors**

(teacher, sports coach, military recruiter,
boy scout leader, etc.)

21.6%

**of total buyer cases involved a
position of authority or trust**

(law enforcement, attorney, military, etc.)



8.4%

**Teachers/School
Employees**



5.2%

First Responders



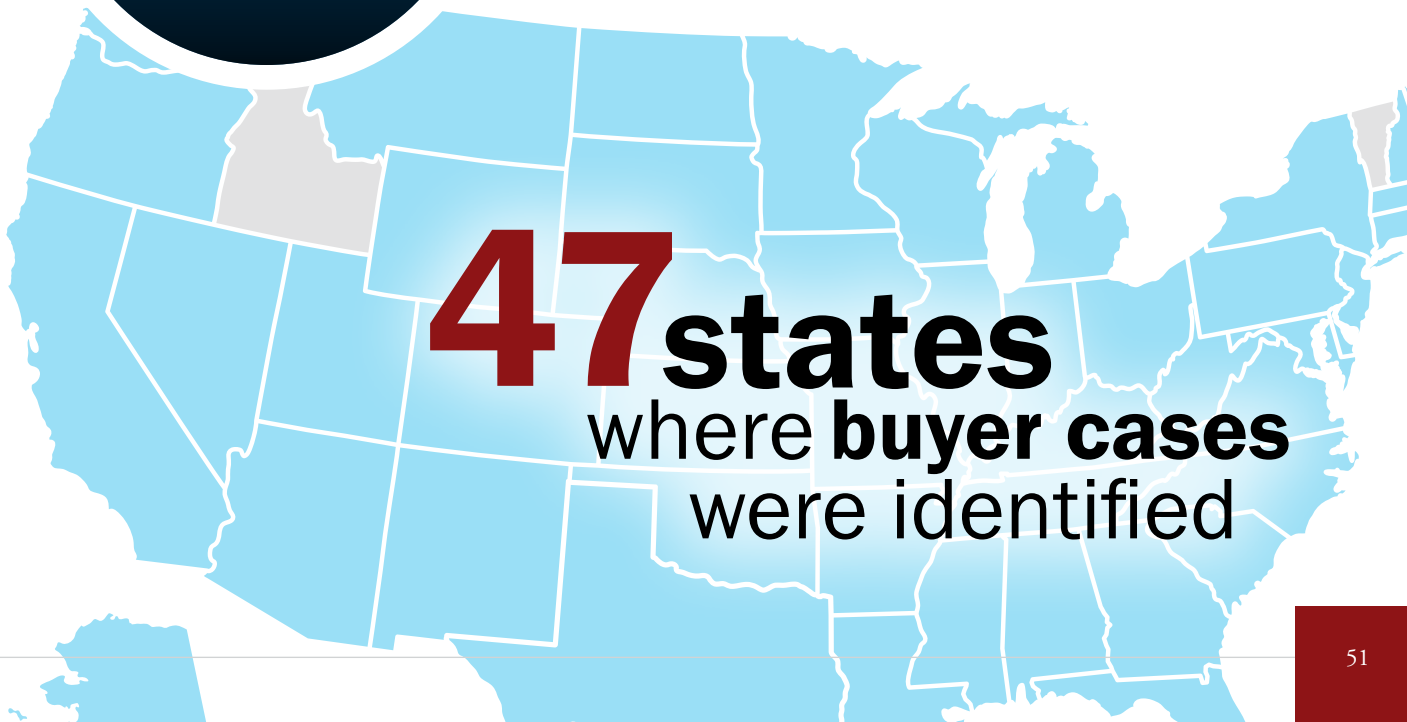
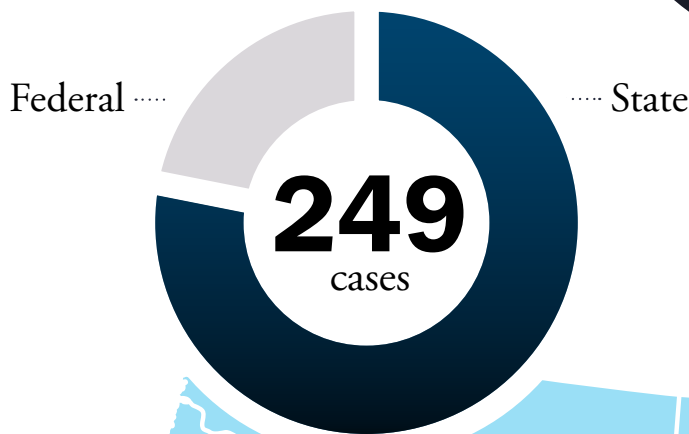
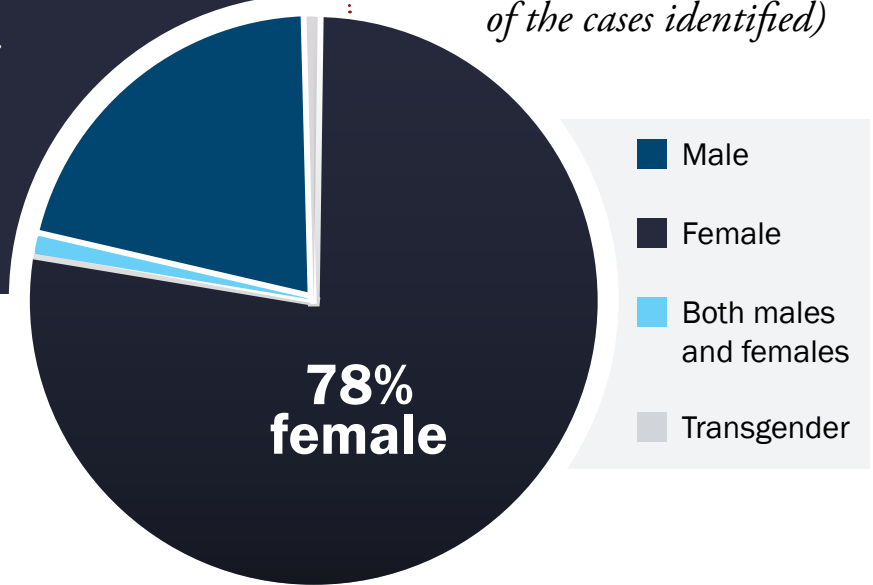
1.2%

**Faith Community
Leaders**

“prostitute”

In 6.1% of all cases, the minor victim was referred to by the media outlet as a “prostitute.”

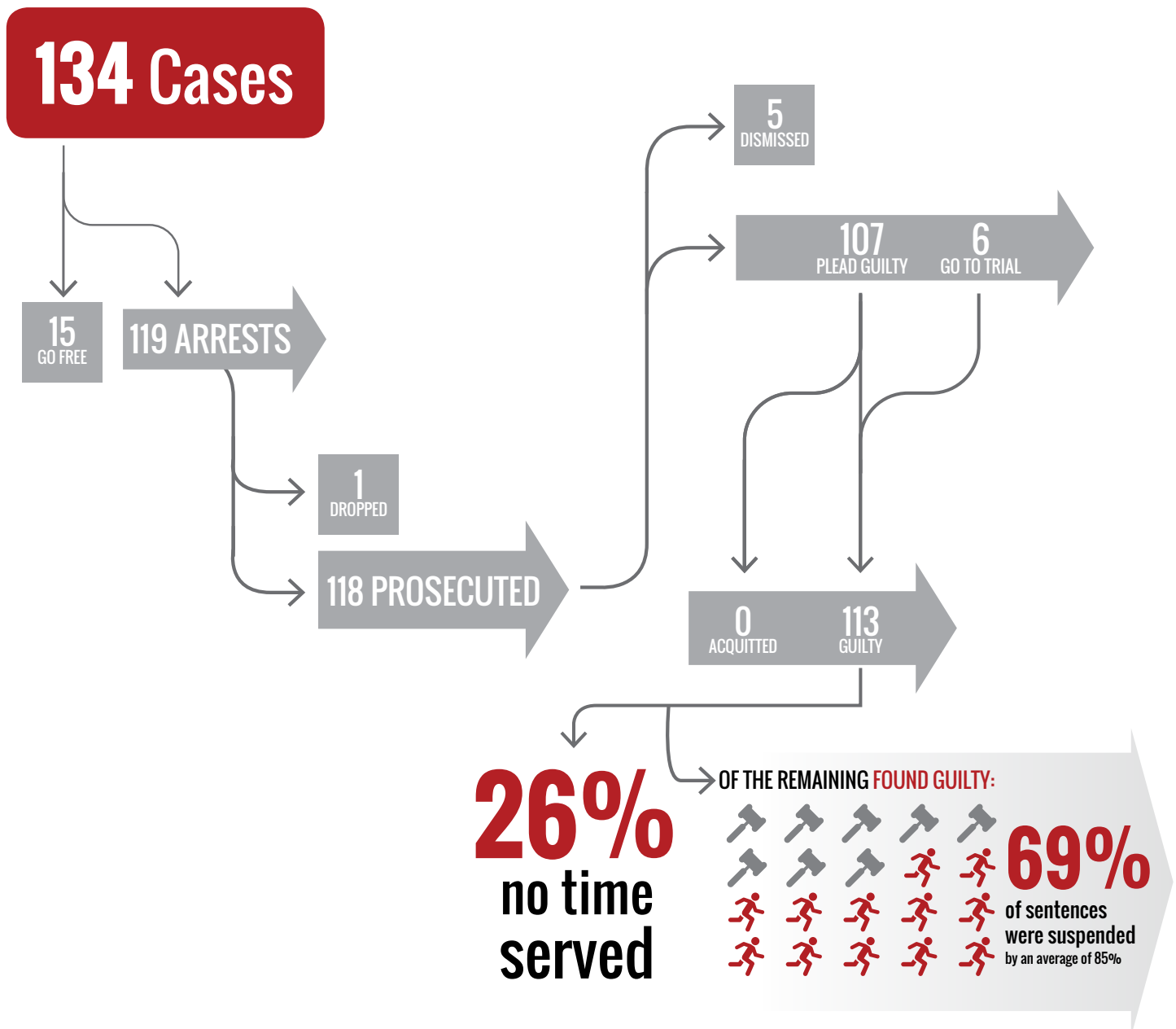
Gender of victims
(sex was known in 284 of the cases identified)



Phase 2 Quantitative Analysis

Outcomes by Stage of the Process

Across the four target sites of Phoenix, Portland, Seattle and the DC-Baltimore Corridor, this phase of the research identified 134 CSEC offenses by an alleged buyer: 119 were closed cases involving an arrested buyer¹²⁰ of sex with a minor and the remaining 15 involved non-arrested individuals identified as potential buyers based on conduct alleged by witnesses in police reports reviewed for the research. With the exception of one defendant in Phoenix who had two cases for separate incidents of attempting to buy sex with a minor (in 2010 and again in 2013) all of the cases involved a unique defendant.

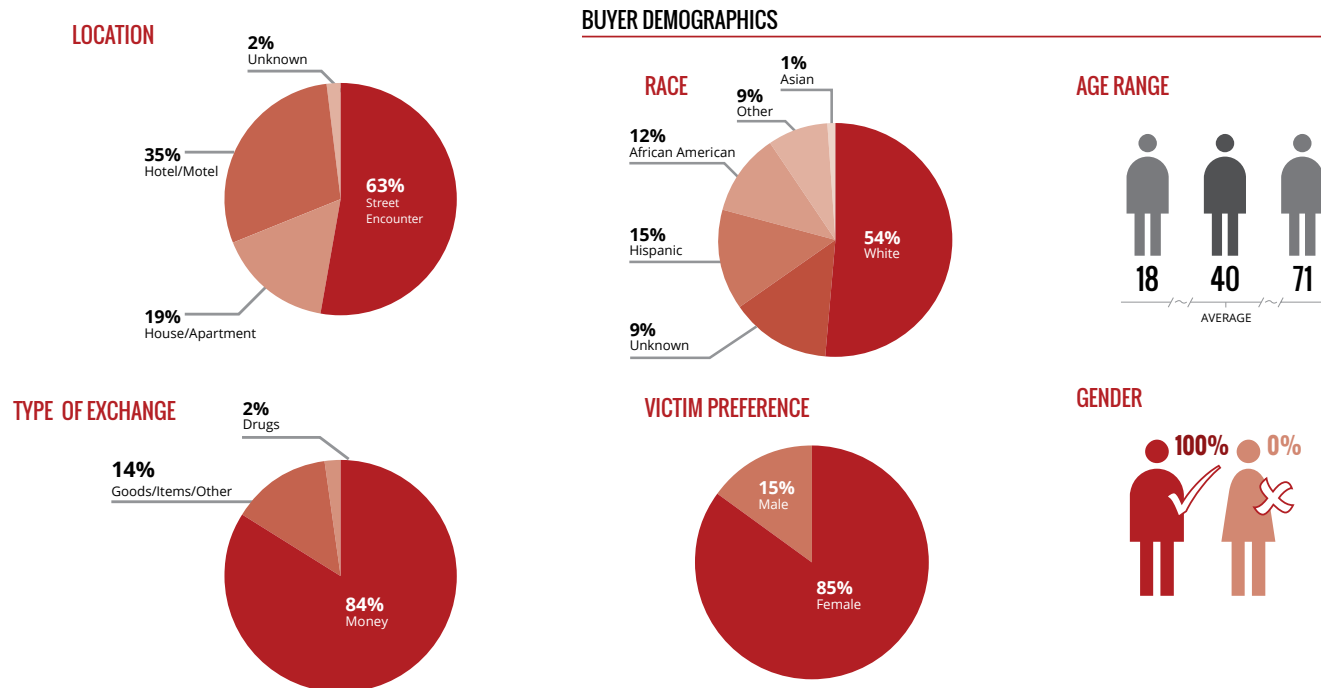


¹²⁰ See definition of “buyer” for purposes of this report on page 7. The definition includes allegations of attempted conduct, such as soliciting a law enforcement decoy for commercial sex.



STAGE 1: THE CRIME IS COMMITTED

The following statistics relate to the nature of the offense, including information collected about the alleged offender and the victim. All of the alleged offenders in this phase of the research were male and they ranged in age from 18–71 years old. Since some of the defendants in actual victim cases were charged with exploiting more than one victim, 75 individual victims were identified, the majority of whom were aged 15–17.



STAGE 2: INVESTIGATION OR OBSERVATION OF THE OFFENSE RESULTING IN ARREST

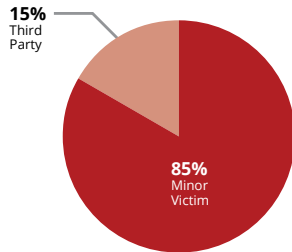
Two types of cases were included in this study: cases of defendants charged with purchasing or attempting to purchase sex with a minor and cases of defendants charged with soliciting commercial sex from a law enforcement decoy impersonating a minor in a sting operation. In the 119 cases that resulted in arrest, the majority was the result of a sting operation (72 cases, 60.5%) and the remaining 47 cases (39.5%) involved an actual minor victim.¹²¹ Of the 47 cases that involved an actual victim, 13 cases involved multiple victims, resulting in a total victim count of 58 children. Of the 47 cases involving actual victims, one case (2.1%) involved both male and female victims, 39 cases (83%) involved female victims and 8 cases (14.9%) involved male victims with a total of 45 female and 13 male victims identified. While the age that appeared most frequently in the data set for fictional victims in decoy operations was 15 years old, the age that appeared most frequently in the data set for actual victims was 17 years old.¹²²

¹²¹ As demonstrated by the site-specific data in the next section, the DC-Baltimore region was almost exclusively sting cases and the Portland cases exclusively involved actual victims.

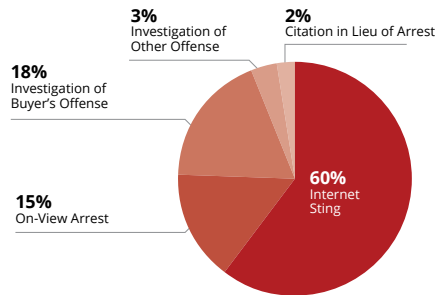
¹²² In 7 of the 47 actual victim cases, the minor victim was identified as being involved in the child welfare system, and in 6 cases the victim was identified as being in runaway status at the time of his or her victimization by the buyer.

Money was the most common type of exchange (100 cases, 84%) while drugs were exchanged in 1.7% of the cases and 14.3% of the cases involved another type of exchange: e.g., hotel room, phone card, tattoo, private soccer lessons, and gifts. Money was the most common type of exchange in both actual victim cases (40, 85.1%) and decoy cases (60, 83.3%) and 57% of defendants had property seized at arrest.¹²⁵

WHO DID THE OFFENDER SOLICIT?¹²⁴ (out of 47 actual victim cases)



CIRCUMSTANCES OF ARREST



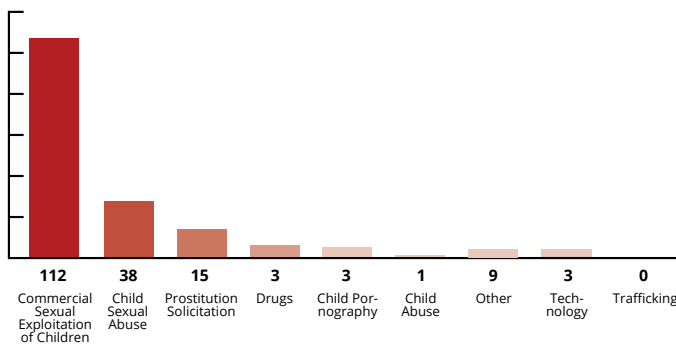
72 decoy cases¹²³

DECOY AGE RANGE:

14.97
YEARS



INITIAL CHARGES INCLUDED (out of 119 cases)



47 actual victim cases

ACTUAL VICTIM AGE RANGE:

14.76
YEARS



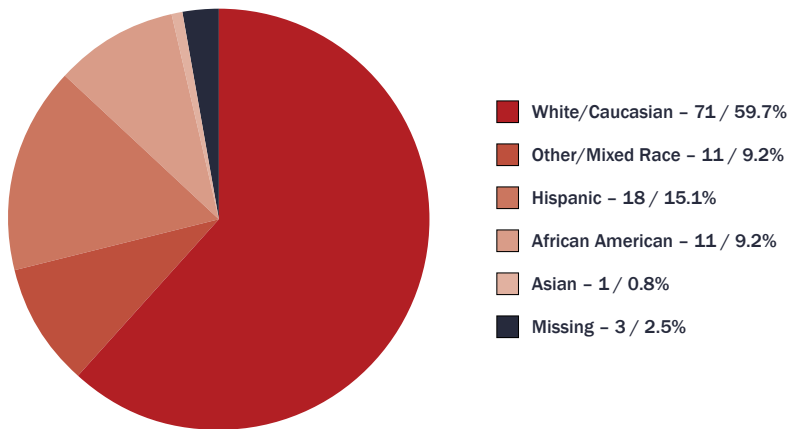
¹²³ Of the 72 cases where the buyer communicated with or attempted to buy sex with a law enforcement decoy rather than an actual victim, 70 cases involved reverse sting operations and 2 cases involved a law enforcement officer responding to an online advertisement posted by the defendant.

¹²⁴ This aligns with anecdotal accounts by survivors of domestic minor sex trafficking who were taught by their trafficker to perpetuate the illusion that they were acting independently. In addition to avoiding detection by law enforcement, survivors have explained that there is a profit motive as well; some buyers are uncomfortable or intimidated when they know a pimp is involved. See *infra* note 96 for a discussion of traffickers' tactics for remaining under the radar of law enforcement by training minor victims to appear to be acting independently.

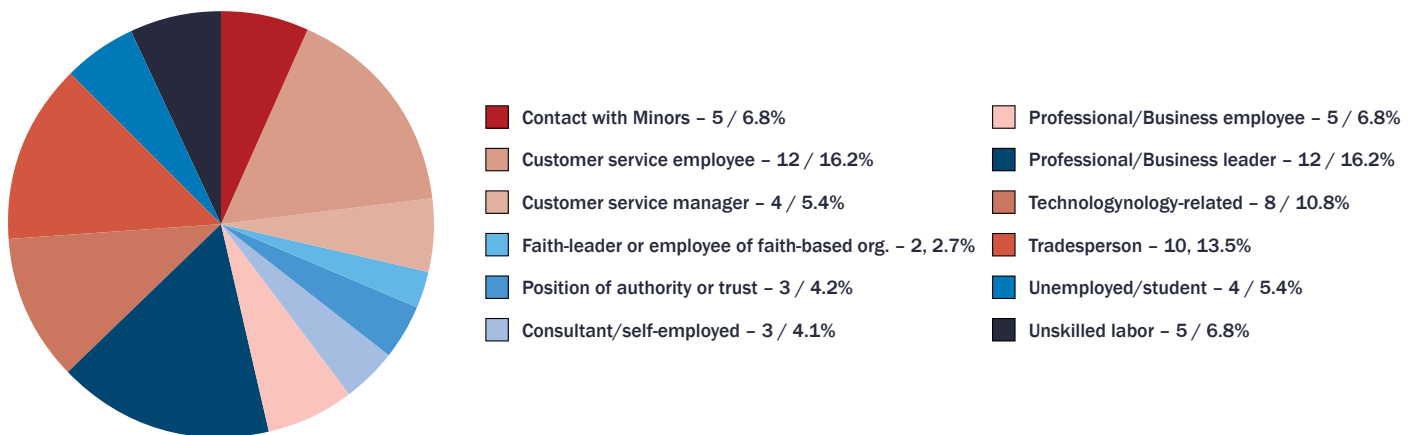
¹²⁵ While property was seized upon arrest in 57% of the cases, only 23% of cases resulted in asset forfeiture.

ARRESTED OFFENDER DEMOGRAPHICS

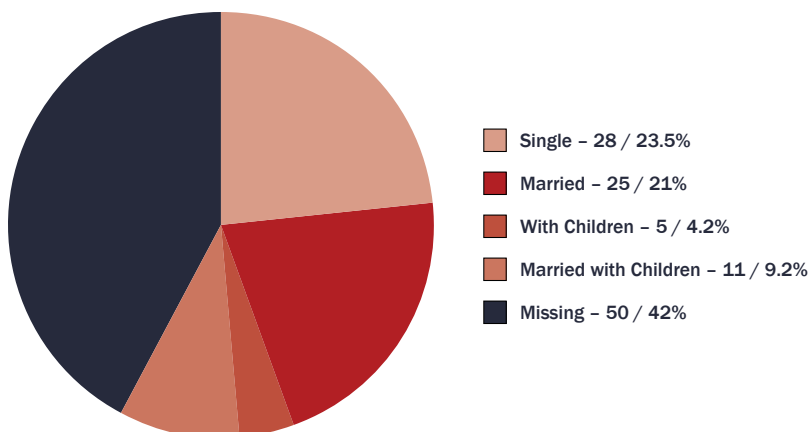
Arrested offender's race was identified in 116 cases.



The professions of the defendants were found in the documents of 74 cases. Of those, 5 were in a profession that involved regular contact with children, including a school bus driver, employee of an organization that provides residential programs and services to abused, neglected and at-risk children, high school sports umpire, soccer coach, and retired teacher. Professional/business leaders and customer service employees represented the two largest categories of identified professions.



Marital status was identified in 69 (58%) of the 119 cases.

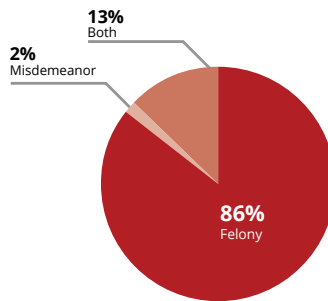




STAGE 3: THE CASE IS REFERRED FOR PROSECUTION

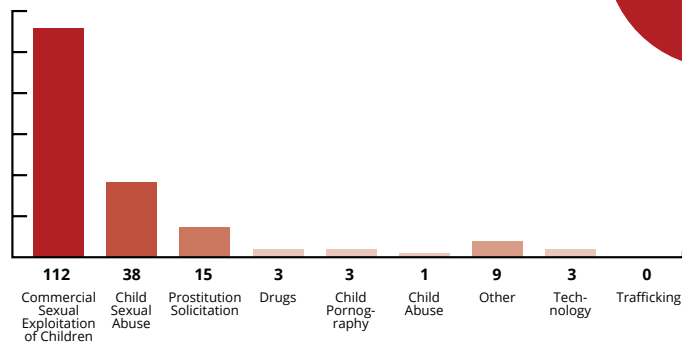
CSEC was an initial charge at arrest in 110 cases, one of which did not proceed to prosecution. At the time of prosecution, 2 cases dropped the CSEC charges while 5 cases added CSEC charges. CSEC charges were the most common initial charge; sex offenses were the second most common charge. No cases involved trafficking charges at any point in the process.

PROSECUTION CHARGE OFFENSE CLASSIFICATIONS:

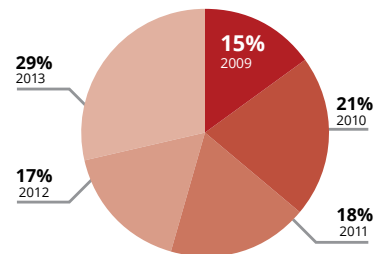


CHARGES FILED BY PROSECUTOR INCLUDED:

(out of 118 Cases)



CASES BY YEAR OF ARREST:



STAGE 4: PRE-TRIAL RELEASE

In 98.3% of the cases, the defendant was released from jail pending trial. In setting the terms of pre-trial release,¹²⁶ the court directed the defendant not to have contact with minors while on pre-trial release in 51% of the cases. In 20 of the 47 cases involving an actual minor victim, the defendant was ordered to stay away from the victim; only 5 cases in Phoenix required the defendant to stay away from the victim's family. The defendants' use of the Internet was restricted during pretrial release in 12 cases (10%).

PRE-TRIAL RELEASE:

116 Granted ✓ **2** Denied ✗

AVERAGE BOND AMOUNT:



TERMS OF PRE-TRIAL RELEASE:



61
No contact
with minors.



20
No contact
with victim.



5
No contact with
victim family.



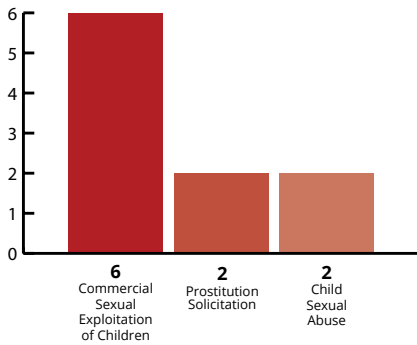
12
Limited use
of the Internet.

¹²⁶ Information was not available for all cases.

STAGE 5: TRIAL, PLEA OR DISMISSAL

Of the 118 cases that proceeded to prosecution, 107 concluded in guilty pleas, 6 went to trial (all resulting in guilty verdicts) and 5 were dismissed or prevented from reaching disposition.¹²⁷

PROSECUTION CHARGES INCLUDED: (out of 6 Cases that went to trial)(out of 118 Cases)



CIRCUMSTANCES OF ARREST OUT OF THE 6 CASES THAT WENT TO TRIAL:



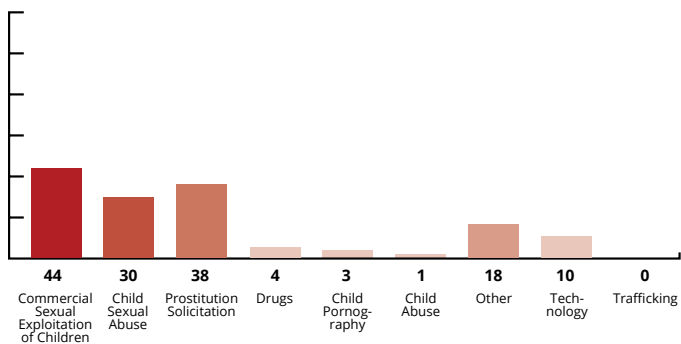
STING VS. ACTUAL VICTIM:



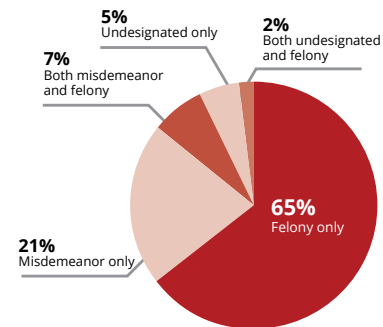
STAGE 6: FINAL DISPOSITION

Of the 118 cases that proceeded to prosecution, 113 were deemed guilty by plea or verdict. While only 44 of 113 cases concluded with a final CSEC charge, CSEC remained the most common charge at conviction, constituting just over a third of the final charges. The next most common final charge was related to prostitution solicitation, which constituted another third of the final charges. Seattle and the DC-Baltimore Corridor had the highest percentage of felony dispositions. The high rate of final felony charges in these two sites, which also had the highest number of identified cases, seems to account for the overall high percentage of felony outcomes. Undesignated felonies, only appeared in Phoenix cases.¹²⁸

FINAL CHARGES INCLUDED: (out of 113 Cases)



FINAL CHARGE CLASSIFICATIONS:



81 total
felony

32 total
misdemeanor

8 total
undesignated

¹²⁷ Two cases were prevented from reaching disposition due to the defendant's circumstances. In one case, the defendant passed away during the prosecution. In another case, the prosecution could not continue due to the defendant's failure to appear. Two other cases did not proceed because the defendant was found incompetent to stand trial.

¹²⁸ See supra note 83 for an explanation of undesignated felonies in Arizona.



STAGE 7: SENTENCING

While the overall average sentence length was 3 years, the actual time to be served after deducting credit for time served and suspended terms was just under one and a half years. Phoenix and the DC-Baltimore Corridor had higher overall sentence lengths when compared to Portland and Seattle. However, Phoenix and the DC-Baltimore Corridor also had the highest percentage of suspended sentences.¹²⁹

JAIL TIME:

- Median sentence length = 365 days
- Suspended sentences = 58 cases (51.3%)
- Percent of the total sentence that was suspended
 - Average = 85.4% of the total sentence was suspended
 - Range = 7.1–100% of the total sentence suspended
- Credit for time served granted in 56 cases (50%)
- Total cases with 1+ days of actual time to be served = 84 (74.3%)
- Actual time to be served
 - Average = 545.3 days (1.49 years)
 - Range = 0 days–24 years
 - Median = 90 days

RESTITUTION:

- Ordered in 19 cases (highest restitution amount = \$21,856)

66 cases
sex offender
registration

13 cases
asset
forfeiture

PROBATION:



AVERAGE FINE:

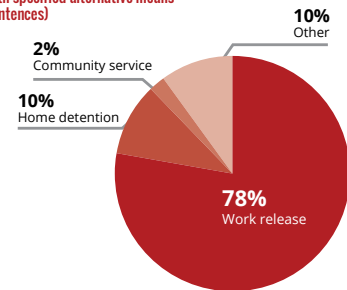


FEES AND ASSESSMENTS:



LENIENCY FACTORS:

(out of 41 Cases with specified alternative means of satisfying jail sentences)



SENTENCE TIME:



ACTUAL TIME SERVED:

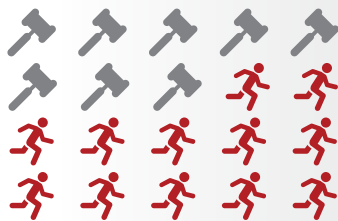


PROBATION:



26%
no time
served

OF THE REMAINING FOUND GUILTY:



of sentences
were suspended
by an average of 85%

¹²⁹ See *infra* pg 62.

Investigation/Observation of the Offense Resulting In Arrest	D.C.-Baltimore	Portland	Phoenix	Seattle
	37/119	12/119	24/119	46/119
Type of Victim				
Law Enforcement Decoy Victim	33	0	17	22
Actual Victim Case	4	12	7	24
Circumstance of Arrest				
Sting Operation	32 (86.5%)	0 (0%)	17 (70.8%)	21 (45.7%)
On-view Arrest	0 (0%)	2 (16.7%)	0 (0%)	16 (34.8%)
Investigation of Buyer's Offense	4 (10.8%)	6 (50%)	6 (25%)	8 (17.4%)
Investigation of Other Offense	1 (2.7%)	1 (8.3%)	1 (4.2%)	1 (2.2%)
Citation in Lieu of Arrest	0 (0%)	3 (2.5%)	0 (0%)	0 (0%)
Initial Charges				
Trafficking	0	0	0	0
Prostitution	10	3	1	0
CSEC	37	7	22	45
Child Sexual Abuse	1	6	5	16
Child Pornography	4	0	1	0
Child Abuse	1	0	0	0
Technology	0	2	0	9
Drugs	1	2	2	1
Other	0	2	1	1

Prosecution Commenced	D.C.-Baltimore	Portland	Phoenix	Seattle
	37/118	11/118	24/118	46/118
Charges Filed by Prosecution Included				
Trafficking	0	0	0	0
Prostitution	10	4	1	0
CSEC	37	8	22	46
Child Sexual Abuse	21	9	7	1
Child Pornography	2	0	1	0
Child Abuse	0	0	1	0
Technology	1	2	0	0
Drugs	0	1	2	0
Other	3	2	4	0
Prosecution Charge Classifications				
Felony	26 (70.3%)	6 (54.5%)	23 (95.8%)	46 (100%)
Misdemeanor	0 (0%)	2 (18.2%)	0 (0%)	0 (0%)
Both	11 (29.7%)	3 (27.3%)	1 (4.2%)	0 (0%)

Pre -Trial Release	D.C.-Baltimore	Portland	Phoenix	Seattle
Defendants Released Pre-trial	37	11	23	45
Defendants Detained Pre-trial	0	0	1	1
Terms of Release	27	10	27	37
No Contact Minors	20	1	14	26
No Contact Victim	2	2	4	12
No Contact Victim Family	0	0	4	1
Limit Use of Internet	8	0	1	3
Bond Set Amount Range	\$0-2,000,000	\$0-100,000	\$1000-\$100,000	\$100-250,000
Average	\$141,027.03	\$14,286	\$18,675	\$53,514.29
Standard Deviation	\$327,967.44	\$37,796.32	\$24,087.05	\$58,299.49
Released Without Bond	2	5	3	9

Trial, Guilty, Plea or Dismissal	D.C.-Baltimore	Portland	Phoenix	Seattle
Total Cases	37	11	24	46
Guilty Pleas	35 (94.6%)	6 (54.5%)	24 (100%)	42 (91.3%)
Trials	0 (0%)	2 (18.2%)	0 (0%)	4 (8.7%)
Dismissals/Concluded w/o Disposition	2 (5.4%)	3 (27.3%)	0 (0%)	0 (0%)

Final Case Disposition	D.C.-Baltimore	Portland	Phoenix	Seattle
	35	8	24	46
Type of Disposition				
Conviction	22 (62.9%)	6 (75%)	24 (100%)	46 (100%)
Deferred Sentence	13 (37.1%)	2 (25%)	0 (0%)	0 (0%)
Convicted Offense Classifications				
Felony	27 (77.1%)	3 (37.5%)	13 (54.2%)	30 (65.2%)
Misdemeanor	7 (20%)	5 (62.5%)	3 (12.5%)	9 (19.6%)
Both (Felony and Misdemeanor)	1 (2.9%)	0 (0%)	0 (0%)	7 (15.2%)
Undesignated	0 (0%)	0 (0%)	6 (25)	0 (0%)
Both (Felony and Undesignated)	0 (0%)	0 (0%)	2 (8.3%)	0 (0%)
Final Charges Included				
Trafficking	0	0	0	0
CSEC	27	2	9	6
Prostitution	8	4	9	17
Child Sexual Abuse	1	3	8	18
Child Pornography	2	0	1	0
Child Abuse	0	0	1	0
Technology	0	0	0	10
Drugs	0	1	2	1
Other	0	1	1	16

Sentencing	D.C.-Baltimore	Portland	Phoenix	Seattle
	35	8	24	46
Jail Time				
Total Sentence Average	1702.4 days (4.7 yrs)	733 days (2 yrs)	1,917.62 days (5.25 yrs)	228.9 days (.6 yrs)
Total Sentence Range	0 days-10 years	0-3600 days	0 days-24 years	2-780 days
Total Sentence Median	1,095 days	212 days	1,110 days	195 days
Suspended Sentences	26 cases (74.3%)	4 cases (50%)	14 cases (58.3%)	14 cases (30.4%)
Avg % of Total Sentence Suspended	79.10%	96.60%	92.50%	87%
Range of Total Sentence Suspended	7.1-100%	93.4-100%	75-98.6%	33.3-100%
Credit for Time Served	6 (17.1%)	5 (62.5%)	13 (54.2%)	32 (69.6%)
Actual Time to be Served Average	457.13 days (1.3 yrs)	154.3 days	1,728.1 days (4.7 yrs)	86.3 days
Actual Time to be Served Range	0 days-10 years	0-1,147 days	0-8,757 days (24 yrs)	0-270 days
Actual Time to be Served Median	180 days	14 days	90 days	88.5 days
Probation				
Range of Total Sentence Suspended	0-5 years	2-4 years	0-15 years	0-3 years
Average	3.26 years	2.57 years	2.29 years	1.31 years
Fines, Fees Assessments				
Range	\$250-1000	\$40-500	\$13-6,520	\$250-5,816
Average	\$550	\$406.14	\$762.36	\$2,905.48
Standard Deviation	\$360.55	\$177.36	\$1,683.84	\$2,202.83
Leniency Factors				
Work Release	4	1	9	19
Home Detention	2	0	1	2
Community Service	0	0	0	1
Additional Outcomes				
Sex Offender Registration	23	4	18	21
Asset Forfeiture	13	0	0	0

Maryland State Laws

Sex Trafficking law: Md. Code Ann., Crim. Law § 11-303 (Human trafficking) states,

“A person may not knowingly:

- (i) take or cause another to be taken to any place for prostitution;
- (ii) place, cause to be placed, or harbor another in any place for prostitution;
- (iii) persuade, induce, entice, or encourage another to be taken to or placed in any place for prostitution;
- (iv) receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;
- (v) engage in a device, scheme, or continuing course of conduct intended to cause another to believe that if the other did not take part in a sexually explicit performance, the other or a third person would suffer physical restraint or serious physical harm”

DC-Baltimore Corridor

Author: Amanda Walker-Rodriguez, Esq., Demanding Justice Project
Site Investigator

Geography and Demographics of DC-Baltimore Corridor (Montgomery/ Baltimore Counties)

Maryland features mountains to the west and an ocean coast to the east. There are major cities and rural communities within miles of each other in this region. Both Baltimore and Montgomery Counties are affluent and primarily suburban. They are immediately abutting two major cities on the East coast – Washington, D.C. and Baltimore City. Washington D.C. and Baltimore are connected by two major highways – Interstates 95 and 295. Interstate 95 connects Maine to Florida. The DC-Baltimore Corridor is uniquely situated as a crossroads of many major highways along the coast, including Interstate 70, which traverses the country east to west. These routes have proven popular for sex trafficking.

Prevalence of Sex Trafficking Crimes in DC-Baltimore Corridor

Domestic minor sex trafficking has been charged in nearly every county along the DC-Baltimore Corridor. There is little statistical data to reflect the exact number of sex trafficking cases in Montgomery and Baltimore Counties; however, as the suburbs of major urban areas, there is a substantial amount of trafficking that overlaps with Washington D.C. and Baltimore City in these jurisdictions. Both counties have significant amounts of trafficking of domestic minors and of adults through business operations such as Asian massage parlors.

Historical Efforts to Combat Sex Trafficking

Maryland criminalized sex trafficking in 2007. In Baltimore County and Montgomery County, the Vice units within the respective police departments were tasked with enforcing the law in addition to prostitution, illegal gambling and underage alcohol consumption. Typically, both jurisdictions use “sting” operations to combat sex trafficking and prostitution. They begin investigations by answering advertisements on Backpage.com, placing an advertisement on Backpage.com or executing search warrants on massage parlors after establishing illegal prostitution activity. Investigations are often reactive as opposed to proactive, meaning that if a situation is found to involve trafficking after the initial prostitution investigation the investigation will shift. However, the agencies will investigate Cyber-tips received that are of suspected trafficking.

Highlights:

- ◆ More than half of the defendants had computer/cell phone seized at arrest
- ◆ 10% had cash seized
- ◆ 100% were charged with CSEC, 27% were also charged with a prostitution-related charge
- ◆ 89.2% were caught through an Internet sting
- ◆ 100% percent of cases went from arrest to prosecution

EFFORTS TO COMBAT DEMAND

Both Montgomery and Baltimore Counties have implemented anti-demand strategies that involve “reversals.” Reversals are an investigative technique in which a police officer, acting as a child, places an advertisement on an online classified site, such as Craigslist.org or Backpage.com. When contacted, the officer then establishes a location to meet the child where the perpetrator is then arrested. Baltimore County typically created an advertisement in which the child was 13 years old and Montgomery County placed advertisements where the child was 16 years old.

Challenges and Successes

The majority of the cases of CSEC that were analyzed dealt with a “reversal” operation as opposed to those involving an actual child. As a result, the sentences the perpetrator received after prosecution ranged wildly and were substantially differentiated between the child that was 13 years old and those that were 16 years old. The case studies demonstrated the level of demand in the DC-Baltimore corridor. At times a single advertisement placed by the police had numerous responses leading to multiple charged perpetrators. However, without a live victim judges did not seem persuaded to sentence the defendants at the same level as those cases in which there was an actual child.

Maryland State Laws

CSEC law: Md. Code Ann., Crim. Law § 3-324(b) (Sexual solicitation of minor) states, “A person may not, “with the intent to commit a violation of § 3-304 [Rape in the second degree], § 3-306 [Sexual offense in the second degree], or § 3-307 [Sexual offense in the third degree] of this subtitle or § 11-304 [Receiving earnings of prostitute], § 11-305 [Abduction of child under 16], or § 11-306 [House of prostitution] of this article, [to] knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3-304 [Rape in the second degree], § 3-306 [Sexual offense in the second degree], or § 3-307 [Sexual offense in the third degree] of this subtitle or § 11-304 [Receiving earnings of prostitute], § 11-305 [Abduction of child under 16], or § 11-306 [House of prostitution] of this article.”

Solicitation law (predicate offense to CSEC law): Md. Code Ann., Crim. Law §11-306(5) (House of prostitution) states, “A person may not knowingly . . . procure or solicit or offer to procure or solicit for prostitution or assignation.”

Child enticement law: See Md. Code Ann., Crim. Law § 3-324 (Sexual solicitation of minor) above.

Oregon State Laws

Sex Trafficking law: Or. Rev. Stat. § 163.266(c) (Trafficking in persons) as amended by SB 673 (effective August 1, 2013) states, “A person commits the crime of trafficking in persons if the person knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person and: ... The person knows or recklessly disregards the fact that the other person is under 15 years of age and will be used in a commercial sex act.”

Former CSEC law: Or. Rev. Stat. § 167.008(3) (Patronizing a prostitute), repealed by SB 673 (effective August 1, 2013) states, “(a) When a person convicted of violating this section is 18 years of age or older at the time the offense is committed and the person paid, or offered or agreed to pay, a fee to a minor to engage in sexual conduct or sexual contact, in addition to any other sentence that may be imposed, the court shall impose and may not suspend the sentence described in paragraph (b) of this subsection. (b) Notwithstanding ORS 161.635, the mandatory minimum sentences that apply to paragraph (a) of this subsection are as follows: (A) For a person’s first conviction, a fine in the amount of \$10,000.

(B) For a person’s second conviction, a fine in the amount of \$20,000 and a term of incarceration of at least seven days.

(C) For a person’s third or subsequent conviction, a fine in the amount of \$20,000 and a term of incarceration of at least 30 days.”

Portland

Author: Joel Shapiro, Esq., Demanding Justice Project Site Investigator

Geography and Demographics of Portland, OR

The Portland metropolitan area is by far the largest population center in the state of Oregon, and attracts a high volume of job-seekers, runaways, business travelers, and others from across the Northwest and the entire country. Portland is located on Interstate 5, the highway linking major West coast cities from Mexico to Canada, including San Diego, Los Angeles, the Bay Area, and Seattle, WA. Interstate 5 is recognized as a significant route for sex trafficking. Portland is also the end point of Interstate 84 that runs east across the length of the state and into Idaho and into Utah. Portland sits at the confluence of the Willamette River and the Columbia River, the only east-west shipping river on the West Coast. Portland is an economically diverse region that includes wealthy areas on the west side of the Willamette River, and primarily middle to low-income neighborhoods extending to the east, through suburbs and into rural, forested areas. The Portland metropolitan area includes Vancouver, Washington, on the north side of the Columbia River. Vancouver is socio-economically and geographically similar to east Portland.

Prevalence of Sex Trafficking Crimes in Portland

Domestic minor sex trafficking has been documented throughout urban and rural parts of Oregon, with a very high volume of minor victims trafficked in the Portland area. In August 2013, the U.S. Attorney’s Office released a study identifying 469 individual minors engaged in commercial sex who had received social services in the Portland between 2009 and 2013. Oregon’s state constitution has been interpreted by its courts to be the most permissive in the nation regarding the protection of free expression. As a result, in part, Portland has an extremely high number of sex-related businesses, and has been reported to have the highest *per capita* number of strip clubs of any city in the country.

Historical Efforts to Combat Sex Trafficking

Sex trafficking was made illegal by the Oregon Legislature as part of a Trafficking in Persons statute enacted in 2007. It was not until 2013, through an effort spearheaded by Shared Hope International with the Kids Are Not For Sale Coalition, that the Oregon Legislature made the crime of purchasing sex with a minor a felony offense. In Portland, the effort to combat sex trafficking has involved both a human trafficking unit and the East Precinct Prostitution Team. Law enforcement efforts have focused on identifying and intervening with victims and attempting to build criminal cases against pimps. In the past few years, these efforts have generated increasing success in both state and federal courts. Washington State enacted strong anti-trafficking laws earlier, and has seen greater punishments for buyers of commercial sex.

Highlights:

- ♦ One defendant had computer/cell phone seized at arrest
- ♦ 0% had cash seized
- ♦ 0% were caught through an Internet sting
- ♦ 91.7% percent of cases went from arrest to prosecution
- ♦ 25% of cases were dismissed

EFFORTS TO COMBAT DEMAND

Because buying sex with a minor was only a misdemeanor until last year, law enforcement agencies in Portland did not engage in stings or other targeted efforts to arrest buyers in cases specifically involving minors. The buyers identified in this study were generally encountered by law enforcement in the course of interviewing victims with the goal of building broader cases against pimps.

Challenges and Successes

Many of the Portland buyers identified in this study were neither investigated nor arrested. The buyers who were prosecuted received relatively light sentences. The sentences for buyers prosecuted in Clark County in Washington State were more significant, reflecting the dramatic difference in state demand laws. After Oregon enacted the felony crime of purchasing sex with a minor, law enforcement indicated an interest in pursuing sting operations against those who seek to purchase sex with minors. In July 2014, as the result of a Portland Police Bureau decoy investigation, prosecutors in Multnomah County were the first in the state to indict a case using the new law that makes purchasing sex with a minor a felony.

Oregon State Laws

Current CSEC law: Or. Rev. Stat. § 163.413 (Purchasing sex with a minor) as enacted by SB 673 (effective August 1, 2013) states,

“A person commits the crime of purchasing sex with a minor if the person pays, or offers or agrees to pay, a fee to engage in sexual intercourse or sexual contact with a minor... If the person does not have a prior conviction under this section at the time of the offense, purchasing sex with a minor is a Class C felony and the person may use a defense described in ORS 163.325 only if the minor was at least 16 years of age. (b) If the person has one or more prior convictions under this section at the time of the offense, purchasing sex with a minor is a Class B felony, the state need not prove that the person knew the minor was under 18 years of age and the person may not use a defense described in ORS 163.325.”

Arizona State Laws

Sex Trafficking law: Ariz. Rev. Stat. Ann. 13-1307(B) (Sex trafficking) states, “It is unlawful for a person to traffic another person who is under eighteen years of age with either of the following:

- 1.) The intent to cause the other person to engage in any prostitution or sexually explicit performance.
- 2.) The knowledge that the other person will engage in any prostitution or sexually explicit performance.”

CSEC law: Ariz. Rev. Stat. Ann. § 13-212(B)

(Child prostitution) as amended by HB 2454 (**Effective April 4, 2014**): include the crime of buying sex with a minor by stating,

“B. A person who is at least eighteen years of age commits child prostitution by knowingly:

- 1.) Engaging in prostitution with a minor who is under fifteen years of age.
- 2.) Engaging in prostitution with a minor who the person knows or should have known is fifteen, sixteen or seventeen years of age.
- 3.) Engaging in prostitution with a minor who is fifteen, sixteen, or seventeen years of age.”

Phoenix

Author: Commander James Gallagher, Demanding Justice Project
Site Investigator

Geography and Demographics of Phoenix, AZ

The Phoenix metropolitan area is a vast expanse of urban, suburban, rural and desert environments; it is the site of the state capital, professional sports, the arts center of the state and a regional hub that will host the 2015 Super Bowl. Home to over four million residents spread out over 9,200 square miles it is comprised of 24 cities and towns and experienced a 5% growth rate between 2010 and 2013.¹³⁰ Located in the center of Maricopa County, the city of Phoenix is a vibrant, international city home to a diverse array of native Arizonans, transplants from every state in the nation and a burgeoning international population all seeking to embrace the pleasant climate, developing economy and regional cultural hub of the southwest that offers majestic, natural features and cosmopolitan living.

Prevalence of Sex Trafficking Crimes in Phoenix

Like other cities, big and small, across the country, the Phoenix metropolitan area has experienced an increase in sex trafficking related activity. While the Phoenix Police Department has played a significant role in the investigation of these cases since the mid-1990s, other mid-size cities such as Mesa, Scottsdale and Glendale have each seen an increase in sex trafficking victimization, while smaller cities and towns have begun to notice its presence creeping into their communities both on the streets and from the Internet. In 2013, the Phoenix Police Department investigated 619 cases of prostitution, a significant percentage of which involved the trafficking of an unwilling victim, and made 661 prostitution related arrests of which 151 were men looking to buy sex. A recent study conducted by the Phoenix Police Department and the office of Sex Trafficking Intervention Research at Arizona State University (Roe-Sepowitz et al, 2013) estimated more than 78,000 individuals per day look at online ads for commercial sex, placing Phoenix ahead of a larger city, New York (21, 514) and slightly behind a similarly sized, Houston (169,920).¹³¹

Historical Efforts to Combat Sex Trafficking

Efforts to combat sex trafficking in the Phoenix metropolitan area have evolved dramatically over the last several years from a zero tolerance approach to what was perceived as street level criminal act (prostitution) of choice to a more informed understanding of the victimization inherent in sex trafficking. Over time and through collaborative partnerships between the Phoenix Police Department, Arizona State University and the City of Phoenix Prosecutors Office, the Phoenix metropolitan area has emerged as a leader in crafting progressive and innovative responses to sex trafficking and those who would engage in its illicit business. Borrowing from traditional drug investigation techniques, the Phoenix Police Department Vice

¹³⁰ <http://quickfacts.census.gov/qfd/states/04/04013.html>

¹³¹ References: Roe-Sepowitz, D.E., Hickie, K., Gallagher, J.M., & Smith, J. (2013). *Invisible Offenders: A Study Estimating Online Sex Customers*. Office of Sex Trafficking Intervention Research at Arizona State University.

Highlights:

- ◆ More than half had property seized at arrest
- ◆ 91.7% were charged with CSEC; 20.8% were charged with sexual abuse
- ◆ 70.8% were caught through an Internet sting
- ◆ 100% percent of cases went from arrest to prosecution
- ◆ 100% entered guilty pleas

Enforcement Unit made it a unit objective to aggressively target demand through a series of undercover operations targeting those who would seek to buy sex from a minor. Dubbed “Operation Heartbreaker,” these operations would illustrate the diversity to be found in demand with arrests made of a cross-section of society proving that demand is pervasive and the first area that must be addressed in order to have a real and lasting impact on sex trafficking.

EFFORTS TO COMBAT DEMAND

The Phoenix metropolitan area is uniquely aligned to combat sex trafficking and its impact on our state. Recently, Governor Jan Brewer convened the Governor’s Task Force on Human Trafficking to mobilize the state and its residents to effect positive change on an issue that impacts all of us. Chaired by Mrs. Cindy McCain and Mr. Gil Orrantia, head of the Arizona Department of Homeland Security, and comprised of the finest legal minds in government and private practice, service providers, faith leaders and law enforcement experts, this task force made numerous recommendations for positive change to existing state law designed to dramatically improve alignment of service options to victims while equally and dramatically enhancing accountability measures for both the supply (trafficker) and demand side of sex trafficking. Similar efforts led by Phoenix Mayor Greg Stanton and the City of Phoenix Human Trafficking Task Force are preparing the Phoenix metropolitan area to be proactive in its efforts to curb demand for commercial sex, especially when it comes to children, in preparation for the 2015 Super Bowl. Recent legislative changes and cross-jurisdictional collaborations indicate Arizona is committed in being a national leader in the fight against sex trafficking and in protecting our children.

Challenges and Successes

The prosecution of demand cases continues to be a complex issue in Arizona. Due in part to challenges associated with changes in the law, high profile offenders and the sheer volume of sex trafficking cases being generated by Arizona law enforcement, it may appear that more can be done. And it can. But Arizona is committed to setting the example in our protecting children, eradicating demand and holding those responsible for sex trafficking to the highest extent of the law.

Arizona State Laws

Enticement law: Ariz. Rev. Stat. Ann. § 13-3560(A) (Aggravated luring a minor for sexual exploitation) states, “A. A person commits aggravated luring a minor for sexual exploitation if the person does both of the following:

- 1.) Knowing the character and content of the depiction, uses an electronic communication device to transmit at least one visual depiction of material that is harmful to minors for the purpose of initiating or engaging in communication with a recipient who the person knows or has reason to know is a minor.
- 2.) By means of the communication, offers or solicits sexual conduct with the minor. The offer or solicitation may occur before, contemporaneously with, after or as an integrated part of the transmission of the visual depiction.”

Washington State Laws

Sex Trafficking law: Ariz. Rev. Stat. Ann. 13-1307(B) (Sex trafficking) states, “It is unlawful for a person to traffic another person who is under eighteen years of age with either of the following:

- 1.) The intent to cause the other person to engage in any prostitution or sexually explicit performance.
- 2.) The knowledge that the other person will engage in any prostitution or sexually explicit performance.”

CSEC law: Ariz. Rev. Stat. Ann. § 13-212(B)

(Child prostitution) as amended by HB 2454 (**Effective April 4, 2014**): include the crime of buying sex with a minor by stating,

“B. A person who is at least eighteen years of age commits child prostitution by knowingly:

- 1.) Engaging in prostitution with a minor who is under fifteen years of age.
- 2.) Engaging in prostitution with a minor who the person knows or should have known is fifteen, sixteen or seventeen years of age.
- 3.) Engaging in prostitution with a minor who is fifteen, sixteen, or seventeen years of age.”

Seattle

Author: Congresswoman Linda Smith (1995-99)

Geography and Demographics:

The Seattle metropolitan area includes the three counties of King, Snohomish and Pierce in the Puget Sound region in the state of Washington. It has a population of 3,610,105 as of 2013, which makes it the 13th largest Metropolitan Area in the United States. Seattle is the start of Interstate 90, which is the only Interstate highway to cross from east to west and ends in Boston, Massachusetts. It also is connected along Interstate 5, which is a North-South highway known as a significant route for human trafficking. Washington shares an international border with Canada and the Port of Seattle contains a major international airport as well as an abundance of ports that ship merchandise and transport people. The Seattle metropolitan area was the fifth largest export market in the United States in 2012, with \$50.3 billion in total merchandising shipments.

Prevalence of Sex Trafficking Crimes in Seattle

With these regional characteristics contributing to regular movement of people into and out of the state, not only domestically but also internationally, Washington is a major center for sex trafficking. According to Washington’s Task Force against Trafficking of Persons report, Seattle is involved in a trafficking circle that includes Honolulu, Las Vegas, New Orleans, Portland, Vancouver, Yakima and Canada. Domestic minor sex trafficking makes up a substantial portion of the trafficking activity. A 2008 report estimated that between 300 and 500 minor females are trafficked at any given time in Kings County in the Seattle metropolitan area.¹³² Current numbers of commercially sexually exploited minors could be as high as 500–800 minors.¹³³

Historical Efforts to Combat Sex Trafficking

Washington has consistently been at the forefront of enacting state laws that protect minor victims of domestic minor sex trafficking and bring justice to those who have been exploited. The state of Washington was one of the earliest states to enact a state trafficking law in 2003. In 2007, Washington overhauled its laws criminalizing commercial sexual exploitation of children by removing these penalties from the prostitution context and clarifying that these are crimes of sexual exploitation. The criminalization of demand was specifically addressed by making the purchase or attempt to purchase sex with a minor for a commercial sex act a class B felony. Furthermore, Washington State created the first state Task Force Against Trafficking of Persons in 2002, which helped further the development of laws to combat trafficking.

Enactment of Senate Bill 5669 in 2013 expands the reach of the commercial sexual exploitation of children by tightening current laws that declare victim consent cannot be used in defense for a trafficking crime, including for online platforms in appropriate

¹³² Boyer, Debra, “Who Pays the Price: An Assessment of Youth Involvement in Prostitution in Seattle” (2008), Report commissioned for the City of Seattle, Human Services Department.

¹³³ <http://crosscut.com/2011/01/24/crime-safety/20565/Seattle-Portland-tackle-sex-trafficking-juveniles/?page=single>

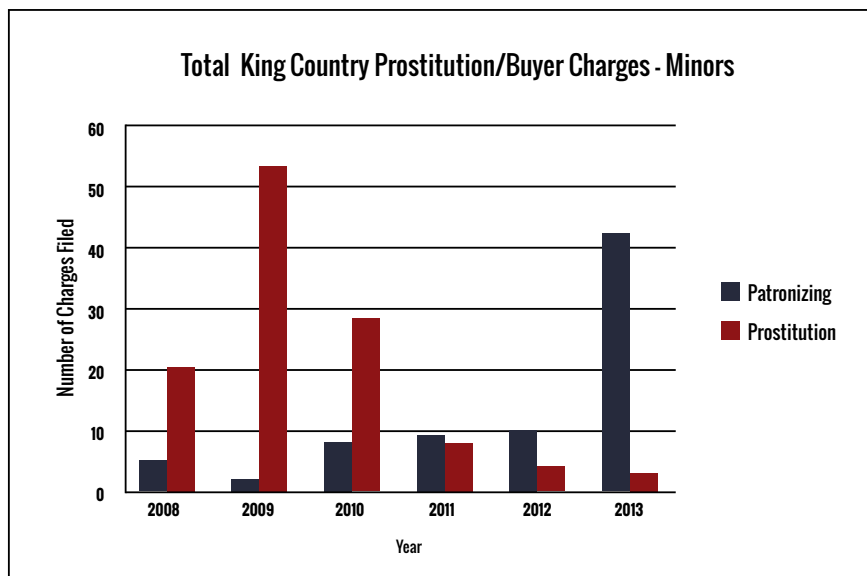
Highlights:

- ◆ 34% had vehicle seized
- ◆ 69% had cash seized
- ◆ 97.8% were charged with CSEC; 34.8% were charged with child sexual abuse
- ◆ 47.8% were caught through an Internet sting
- ◆ 100% percent of cases went from arrest to prosecution

cases. This law further heightened the penalty and allows for minors under the age of 14 to testify outside of the presence of their trafficker or abuser. This made the enticement statute applicable to CSEC and expanded the reach to online platforms for buying and selling.

Challenges and Successes

Since the enactment of substantial penalties for buyers of sex with minors in 2007, the past several years have shown a gradual but crucial shift that aligns enforcement with the goals of the laws that address sex trafficking—treating commercially sexually exploited minors as victims and bringing Washington’s substantial penalties to bear on those who buy sex with children. Largely driven by King County’s efforts to increase enforcement of demand laws, the state has seen an overall shift in prosecutions from criminalizing minor victims to prosecuting the buyers of sex acts with minors. While charges against minor victims on prostitution charges peaked at over 50 prosecutions in 2009 and very few buyers of sex with minors were being prosecuted, King County reversed this trend and by 2013, only one minor victim had been charged with prostitution and over 40 buyers were prosecuted for buying sex with minors.



*Prepared by Valiant Richey, Esq. at the King County Prosecuting Attorney’s Office

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- 1.) Knowing the character and content of the depiction, uses an electronic communication device to transmit at least one visual depiction of material that is harmful to minors for the purpose of initiating or engaging in communication with a recipient who the person knows or has reason to know is a minor.
- 2.) By means of the communication, offers or solicits sexual conduct with the minor. The offer or solicitation may occur before, contemporaneously with, after or as an integrated part of the transmission of the visual depiction.”

Trends and Analysis

The following analysis examines how charging decisions at the commencement of prosecution and subsequent plea negotiations that result in a plea to new charges at conviction impact sentencing outcomes. Additionally, this analysis examines how case characteristics impact the charging decisions at different stages of the process.

Outcomes Comparison: Impact Of Final Charge On Sentencing

CSEC FINAL CHARGE:

For Phoenix and Portland there were no significant differences in sentencing in cases that included a final CSEC charge at conviction compared with cases that did not include a CSEC charge. However, **significant differences** were found in Seattle and DC-Baltimore Corridor cases. In these two sites, which had the highest number of cases and use of sting operations, CSEC charges resulted in substantially higher sentences.¹³⁴

PROSTITUTION SOLICITATION-RELATED FINAL CHARGE:

For Portland and Seattle there were no significant differences in sentences in cases that included a prostitution charge in the final charges, but **significant differences** were found in Phoenix and the DC-Baltimore Corridor, where prostitution charges resulted in substantially lower sentences (90-98% lower).¹³⁵

CHILD SEXUAL ABUSE OFFENSE FINAL CHARGE:

For Portland and Seattle there was no significant difference in sentencing in cases with a child sexual abuse charge in the final charges. The DC-Baltimore Corridor only had 1 case with a final child sexual abuse charge so a comparison was not valid. However, **significant differences** were found among the Phoenix cases, which showed a trend of higher sentences on child sexual abuse offense charges than with CSEC charges.¹³⁶

PORNOGRAPHY CHARGE:

For Portland and Seattle there was no significant difference in sentencing in cases with a child pornography charge in the final charges. Phoenix only had 1 case with a child pornography charge as a final charge so a comparison was not valid. However, **significant differences** were found for the DC-Baltimore Corridor which had two cases with a final pornography charge, both of which resulted in a 50% higher sentence than other sentencing categories.¹³⁷

Outcomes Comparison: Decoy Cases vs. Actual Victim Cases

As only 6 cases went to trial, 4 (8.7%) of real minor cases went to trial and reached a guilty verdict and 2 (2.9%) of decoy cases went to trial and reached a guilty verdict. Bond amounts ordered for pre-trial release and sentence lengths did not significantly vary overall among the total sample of cases by actual victim or decoy victim. However, in Phoenix there were important differences in the amount of bond set for pre-trial release. In cases with real victims, the court set bond

¹³⁴ In Seattle, if CSEC was the final charge, the defendant received an average sentence of 16.17 months. With no CSEC charge, the defendant received an average sentence of 6.10 months. CSEC yes (M =16.17, SD = 6.94) vs CSEC no (M =6.10, SD =3.83), $t(46) = -5.35, p < .001$. In Maryland/Montgomery County, if CSEC was the final charge, the average sentence was 65.33 months. With no CSEC charge, the average sentence was 21.13 months. CSEC yes (M =65.33, SD = 47.8) vs CSEC no (M =21.13, SD =40.37), $t(35) = -2.37, p < .02$.

¹³⁵ In Phoenix, if prostitution final charge: average sentence 1.39 months, vs no prostitution charge 80 months. Prostitution yes (M =1.39, SD = .93) vs prostitution no (M =80, SD =101.15), $t(23) = 2.91, p < .012$. In Maryland/Montgomery County if prostitution final charge: the average sentence 6.88 months vs no prostitution final charge 69.56 months. Prostitution yes (M =6.88, SD = 5.79) vs prostitution no (M =69.56, SD =47.4), $t(31) = 6.705, p < .001$.

¹³⁶ Phoenix: if yes CSA final charge: average sentence 143.14 months vs no CSA charge 8.16 months. CSA yes (M =143.14, SD = 108.69) vs CSA no (M =8.16, SD =22), $t(23) = -3.257, p < .016$.

¹³⁷ Maryland/Montgomery County if yes pornography final charge average sentence 120.00 months vs no pornography charge 51.3 months. Pornography yes (M =120.00, SD = .01) vs pornography no (M =51.3, SD =48.09), $t(35) = -8.21, p < .001$.

amounts ($M = \$53,667$, $SD = \$45,501$) **significantly higher** than the bond set for cases with decoy victims ($M = \$10,600$, $SD = \$8,666$).¹³⁸ In Phoenix, sentences for cases with real victims ($M = 158$ months, $SD = 111.33$) **resulted in significantly higher** sentences than the sentences imposed in cases with decoy victims ($M = 10.85$ months, $SD = 23.55$).¹³⁹

Sentencing Outcomes For Decoy Cases v.s. Actual Victim Cases		
Phoenix		
Real Minors:	6 jail time 1 probation only	Decoy minor: 17 jail time
Portland		
Real Minors:	4 jail time 2 probation only 2 time served	Decoy minor: 0
Seattle		
Real Minors:	18 jail time 1 probation only 5 time served	Decoy minor: 20 jail time 2 time served
Maryland/Montgomery County		
Real Minors:	3 jail time 1 time served	Decoy minor: 17 jail time 10 probation only 4 time served
Overall Results		
Real Minors:	31 jail time 4 probation only 8 time served	Decoy minor: 54 jail time 10 probation only 6 time served

Fine amounts, however, significantly differed between real victim cases and decoy cases in Seattle only. Cases with real victims ($n = 24$) had significantly lower fines ($M = \$1,415.33$, $SD = \$1,619.42$) when compared to fines for cases with decoy victims ($n = 22$) ($M = \$4,531.09$, $SD = \$1,489.85$).¹⁴⁰

Pre-trial release terms did not vary substantially between cases involving a decoy and cases involving an actual victim, however some trends were identified. Defendants with real victims were significantly more likely to be released without requiring a payment of a bond ($n = 14$, 34.1%) compared to the 5 cases released without payment of a bond with a decoy victim (7.1%).¹⁴¹ Defendants in cases with decoy minors were significantly more likely to be directed by the court to not have contact with minors ($n = 47$, 67.1%) compared to cases with real minors ($n = 14$, 40%).¹⁴² None of the real victim cases were directed by the court on pre-trial release to have restricted use of the Internet while 12 (17.1%) of the decoy based cases were instructed to have restricted use of the Internet.

¹³⁸ $t(16) = 3.89$, $p < .002$

¹³⁹ $t(23) = 3.212$, $p < .023$

¹⁴⁰ $t(44) = -6.796$, $p < .001$.

¹⁴¹ $\chi^2 = (1, N = 111) = 13.29$, $p = .001$

¹⁴² $\chi^2 = (1, N = 105) = 7.06$, $p = .008$

Charges Comparison: Impact of Case Characteristics on Charging Decisions

In all, 69 cases dropped CSEC charges, resulting in a total of 44 cases with CSEC charges at final disposition. In one case a CSEC charge was added at final disposition.

In the cases with initial CSEC charges and information about who the buyer solicited, 30 (78.9%) solicited the victim directly and 8 (17.7%) solicited a third party. Of these cases, CSEC charges remained for 11 cases (3 solicited a third party, and 8 solicited the victim directly).

In comparing the amount of money offered with the victim's age, a notable trend was identified in actual victim cases: the younger the victim, the more money offered. As demonstrated in Chart D, the only exceptions to this trend were a 5 year old who was offered \$1 for sex and two 14-year-olds in Seattle and Portland who were both encountered by the buyer in an area known to have a high prevalence of street prostitution.

Amount of Money Offered or Exchanged Compared to Victim Age	
5 years old (1 case)	\$1
13 (2 cases)	\$100-400, M = \$250.00 , SD = 212.1
14 (2 cases)	\$40-80, M = \$60.00 , SD = 28.3
15 (9 cases)	\$30-225, M = \$145.00 , SD = 79.7
16 (7 cases)	\$40-250, M = \$111.4 , SD = 81.3
17 (10 cases)	\$10-\$300, M = \$107.50 , SD = 91.3

In comparing the type of exchange with the initial charge, cases that involved the exchange for goods/items were found to be significantly more likely to result in an *initial* prostitution-related charge¹⁴³ when compared to the exchange for money. All of the cases with a final charge related to prostitution solicitation involved an exchange for money (not goods/items). Cases that included an initial CSEC charge were significantly more likely to involve an exchange for money as compared to an exchange for goods/items: 96 cases included an exchange for money versus 14 cases including an exchange for goods and services. Cases where the initial prosecution charges included a sex offense charge were significantly more than expected for the exchange for goods/services (16) than for the exchange for money (21).¹⁴⁴

¹⁴³ $\chi^2 = (1, N = 116) = 10.125, p = .001$

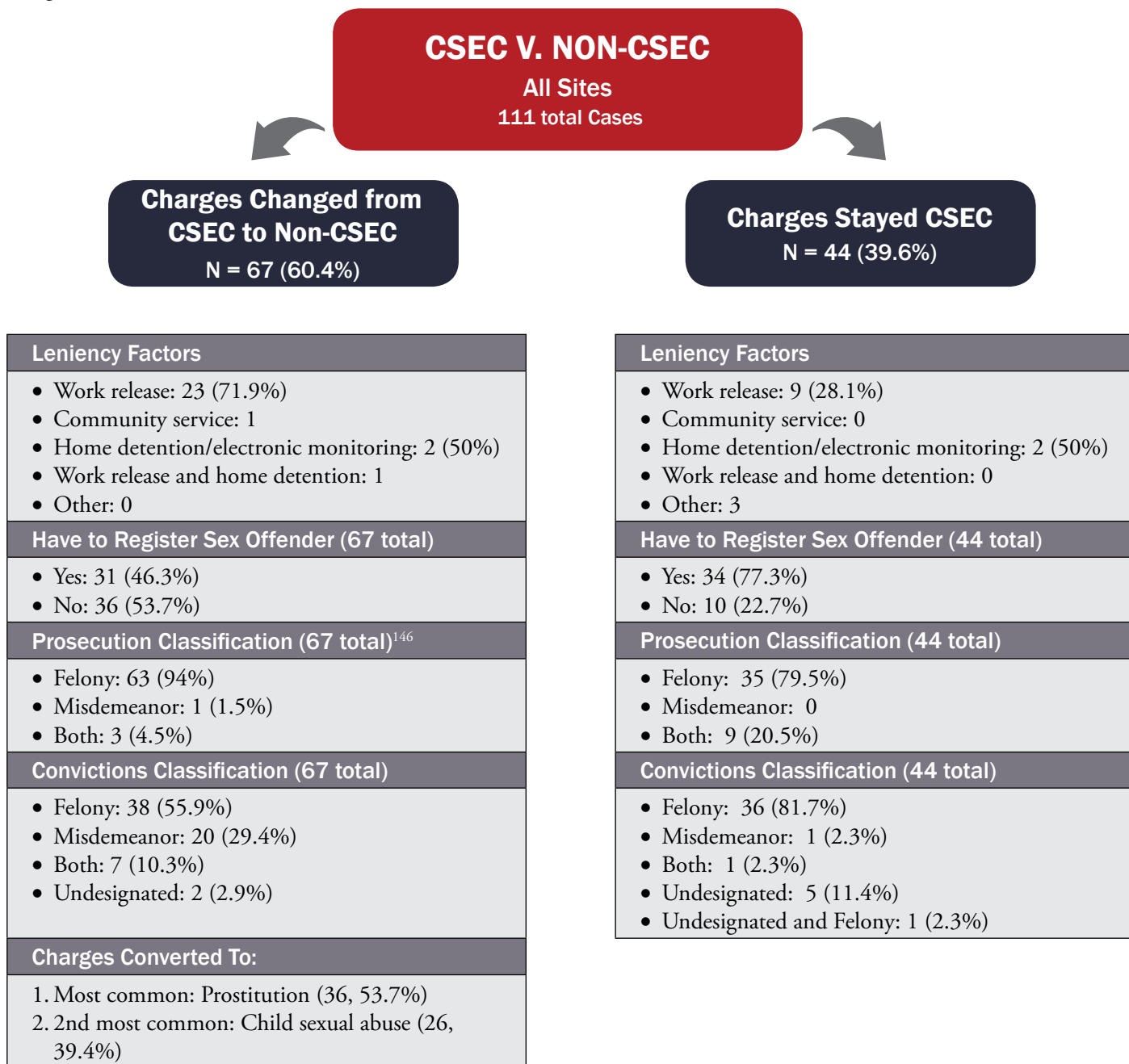
¹⁴⁴ $\chi^2 = (1, N = 116) = 35.5, p = .001$

In cases with actual victims and initial charges of CSEC (38, 84.4%) and location data, the encounter between the defendant and the victim was most likely to occur as a street encounter (n =22, 57.9%), followed by a home/apartment (n =14, 36.8%), and hotel/motel (n =2, 5.3%). In cases with actual victims and a final charge of CSEC (n =11), the encounter was most likely to be on the street (n =6, 54.5%), and in home/apartment (n =5, 45.5%) (There were no hotel/motel at final CSEC charge). All but 7 (14.3%) of the 47 actual victim cases were initially charged with CSEC. The seven cases not charged with CSEC are from Phoenix (3), Portland (3) and Seattle (1).

Charges & Outcomes				
Charges	Real Minor Cases		Decoy Cases	
	Initial Charges	Final Charges	Initial Charges	Final Charges
CSEC	38 (80.9%)	11 (23.4%)	72 (100%)	33 (45.8%)
Prostitution Related	4 (8.5%)	10 (21.3%)	10 (13.9%)	28 (38.9%)
Child Sexual Abuse	18 (38.3%)	12 (25.5%)	10 (13.9%)	18 (25%)
Child Abuse	1 (2.1%)	1 (2.1%)	1 (1.4%)	0
Technology charge	3 (6.4%)	0	8 (11.1%)	10 (13.9%)
Pornography	2 (4.3%)	1 (2.1%)	3 (4.2%)	2 (2.8%)
Other Charges	4 (8.5%)	16 (34%)	2 (2.7%)	2 (2.8%)
Drug Charges	4 (8.5%)	3 (6.4%)	2 (2.8%)	1 (1.4%)

Outcomes Comparison: Impact Of Cases Converting To Non-CSEC Offenses At Conviction

The following analysis compares the outcomes and characteristics of cases that were initially charged under the CSEC law and resulted in a CSEC conviction with cases that were initially charged under the CSEC law but converted to a non-CSEC charge at conviction. There were 111 cases that started with a CSEC charge either at arrest or commencement of prosecution and proceeded to sentencing. Of the 111 cases, 67 cases (60.7%) changed from CSEC at origin (arrest/prosecution) to non-CSEC charges at final charge. Forty-four (39.3%) cases remained CSEC from case initiation to final charge.¹⁴⁵



¹⁴⁵ Eight of the 119 arrested cases were not included in this variable: one case did not proceed to prosecution and the remaining seven cases either did not reach sentencing or were not charged as CSEC at arrest or commencement of prosecution.

¹⁴⁶ Three cases which were initially prosecuted under the CSEC law but did not conclude in a conviction are not included in this number.

Defendant Information
<ul style="list-style-type: none"> • Age: <ul style="list-style-type: none"> ♦ Range: 18-71 ♦ Mean: 40.26 • Race: <ul style="list-style-type: none"> ♦ Caucasian: 41 (61.2%) ♦ Hispanic: 10 (14.9%) ♦ African American: 7 (10.4%) ♦ Asian: 1 (1.5%) ♦ Other: 4 (6.0%) ♦ Unknown/Missing: 4 (6.0 %) • Profession: <ul style="list-style-type: none"> ♦ Professional contact with minors: 2 (3.0%) ♦ Customer service employee: 5 (7.4%) ♦ Customer service manager: 4 (6.0%) ♦ Faith-leader or employee of faith-based organization: 2 (3.0%) ♦ First responder: 0 ♦ Position of authority or trust: 1 (1.5%) ♦ Consultant/self-employed: 3 (4.5%) ♦ Professional/business employee: 2 (3.0%) ♦ Professional/business leader: 4 (6.0%) ♦ Technology-related: 4 (6.0%) ♦ Trade: 7 (10.4%) ♦ Unemployed/student: 3 (4.5%) ♦ Unskilled labor: 1 (1.5%) ♦ Unknown: 29 (43.2%)
Victim Information:
<ul style="list-style-type: none"> • Victim Type: <ul style="list-style-type: none"> ♦ Real minor: 30 (44.8%) ♦ Decoy: 37 (55.2%) • Cases with Multiple Victims: 6 • Gender: <ul style="list-style-type: none"> ♦ Male: 2 ♦ Female: 28
Circumstances of Arrest
<ul style="list-style-type: none"> • Sting operation: 35 (52.2%) • Street arrest: 15 (22.4%) • Result of buyer investigation: 15 (22.4%) • Result of another investigation: 2 (3.0%) • Citation in lieu of arrest: 0
Who the Buyer Solicited
<ul style="list-style-type: none"> • Victim: 25 • Third party: 5

Defendant Information
<ul style="list-style-type: none"> • Age: <ul style="list-style-type: none"> ♦ Range: 22-65 ♦ Mean: 40.68 • Race: <ul style="list-style-type: none"> ♦ Caucasian: 27 (61.4%) ♦ Hispanic: 4 (9.1%) ♦ African American: 4 (9.1%) ♦ Asian: 0 ♦ Other: 6 (13.6%) ♦ Unknown/Missing: 3 (6.8%) • Profession: <ul style="list-style-type: none"> ♦ Professional contact with minors: 3 (6.8%) ♦ Customer service employee: 5 (11.4%) ♦ Customer service manager: 1 (2.3%) ♦ Faith-leader or employee of faith-based organization: 0 ♦ First responder: 1 (2.3%) ♦ Position of authority or trust: 1 (2.3%) ♦ Consultant/self-employed: 0 ♦ Professional/business employee: 5 (11.4%) ♦ Professional/business leader: 5 (11.4%) ♦ Technology-related: 4 (9.1%) ♦ Trade: 2 (4.5%) ♦ Unemployed/student: 1 (2.3%) ♦ Unskilled labor: 3 (6.8%) ♦ Unknown: 13 (29.4%)
Victim Information:
<ul style="list-style-type: none"> • Victim Type: <ul style="list-style-type: none"> ♦ Real minor: 11 (25%) ♦ Decoy: 33 (75%) • Cases with Multiple Victims: 1 • Gender: <ul style="list-style-type: none"> ♦ Male: 1 ♦ Female: 10
Circumstances of Arrest
<ul style="list-style-type: none"> • Sting operation: 33 (75%) • Street arrest: 2 (4.5%) • Result of buyer investigation: 7 (15.9%) • Result of another investigation: 1 (2.3%) • Citation in lieu of arrest: 1 (2.3%)
Who the Buyer Solicited
<ul style="list-style-type: none"> • Victim: 8 • Third party: 9

Most sentencing outcomes were not significantly different between cases that remained CSEC at disposition and cases that converted to a non-CSEC charge at disposition, although it is clear that a great number of charges converted from CSEC to non-CSEC for the final charge.

Significant differences were found regarding cases that required sex offender registration and remained CSEC. Fewer of the cases that converted to non-CSEC were found to require the defendant to register as a sex offender than expected by the model.¹⁴⁷ If the charge was changed from CSEC to another charge, they were significantly less likely to be required to register as a sex offender.¹⁴⁸ Similarly, the defendant received a deferred sentence and avoided a felony or misdemeanor conviction more often when the charge changed from CSEC to non-CSEC at disposition.

When examining victim data for this subset of cases, a higher percentage of cases that involved a law enforcement decoy remained CSEC at disposition. Significant differences regarding victim type (real or decoy) were found between cases that converted to non-CSEC and cases that stayed CSEC:¹⁴⁹

- 1.) More cases than expected converted from CSEC to non-CSEC if the victim was a 'real' victim.
- 2.) The final charge was more likely to remain CSEC if the case involved a decoy, rather than an actual victim.
- 3.) Fewer cases than expected remained CSEC if there was a real minor.

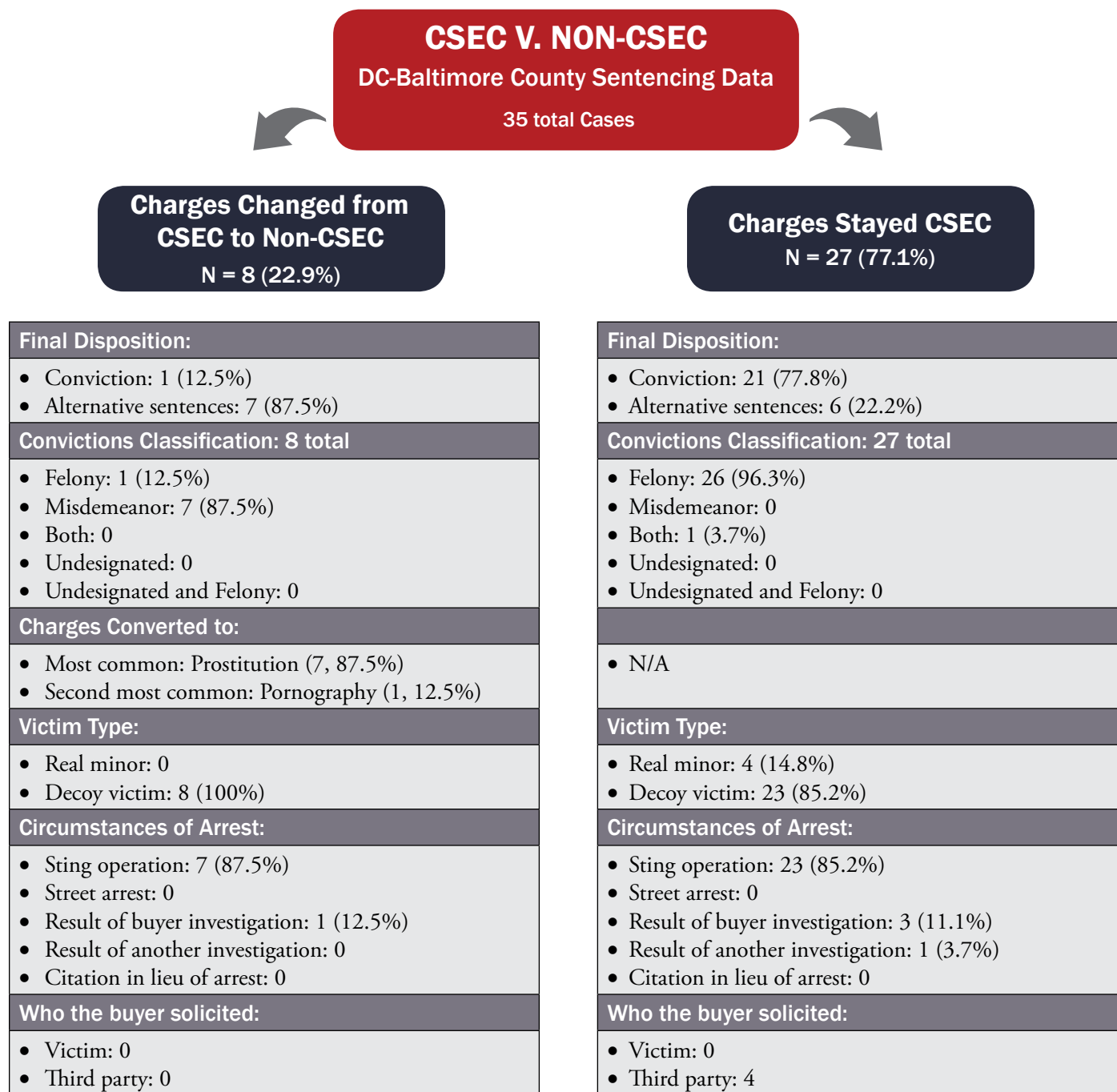
Regarding circumstances of arrest, a higher percentage of on-view arrests converted to non-CSEC charges at disposition, followed closely by arrests as a result of an investigation of the buyer.¹⁵⁰

¹⁴⁷ The term "model" refers to the statistical model used for this analysis.

¹⁴⁸ $\chi^2 = (1, N = 111) = 10.520, p = .002$

¹⁴⁹ $\chi^2 = (1, N = 112) = 4.831, p = .028$

¹⁵⁰ Analysis based on comparison of the results; due to small numbers in some of the categories significance tests could not be run on these variables.



CSEC V. NON-CSECPhoenix Sentencing Data
23 total Cases**Charges Changed from
CSEC to Non-CSEC**

N = 14 (60.9%)

Charges Stayed CSEC

N = 9 (39.1%)

Final Disposition:

- Conviction: 14 (100%)
- Alternative sentences: 0

Convictions Classification: 14 total

- Felony: 11 (78.6%)
- Misdemeanor: 1 (7.1%)
- Both: 0
- Undesignated: 2 (14.3%)
- Undesignated and Felony: 0

Charges Converted to:

- Most common: Prostitution (9, 64.3%)
- Second most common: Child Sexual Abuse (5, 35.7%)

Victim Type:

- Real minor: 5 (35.7%)
- Decoy victim: 9 (64.3%)
- Multiple victims: 3

Circumstances of Arrest:

- Sting operation: 9 (64.3%)
- Street arrest: 0
- Result of buyer investigation: 4 (28.6%)
- Result of another investigation: 1 (7.1%)
- Citation in lieu of arrest: 0

Who the Buyer Solicited:

- Victim: 4
- Third party: 1

Final Disposition:

- Conviction: 9 (100%)
- Alternative sentences: 0

Convictions Classification: 9 total

- Felony: 3 (33.3%)
- Misdemeanor: 0
- Both: 0
- Undesignated: 5 (55.6%)
- Undesignated and Felony: 1 (11.1%)

Charges Converted to:

- N/A

Victim Type:

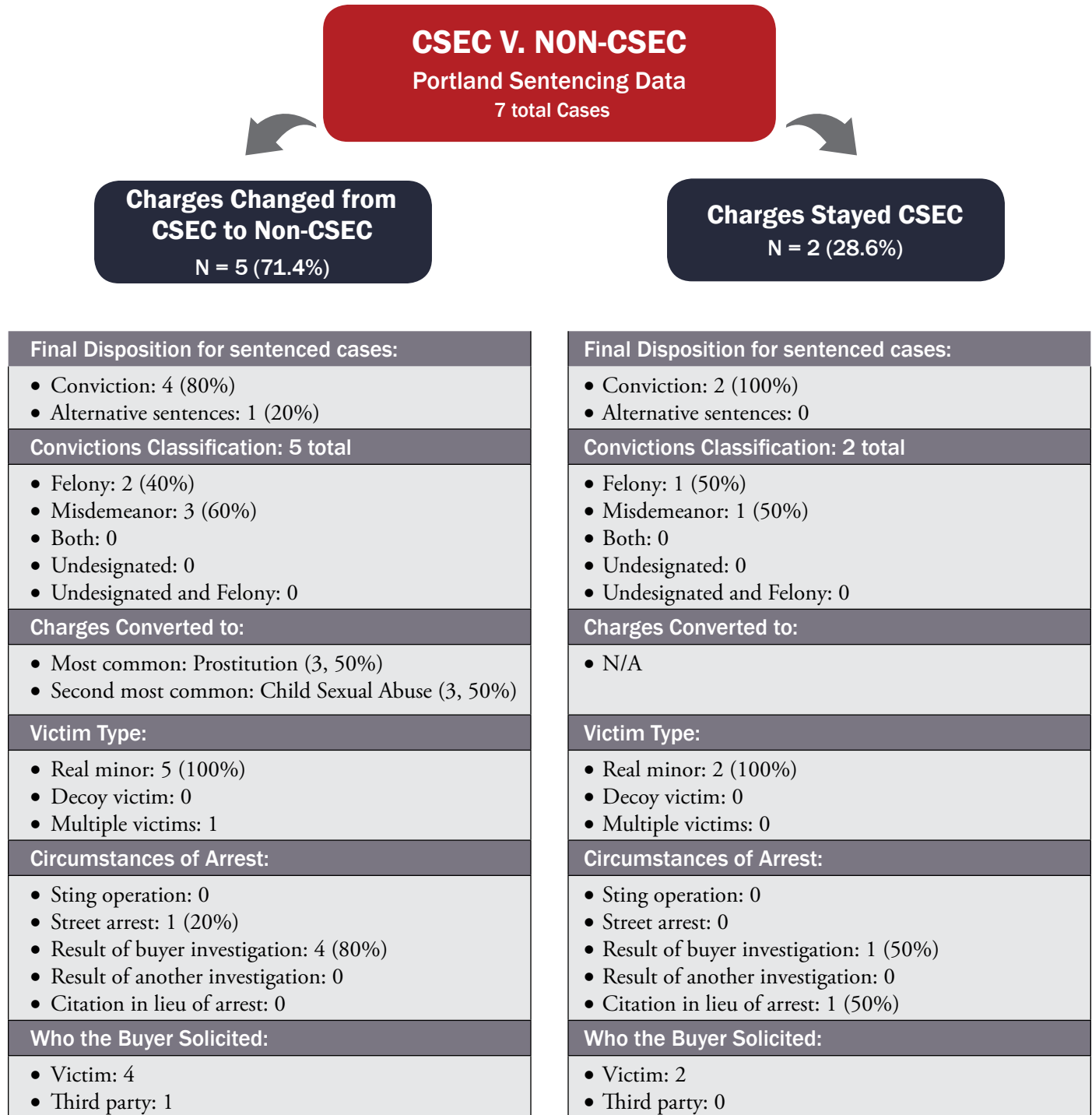
- Real minor: 1 (11.1%)
- Decoy victim: 8 (88.9%)
- Multiple victims: 1

Circumstances of Arrest:

- Sting operation: 8 (88.9%)
- Street arrest: 0
- Result of buyer investigation: 1 (11.1%)
- Result of another investigation: 0
- Citation in lieu of arrest: 0

Who the Buyer Solicited:

- Victim: 1
- Third party: 0



CSEC V. NON-CSEC

Seattle Sentencing Data
46 total Cases

**Charges Changed from
CSEC to Non-CSEC**

N = 40 (75%)

Final Disposition:
<ul style="list-style-type: none"> Conviction: 40 (100%) Alternative sentences: 0
Convictions Classification: 40 total
<ul style="list-style-type: none"> Felony: 24 (4=60%) Misdemeanor: 9 (22.5%) Both: 7 (17.5%)
Charges Converted to:
<ul style="list-style-type: none"> Most common: Child Sexual Abuse (18, 46.2%) Second most common: Prostitution (17, 42.5%)
Victim Type:
<ul style="list-style-type: none"> Real minor: 20 (50%) Decoy victim: 20 (50%) Multiple victims: 2
Circumstances of Arrest:
<ul style="list-style-type: none"> Sting operation: 19 (47.5%) Street arrest: 14 (35%) Result of buyer investigation: 6 (15%) Result of another investigation: 1 (2.5%) Citation in lieu of arrest: 0
Who the Buyer Solicited:
<ul style="list-style-type: none"> Victim: 16 Third party: 4

Charges Stayed CSEC

N = 6 (25%)

Final Disposition:
<ul style="list-style-type: none"> Conviction: 6 (100%) Alternative sentences: 0
Convictions Classification: 6 total
<ul style="list-style-type: none"> Felony: 6 (100%) Misdemeanor: 0 Both: 0 Undesignated: 0 Undesignated and Felony: 0
Charges Converted to:
<ul style="list-style-type: none"> N/A
Victim Type:
<ul style="list-style-type: none"> Real minor: 4 (66.7%) Decoy victim: 2 (33.3%) Multiple victims: 0
Circumstances of Arrest: 0
<ul style="list-style-type: none"> Sting operation: 2 (33.4%) Street arrest: 2 (33.3%) Result of buyer investigation: 2 (33.3%) Result of another investigation: 0 Citation in lieu of arrest: 0
Who the Buyer Solicited:
<ul style="list-style-type: none"> Victim: 1 Third party: 0

Site-specific analysis of CSEC case outcomes

In comparing specific target site outcomes for CSEC cases,¹⁵¹ Seattle had many more cases convert to non-CSEC charges at disposition (40) than cases that stayed CSEC (6), while the DC-Baltimore Corridor only had 8 cases that converted to a non-CSEC charge at disposition. However, in Seattle, CSEC charges most commonly converted to child sexual abuse charges at disposition. In the other three sites, the most common non-CSEC charge at disposition was a prostitution solicitation-related charge.

In the DC-Baltimore Corridor, the majority of cases that stayed CSEC at disposition resulted in a conviction¹⁵² rather than a deferred sentence. Of the 8 cases that converted to non-CSEC charge at disposition, 7 received deferred sentencing and avoided a conviction; only one resulted in a conviction. Seattle which did not use deferred sentences, used community service as a leniency factor in more cases that converted to non-CSEC at disposition than in cases that stayed CSEC at disposition. Seattle cases had work release as a leniency factor in 18 cases where the case converted to non-CSEC and only one that stayed a CSEC charge.

In comparing sentencing details, Phoenix and Portland showed no significant differences on any variables. However in Seattle, significant differences were found when comparing the length of sentence. If the offense at conviction changed to non-CSEC, the mean sentence length was 199.35 days; for the cases that stayed CSEC, the mean was 425.83 days.¹⁵³ The days of jail time that the defendant faced after deducting suspended sentence and credit for time served, was also found to be significantly different for Seattle cases that changed from CSEC compared to cases that stayed CSEC. For cases that converted to non-CSEC charges at disposition, the mean jail time to be served was 86.33 days and the mean jail time to be served for cases that retained a CSEC charge at disposition was 425.83 days.¹⁵⁴

The number of days suspended also significantly differed, with the cases that changed from CSEC having a mean suspended days of 96.08 and the two cases that remained CSEC had zero suspended days.¹⁵⁵ In the DC-Baltimore Corridor, significant differences were found when comparing length of sentences. For the cases that changed from CSEC, the mean was 152.75 and the mean for the cases that stayed CSEC was 2161.50.¹⁵⁶ The number of days suspended also significantly differed, with the cases that changed from CSEC having a mean suspended days of 136.88 and the cases that remained CSEC had 1507.37 suspended days.¹⁵⁷

Seattle and Maryland cases were unique although both had too few cases to explore significance. Seattle required defendants in 17 of the 40 cases that changed from CSEC to non-CSEC to register as a sex offender while requiring 4 defendants to register in the 6 cases that remained CSEC. In the Maryland cases, only 1 of the 8 cases that changed from CSEC to non-CSEC were required the defendant to register as a sex offender and of the cases that did not change, 22 of the 27 cases required the defendant to register as a sex offender.

Asset forfeiture was only used in Maryland cases. Asset forfeiture was not ordered for any cases that converted from a CSEC charge to a non-CSEC charge but it was ordered in 14 of the 27 cases that stayed CSEC.

When examining buyer demographics for this subset of cases, the age of the defendant did not appear to be significantly different in any of the cities when comparing cases that changed from CSEC to non-CSEC and cases that stayed CSEC. Race also did not appear to be significantly different in cases in each city that changed from CSEC to non-CSEC compared to cases that stayed CSEC.

¹⁵¹ The categories were too small to run significance tests, however sufficient data was available for comparisons between target sites.

¹⁵² See *supra* note 85 for explanation of probation before judgment. For this comparison, “conviction” refers to a felony or misdemeanor conviction.

¹⁵³ $t(44) = -3.11, p < .003$

¹⁵⁴ $t(44) = -6.077, p < .032$

¹⁵⁵ $t(44) = 1.562, p < .001$

¹⁵⁶ $t(33) = -3.913, p < .001$

¹⁵⁷ $t(33) = -2.998, p < .001$

Of the cases that had multiple victims in Phoenix, 3 of the 4 cases converted from a CSEC charge to a non-CSEC charge. All of the cases in Portland and Seattle with multiple victims shifted from CSEC to non-CSEC charges at disposition. There were no significant differences found regarding who the buyer solicited. Though a significance test could not be run on the type of exchange in CSEC cases due to small numbers in some categories, the majority of cases that involved an exchange for money did not remain CSEC at disposition.

Aggregated data from Phase and 1 and Phase 2

- ♦ Total offenses that came to the attention of law enforcement: 523
- ♦ Total arrested buyer cases = 508
- ♦ Total number of known real victims: = 404
- ♦ Total sentence range = 0 to life

General Observations and Conclusions

In Phase 1, the most common initial charge was child sexual abuse offenses, with CSEC as the second most common charge. By contrast, in Phase 2 the most common initial charge was CSEC, with child sexual abuse offenses as the second most common charge. The difference in charging trends between Phase 1 and Phase 2 research may correspond to the age of the victims in each phase since both phases of the research demonstrated (1) a trend of using sex offenses to prosecute CSEC cases involving younger minors, and (2) use of CSEC laws to charge offenses involving older minors. While the average victim age for both phases was very similar (14.8 in Phase 1 and 14.76 in Phase 2), more than half of the victims were under 15 years old in the Phase 1 research and in Phase 2, the majority of victims were 15–17 years old.

Phase 1 results also showed a strong trend for federal cases to remain CSEC at conviction while state CSEC charges had a roughly equal likelihood of converting to non-CSEC or staying CSEC. In Phase 2, which looked solely at state cases, the majority of cases converted to non-CSEC charges at disposition. A notable exception to the tendency to convert from CSEC to non-CSEC charges was the DC-Baltimore Corridor, which only converted to non-CSEC charges in 8 cases. The applicable CSEC law in Maryland, where the DC-Baltimore Corridor is located, resembles the federal CSEC law for enticing a minor, 18 U.S.C. § 2422 (Coercion and enticement), in that enticement for any illegal sexual conduct, commercial or otherwise, with a minor is the predicate act for the CSEC offense.

Another notable trend in the Phase 2 convictions was the high incidence of non-CSEC convictions in Seattle, which at the same time had the highest percentage of felony convictions.¹⁵⁸ In Seattle, the non-CSEC offense to which most cases converted at conviction was an enticement statute, Wash. Rev. Code § 9.68a.090 (Communication with minor for immoral purposes), which could be charged as a felony when an electronic communication is used to entice a minor victim. Given the broad use of the Internet in commercial sexual exploitation of minors, and the growing use of Internet sting operations to identify buyers of commercial sex with minors, this offense was amended in 2013 to specifically criminalize enticement for purposes of committing trafficking or CSEC crimes.¹⁵⁹ Consequently, cases that follow the same charging pattern identified in this study for Seattle would now be counted as remaining CSEC while earlier cases were not considered CSEC for purposes of this study.

In Portland and Phoenix, where the Phase 2 results also showed high percentages of cases converting to non-CSEC, a prostitution solicitation-related offense was identified as the most common alternative charge when the conviction did not include a CSEC charge. This may correspond to similar laws in Arizona and Oregon which both criminalized CSEC under the prostitution chapter at the time the cases in this study were prosecuted.¹⁶⁰ By contrast, Washington (Seattle)

¹⁵⁸ The DC-Baltimore Corridor had the highest percentage of cases that concluded with felony charges (77.1%) but only 60% of the cases concluded in a felony conviction rather than a deferred sentence. Since 100% of the cases in Seattle concluded with a conviction, it had the highest percentage of felony convictions (65.2%).

¹⁵⁹ See Senate Bill 5669.

¹⁶⁰ In 2013, Oregon enacted SB 673 which established a new buyer-applicable CSEC offense under the sex offense chapter.

and Maryland (DC-Baltimore Corridor), both criminalize CSEC separately from prostitution – in the sex offense chapter in Maryland and in the Sexual Exploitation of Children chapter in Washington. Notably, Seattle and the DC-Baltimore Corridor also saw fewer cases convert from CSEC to prostitution solicitation offenses at disposition.

Both phases of the research indicated that when the outcomes of cases that concluded with a CSEC charge were compared to cases that concluded with non-CSEC charges, sentences were not particularly enhanced by inclusion of the CSEC charge. The pattern of converting CSEC charges to prostitution solicitation-related charges may help explain why CSEC offenses are not seeing more substantial sentences, i.e., these offenses are still being viewed as prostitution-related. Indeed, the common trends identified in both phases of the research discussed above reflect how a prostitution “lens” may be impacting cases.

While the legislative purpose of CSEC offenses is to specifically address the unique harm perpetrated on children, in some cases the CSEC laws that apply to buyers seem to provide too many loopholes for those who buy or attempt to buy sex with children. In some cases the cause of this may be statutory – the state CSEC offense is part of the prostitution law or codified in the same chapter or is titled as “prostitution.” In other cases, insufficient CSEC penalties are tied up in the cultural vestiges that surround prostitution and the perceived agency of anyone receiving a fee or something of value in exchange for sex. In many cases, both factors are likely involved. This clarifies the need to address trends in anti-demand enforcement both legislatively and culturally. Ultimately, the sex trafficking industry is driven by the exploitation of 17-year-olds as much as it is driven by the exploitation of younger minors, but as long as cultural attitudes fail to align with this perception, protecting minors from commercial sexual exploitation by combatting demand is likely to remain an uphill battle.

Barriers, Challenges & Promising Trends



A primary goal of the Demanding Justice Project research is to identify the gaps in anti-demand enforcement in order to expand understanding of the barriers that undermine the efforts of advocates. While the quantitative research points out the gaps in enforcement, the thought leader roundtables provided an opportunity to learn how both hidden and evident barriers contributed to those gaps and to discuss the challenges that stakeholders face in overcoming those barriers. Ultimately, the goal is to promote discussion about barriers and challenges in order to generate creative solutions, identify promising trends and develop a road map for next steps in the fight against demand.

Barriers

Thought leader roundtable participants identified several barriers to anti-demand enforcement efforts, reflecting the complexity of the problem. While some barriers relate to resources, others relate to victim needs and others relate to misunderstanding of anti-demand efforts by the community and the bench. Identified barriers included:

- ♦ **Lack of resources** – Sex trafficking investigations, especially when buyers are pursued for prosecution in addition to traffickers, and reverse sting operations are time and resource-intensive. Smaller and non-urban communities often lack the resources to run these operations. Lack of training is another consequence of limited resources.
- ♦ **Lack of public outcry** – The fact that the public is not demanding attention to this issue directly contributes to lack of resources.
- ♦ **Conflict between victim-focused and demand-focused operations** – The need to rescue victims is not always compatible with investigating buyers. When reverse stings are used to investigate and arrest buyers, separate stings are needed to identify and recover minor victims, both of which require substantial time, training, personnel and resources.
- ♦ **Reliance on victim testimony** – Victim testimony is seldom forthcoming because of the trauma bond with the pimp and/or fear of reprisal.

Challenges

Thought leader roundtable participants identified many challenges to overcoming the barriers to anti-demand enforcement:

- ♦ **Societal norms undermine enforcement** – The challenge of directing more resources to anti-demand enforcement derives from societal norms that view prostitution as a victimless crime and do not recognize the underlying crime of commercial sexual exploitation of minors. Societal norms that view “prostitutes” as persons undeserving of protection and perceive “johns” as innocuous offenders undermine arguments for directing resources to anti-demand efforts. Similarly, prosecutors face challenges in overcoming jurors’ and judges’ views of prostitution and lack of understanding about sex trafficking and the role that demand plays in it.
- ♦ **Hidden crime, anonymous offenders** – The primary challenge to generating public outcry is the hidden nature of sex trafficking; in order to generate public outcry, the public needs to know that the crime is occurring in their own communities. Since the lack of public outcry means fewer resources directed toward enforcement there are fewer cases, resulting in a false perception of the scope of the problem.

“We need to empower and mentor young boys, telling them it is wrong to buy, but if they go out into a world that tells them it’s okay, we have limited influence. It is going to take a shift in the way our society views and treats women and time to create the generational change we need to see.”

–Savannah Sanders, Survivor-Advocate/Author and
Phoenix Thought Leader Roundtable Participant

- ♦ **He said, She said testimony** – Victims testifying in buyer prosecutions face potentially re-traumatizing questioning and may not be protected by the rape shield law and other victim witness protections that could shield them from some of the aggressive tactics of attorneys vigorously defending their clients
- ♦ **Balancing service needs with enforcement needs** – Recent changes to Washington state laws will redirect asset forfeiture to local agencies, although there is still discussion regarding how much will be directed to services providers and how much will be allocated towards local law enforcement investigation.

A related challenge in enforcing laws addressing commercial sexual exploitation of minors is balancing resources directed to combatting child pornography with resources for combatting exploitation of minors through prostitution. As indicated by the Demanding Justice Project research results and case studies, pornography charges generally result in higher sentences than charges under human trafficking and commercial sexual exploitation of children laws.¹⁶¹ A number of factors appear to contribute to this. Practical considerations related to prosecution of these offenses drive the discrepancy in outcomes to some extent. Pornography laws had been developing for many years before the Trafficking Victims Protection Act was enacted in 2000. Additionally, since child pornography offenses involve recorded sexual abuse of a minor, establishing the offense is not as reliant on victim testimony. In cases where a child is exploited through prostitution proof of the sexual abuse may rest entirely on victim testimony. Cultural attitudes may also lead to a discrepancy in sentencing outcomes. Cultural tolerance of “hiring a young escort” is drastically different than the societal condemnation of possessing child pornography, even though many of the “escort” advertisements on Backpage.com and MyRedbook.com would constitute child pornography under both state and federal laws.¹⁶²

Solutions & Promising Practices

Thought leader roundtable participants also generated several creative solutions for overcoming the barriers and challenges identified in the discussions and identified some promising practices in anti-demand enforcement:

Overcoming resource gaps

Asset forfeiture from convicted traffickers could be directed to fund anti-demand efforts if the funds are returned to local police departments rather than directed to a general state fund. In Seattle, where close to \$10 million has been recovered in seized and forfeited assets related to criminal profiteering activity since 2009, some has been used to fund anti-demand enforcement efforts. While more resources are important, resource allocation is also important. Prioritizing investigations of buyers over the individuals selling sex who are often victims themselves will better address the real driver behind the commercial sexual exploitation of minors.

“The issue is not just a lack of resources, it is a need for reallocation of resources.”

[referencing historical priority towards arresting individuals selling sex as opposed to individuals buying sex]

–Valiant Richey, prosecuting attorney for King County

¹⁶¹ See supra note 99.

¹⁶² Dalton, R. (2013). Abolishing child sex trafficking on the Internet: Imposing criminal culpability on digital facilitators. *University of Memphis Law Review*, 43(4), 1097-1143.

Overcoming a lack of resources in small and non-urban jurisdictions

Since smaller, non-urban jurisdictions often do not have a “track” where street-level prostitution occurs, resource-intensive stings may be the only way to investigate and arrest buyers. At the Seattle roundtable participants suggested that urban police departments having more resources and expertise in running buyer stings could help smaller jurisdictions address the resource gap in two ways: (1) peer training, including in-service training where the law enforcement agencies learn on the job by running a sting together in the smaller jurisdiction, and (2) sharing undercover officers who are trained to act as law enforcement decoys in buyer stings with smaller jurisdictions who lack sufficient personnel to run a sting operation.

Overcoming reliance on victim testimony and evidentiary challenges

Participants discussed the use of cell phone and computer records as alternative sources of evidence that could relieve victims of the need to testify. Training was proposed to encourage law enforcement to get these records early in the process to avoid loss of data due to disposable cell phones.

Ensuring a victim-centered approach to anti-demand enforcement

Participants proposed that it may be preferable to pursue civil damages rather than criminal prosecution in some cases due to the lower standard proof. Civil damages can provide victims with needed resources and exposes buyers to a court proceeding and financial deterrent. In order to overcome the related challenge of providing pro bono counsel to victims, a proposal was made to reach out to law schools that are becoming more aware of domestic minor sex trafficking and have increased interest in assisting sex trafficking victims through law school clinics.

Promoting community awareness

Several approaches were proposed at the thought leader roundtables:

- 1.) **Involve Media.** Identify media that has a good understanding of the issue and encourage coverage of the enforcement efforts already going on to spread awareness of the demand issue, or use the INTERCEPT Task Force operation as a model and adapt it to go after buyers of sex with minors. In this operation media was embedded in a sting, funded the primary costs of the operation and reported on the arrests. This provided the resources to run the operation and ensured media coverage of the arrests. In such cases collaboration is critical to ensure prosecutorial concerns are addressed in advance and the prosecution is not impacted by the involvement of media in the operation.
- 2.) **Undercover awareness initiatives.** Advocates can use the Internet as a tool to spread awareness by establishing a presence on websites where children are sold for sex to alert buyers that they are participating in sex trafficking.
- 3.) **Incorporate aspects of successful public awareness campaigns on other issues.** MADD and texting-while-driving campaigns exposed something that many people did casually and made it shameful by drawing awareness to the harm this conduct could cause. These campaigns can provide a model for anti-demand campaigns.

Case Studies

10

CASE STUDY INDEX

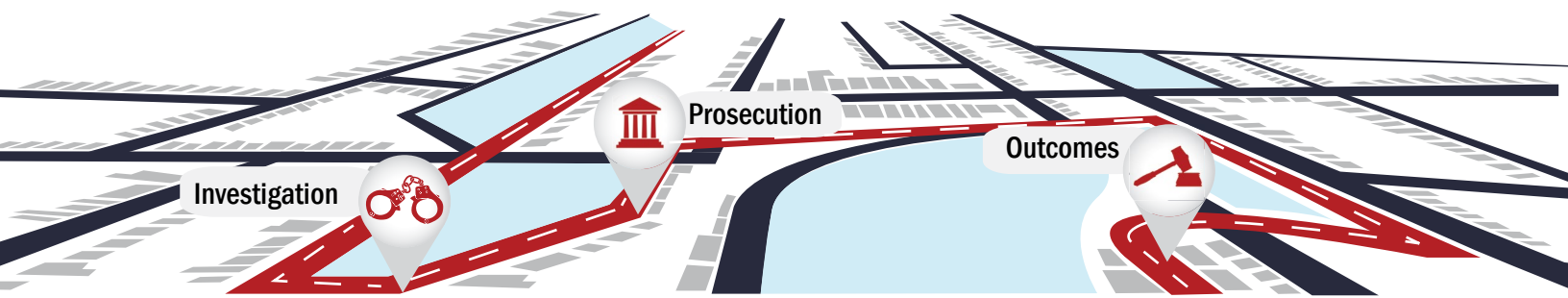
INDIVIDUAL CASE STUDIES

1. Arizona v. Gilliland
2. New York v. Taylor
3. Georgia v. Sharifi
4. United States v. Sacco

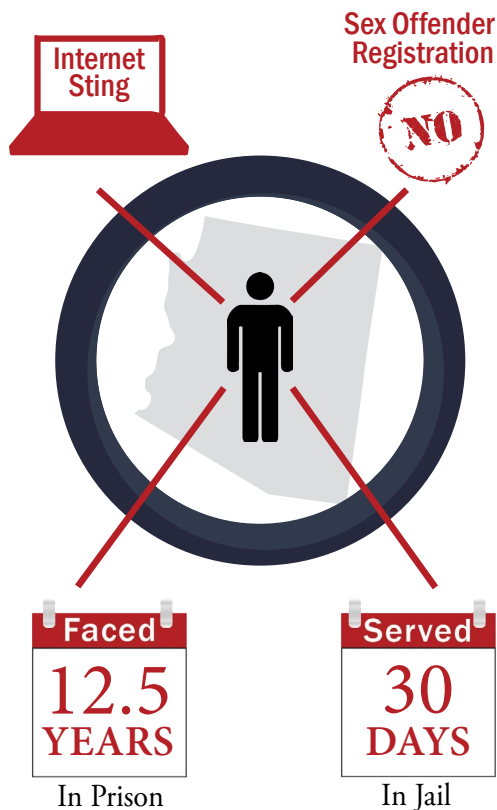
REGIONAL CASE STUDIES

5. Enforcing New Anti-Demand Legislation In Massachusetts
6. Sex Trafficking Buyer Convictions In Missouri
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8. Anti-Demand Enforcement In The Dakotas

ARIZONA v. MICHAEL C. GILLILAND



Quick Facts



Case Summary

The following case, which took place in Phoenix, Arizona, highlights the challenges of enforcing commercial sexual exploitation of children (CSEC) laws against a defendant accused of attempting to buy sex with an older minor. On February 10, 2011, CEO and Founder of Sunflower Farmers Market Michael C. Gilliland was arrested on charges of child prostitution after he was caught in an undercover sting operation conducted by the Phoenix Police Department. Gilliland allegedly responded to an Internet advertisement and proceeded to solicit an undercover female officer for commercial sex despite statements indicating she was 17 years old. After he arrived at the agreed upon meeting location and gave the undercover officer \$100.00 in exchange for sex, Gilliland was arrested. Charged with child prostitution under state law, he faced a maximum of 12.5 years in prison for attempting to buy sex with a minor he knew was under 18. Without proof that he knew the decoy victim was under 18, he faced a much lower penalty under the same law. At the conclusion of his case, Gilliland pled to a pandering charge and was sentenced to 30 days in jail. The Class 6 felony, an undesignated felony charge, was converted to a misdemeanor at sentencing.

“He was taken into custody after he arrived at the agreed upon meeting location and gave the undercover officer \$100.00 in exchange for sex.”

Investigation

On February 10, 2011, officers of the Phoenix Police Department Vice Enforcement Unit were working an undercover sting operation which involved posting Internet advertisements for commercial sex with a minor. During the sting

“The undercover officer again indicated to Gilliland that she was 17 years old and he agreed to pay her \$100.00 for sex.”

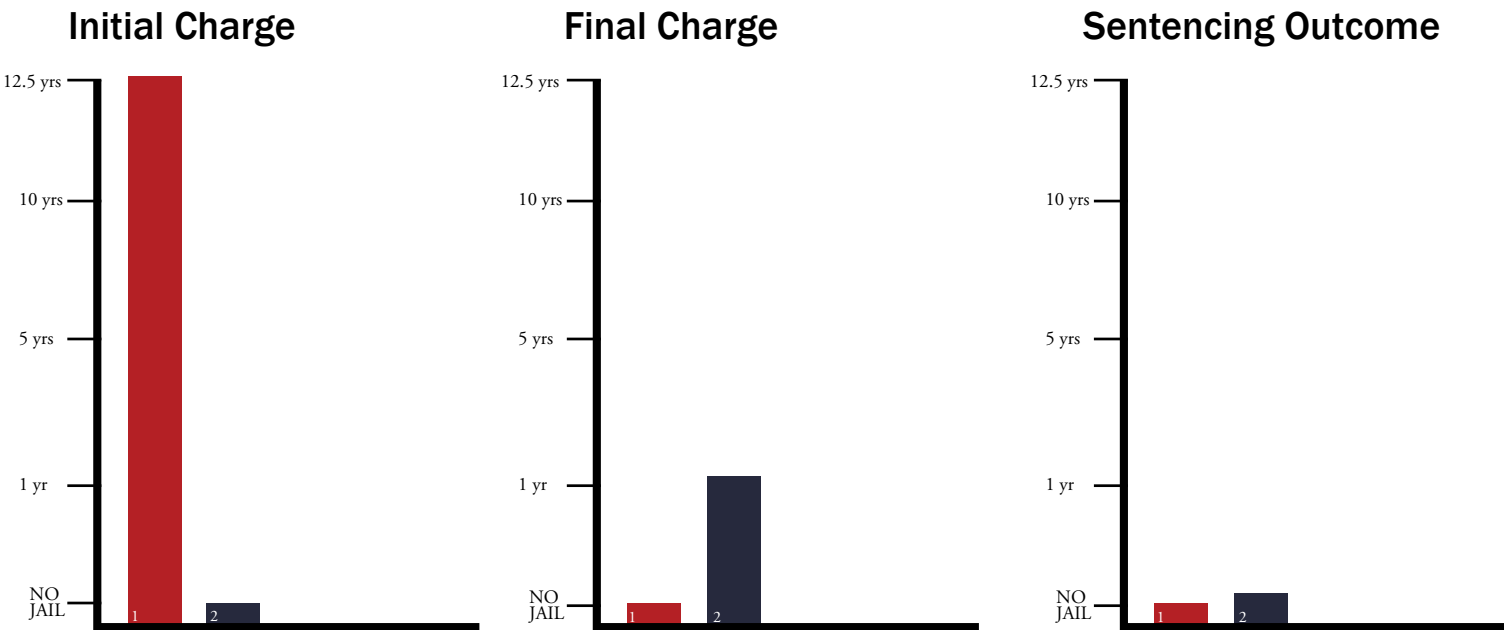
operation, female officers received calls from people responding to the advertisement. Michael C. Gilliland was identified as one of people calling in response to the advertisement. In her communications with Gilliland, the undercover officer asked Gilliland to bring her a pack of cigarettes because she was too young to buy them herself, indicating she was under 18 years old. After indicating again that she was 17 years old, they proceeded to arrange a meeting. When Gilliland arrived at the hotel where they arranged to meet, the undercover officer again indicated to Gilliland that she was 17 years old and he agreed to pay her \$100.00 for sex. After handing the officer the money, Gilliland was taken into custody by officers observing the transaction.

Prosecution

Michael C. Gilliland was indicted by the Maricopa County Superior Court in February 2011 on charges of child prostitution, which is a Class 2 felony carrying a maximum penalty of 12.5 years in prison. The defendant was allowed pre-trial release due to his previously clean criminal record. The arrest and court case were widely publicized in the media and the defense moved for the case’s removal from the court’s high profile list, which was denied. In addition, the defense moved for dismissal of the court’s indictment based on the premise of outrageous government misconduct, stating that the sting operation arrest was the result of “government-manufactured criminal conduct,” “over involvement in crime,” and “artificial circumstances created by officers” geared towards obtaining a child sex felony charge. Gilliland ultimately pled guilty to attempted pandering, a Class 6 undesignated felony carrying a maximum penalty of 18 months in jail.

Outcomes

After pleading guilty to one count of attempted pandering, Michael C. Gilliland was sentenced to 30 days in jail (to be served in two 15-day periods) followed by one year of probation. The judge made this decision based on the defendant’s lack of prior criminal convictions, his past philanthropy, a clear display of remorse and accountability following his arrest, and a low risk of reoffending. Gilliland’s conviction did not require him to register as a sex offender, and the court converted the class 6 undesignated felony to a misdemeanor at sentencing.



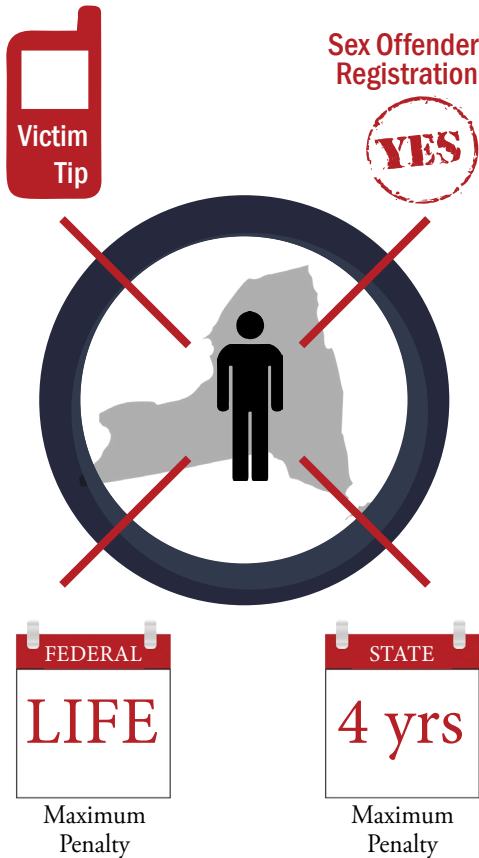
Charge Category and Color Key	Initial Charge/ Max Penalty	Final Charge/ Max Penalty	Sentencing Outcome
1 CSEC	12.5 years	Pled to lesser charge	None
2 Solicitation-Related (Pandering)	None	18 months	1 month



NEW YORK v. TAYLOR



Quick Facts



Case Summary

The victim in the case of New York v. Taylor, C.F., was denied justice in both the criminal courts and in the civil courts. The lack of a state commercial sexual exploitation of children (CSEC) law criminalizing the purchase of sex with a 16 year old minor and the civil court's finding that the federal sex trafficking statute, 18 U.S.C. 1591, did not apply to the actions of Lawrence Taylor left C.F. without justice for the victimization she endured. On May 6, 2010, NFL Hall of Fame linebacker Lawrence

“C.F. initially refused to meet Taylor but she was physically assaulted by her trafficker until she agreed to go.”

Taylor was arrested on charges of patronizing a prostitute and third degree rape after he was apprehended by the Ramapo Police Department in his hotel room for paying 16 year old C.F. \$300 for sex. According to facts presented in criminal and civil court records, Rasheed Davis, a now convicted trafficker, sent C.F. to Lawrence Taylor's suburban New York City Holiday Inn hotel room. Taylor said C.F. told him she was 19. C.F. initially refused to meet Taylor but she was physically assaulted by her trafficker until she agreed to go. Police became involved after C.F. sent text messages seeking help to a relative. Taylor was then arrested at a Holiday Inn in Suffern, New York. Taylor faced a maximum of 4 years for rape in the third degree. After pleading guilty to sexual misconduct and patronizing a prostitute, Taylor was required to register as a sex offender and serve six years' probation, but was not sentenced to any jail time.

Civil Complaint

On November 28th, 2011, C.F. filed a civil complaint against Taylor in federal district court. The complaint alleged that the 6'3" and 240 pound linebacker sexually assaulted Fierro, a slight teenage girl who had visible facial injuries from a beating she had just suffered at the hands of the man whom Taylor called to provide him with a girl for commercial sex. The complaint alleged that C.F., shaken and crying, expressly told Taylor that she did not want to engage in sex and tried to push his enormous body off hers. She told Taylor that she had never been paid for sex before and that she did not wish to do so now. C.F., visibly crying and with blood on her face from Davis' recent physical assault, was unable to resist Taylor's alleged sexual assault. According to the complaint, Taylor then gave her \$300 and she returned to her trafficker, Davis, who took the proceeds. The civil complaint sought to vindicate C.F.'s civil rights and remedies under the Trafficking Victims Protection Act (TVPA), a Rockland County law prohibiting gender-motivated violence, and state common law claims for assault and battery.

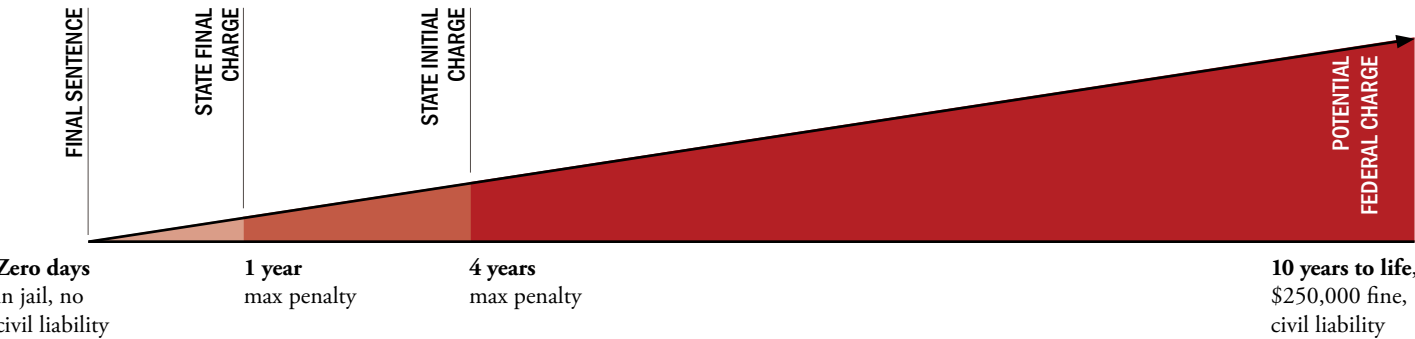
Motion to Dismiss and Trial

In response to C.F.’s civil complaint, Taylor filed a motion to dismiss all claims, including the civil claim brought under the TVPA. Taylor’s motion claimed that he was not involved in a venture that engaged in sex trafficking and therefore the TVPA could not apply to him for purchasing sex with the minor girl. The threshold question for applicability of the TVPA claim to Taylor depended on whether Taylor obtained C.F. for a commercial sex act. C.F. argued that the plain language of the TVPA applied to Taylor as a buyer because he obtained her, or “gained possession of” her, for commercial sex. The Court granted Taylor’s motion to dismiss, finding that the TVPA did not apply to Taylor because he is not part of the targeted class of individuals whom Congress intended to punish, such as traffickers and smugglers. C.F.’s TVPA claim was dismissed and the case proceeded to trial on the state law claim for gender-motivated violence and the state common law claims for assault and battery. During trial proceedings, Taylor relied on C.F.’s own grand jury testimony in which she referred to Taylor as a “client” to discredit her by attempting to portray her as a prostitute rather than a minor victim. “I didn’t know what to call him,” C.F. responded during her testimony. The jury in the U.S. District Court in Manhattan deliberated for about an hour before siding with Taylor and dismissing the state law and common law claims.

“C.F. argued that the plain language of the TVPA applied to Taylor as a buyer because he obtained her, or ‘gained possession of’ her, for commercial sex.”

Outcomes

On January 17, 2013, the Eighth Circuit ruled in *United States v. Jungers* that the TVPA applies to the criminal conduct of buyers of sex with children, thereby establishing appellate precedent for prosecuting buyers of sex with minors under the federal sex trafficking law, the argument that the district court had rejected. If Taylor had been prosecuted and convicted under the federal sex trafficking law, he could have faced 10 years to life in prison. However, this ruling came too late for justice for C.F., and the final outcomes for Taylor were merely probation and avoidance of any civil penalties.

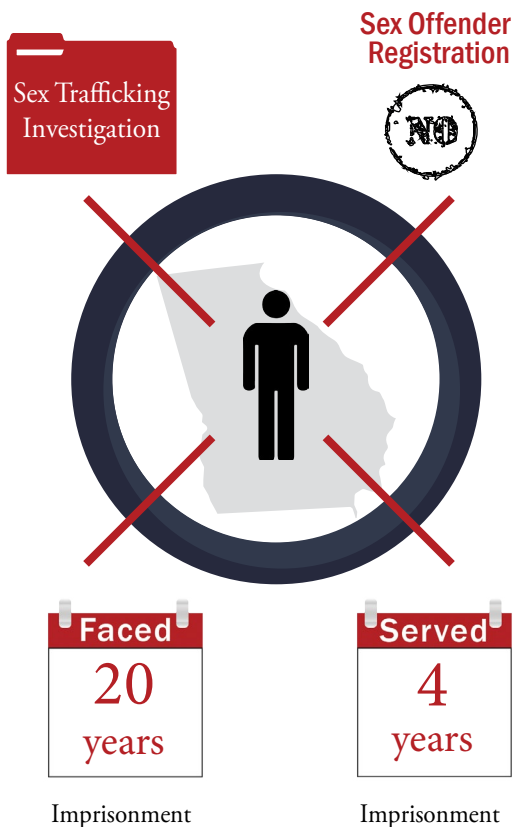


Charge Category	Max Penalty under initial STATE charges	Max Penalty under final STATE charges	Potential Penalty under FEDERAL law	Criminal Sentencing Outcome
Sex Trafficking			Life	
CSEC			Life	
Sex Offense	4 Years	1 Year		0 Years (probation=6 yrs)
Prostitution Solicitation	1 Year	1 Year		0 Years (probation=6 yrs)

GEORGIA v. SHARIFI



Quick Facts



Case Summary

The following sex trafficking case involves the investigation, arrest and prosecution of two traffickers and a buyer as co-defendants. This case also represents the first known case in the State of Georgia to convict a buyer of sex with a minor under the state human trafficking law. According to a February 27, 2014 Fulton County District Attorney Press Release, Derek Spencer and Kynne Shuler “were arrested on October 20, 2013 following an anonymous tip that under-aged girls were involved in suspicious activity in a hotel room they occupied. Police rescued the victims from the hotel bathtub where they were hiding.” According to the press release, the two 14-year-old victims were runaways when they met Spencer and he offered them a place to stay in his home. Spencer and Shuler then supplied the girls with drugs and alcohol, and arranged for them to engage in commercial sex. The minor victims had to turn any money they received over to Spencer and Shuler. In addition to being forced to perform sex acts with sex buyers, Spencer also had sex with each victim. Hossein Sharifi was arrested in connection with Spencer and Shuler’s sex trafficking operation for paying to have sex with the minor victims and according to the press release, the Fulton County District Attorney’s Office worked closely with the FBI’s MATCH Task Force in order to “identify Defendant Sharifi and bring him to justice.”

“This case also represents the first known case in the State of Georgia to convict a buyer of sex with a minor under the state human trafficking law.”

Prosecution

All three defendants were prosecuted in Fulton County Court as co-defendants and were charged with similar offenses. Hossein Sharifi was charged with two counts of trafficking of persons for labor or sexual servitude, two counts of pandering, and two counts of statutory rape. Kynne Shuler and Derek Spencer were charged with various counts including trafficking of persons for labor or sexual servitude, contributing to the delinquency of a minor, pimping, and pandering. Kynne Shuler was also charged with sexual exploitation of a minor and Derek Spencer was also charged with statutory rape, aggravated child molestation, and aggravated assault.

“All three defendants were prosecuted... as co-defendants and were charged with similar offenses.”

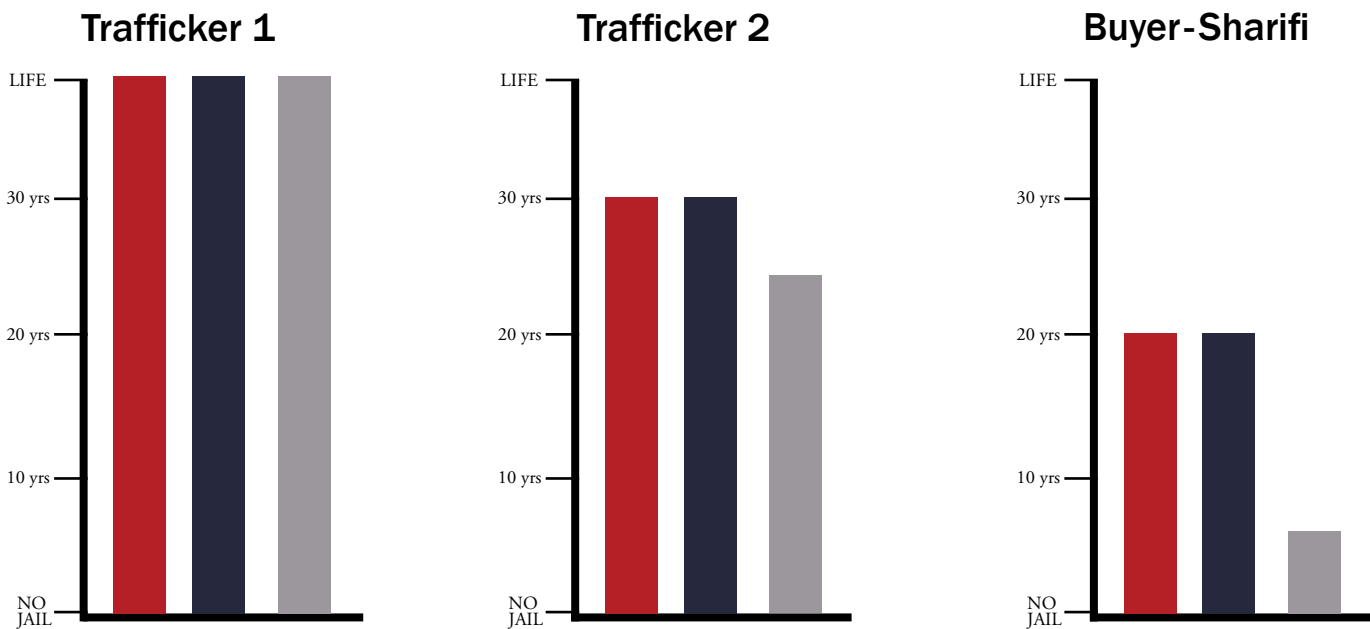
Prosecution, con't...

Sharifi ultimately pled guilty to human trafficking, pandering, statutory rape and child molestation. Sharifi's co-defendant, Kynne Shuler, also entered a guilty plea and was sentenced on several counts including trafficking of persons and sexual exploitation of a minor. Spencer proceeded to trial and was found guilty on all counts except one count of statutory rape, one count of aggravated child molestation and one count of aggravated assault.

Outcomes

While all three defendants pled guilty to human trafficking charges under state law, their sentences varied dramatically. Spencer was sentenced to life in prison without parole, Shuler was sentenced to 25 years in prison, and Sharifi was sentenced to five years in prison followed by five years of probation and community service.

“While all three defendants pled guilty to human trafficking charges under state law, their sentences varied dramatically.”



Sex Trafficking Defendants	Initial Charge/ Max Penalty	Final Charge/ Max Penalty	Sentencing Outcome
Derek Spencer	Life	Life	Life
Kynne Shuler	30 Years	30 Years	25 Years
Hossein Sharifi	20 Years	20 Years	5 Years



UNITED STATES v. DEAN SACCO



Quick Facts

Sex Trafficking
Investigation

Sex Offender
Registration

YES



Faced
LIFE

In Prison

Served
LIFE

In Prison

Case Summary

This Norwich, New York case involved a successful life sentence conviction for Dean M. Sacco who took part in the trafficking of a child under age 14. Linda O'Connor sold her daughter to Sacco, her landlord, in exchange for rent owed. The victim reported that Mr. Sacco repeatedly had forced sexual intercourse with her on several occasions during his trips to the victim's residence where she lived with her mother. He would threaten and coerce the victim to commit various sexual acts and to keep their encounters a secret so her mother would not go to jail. Evidence also revealed that Sacco produced pornographic images from the sexual assaults and that the victim's mother was also involved in photographing the abuse. The victim was trafficked for a period of approximately two years while she was between the ages of 12 and 14. After trial, a federal jury convicted Sacco of numerous charges related to commercial sexual exploitation of children and child pornography. Sacco was also convicted of sex trafficking of a child.

“He would threaten and coerce the victim to commit various sexual acts and to keep their encounters a secret.”

Investigation

Around the month of February in 2007, the victim disclosed to a teacher at her school that she had engaged in sexual activity with an adult. The teacher contacted the police and other authorities after the victim asked, “If someone older is having sex with someone younger, is it the younger person's fault?” Following the report, police officers conducted an extensive interview with the victim in which she provided a detailed account of her multiple sexual encounters with Dean Sacco. Following the interview, in the presence of law enforcement officers, the victim placed two separate controlled phone calls to Sacco during which he admitted to having sexual contact with the victim. Later that month, police arrested Dean Sacco on felony charges relating to his exploitation of the minor victim and he was detained without bail.

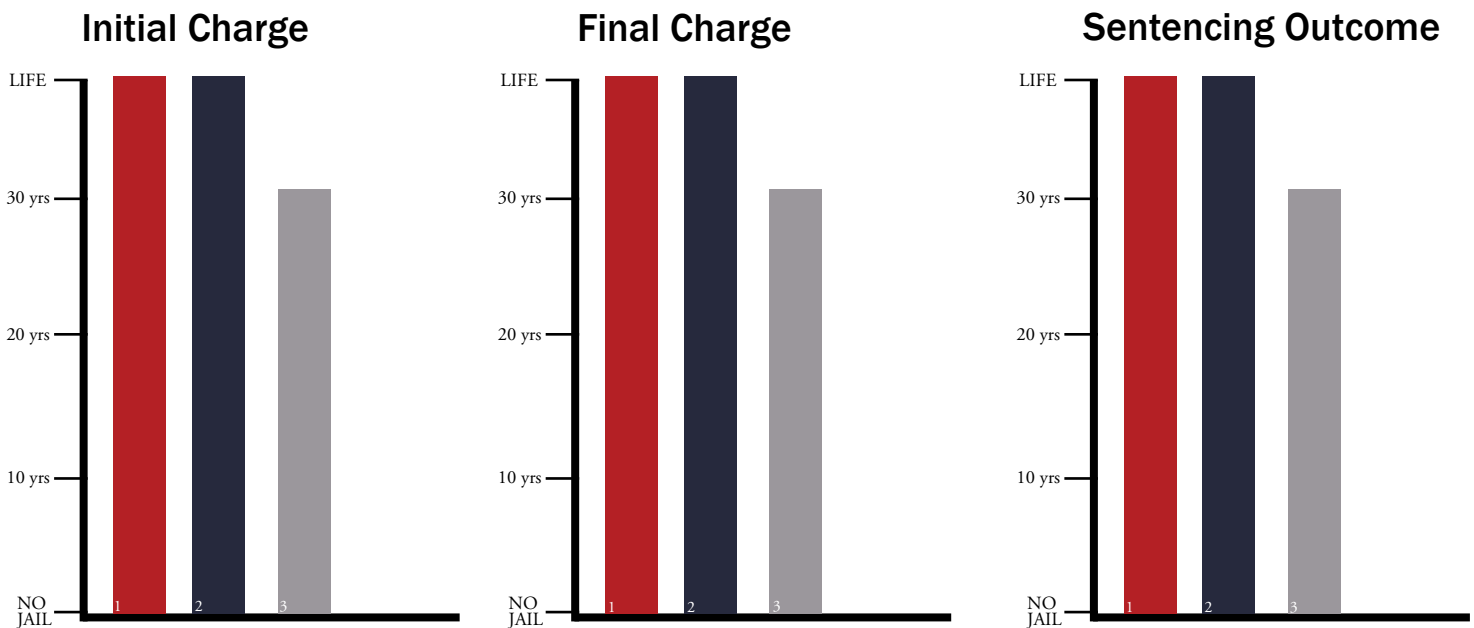
Prosecution

On February 15, 2008, Dean Sacco was indicted by the Northern District of New York Federal Court on counts of Buying of a Child for Purposes of Producing Child Pornography, Sex Trafficking of a Child, Production of Child Pornography, Possession of Child Pornography, and Travel in Interstate Commerce with Intent to Engage in Illicit Sexual Conduct with a Minor. The case was set for trial; however, days before trial was scheduled to commence Sacco's defense attorney attempted to withdraw as counsel due to a moral conflict which made him unable to effectively represent his client. The court ultimately denied this motion and his attorney proceeded to represent Sacco at trial. The government presented substantial evidence against Sacco: the testimony of 21 witnesses and 115 trial exhibits which included recorded telephone conversations, and DNA evidence on a used condom.

“The prosecution was able to obtain and present to the jury an overwhelming amount of incriminating evidence against Sacco...”

Outcomes

Following the four week trial, the jury entered guilty verdicts on all counts charged against Sacco. Sacco then filed a motion for acquittal, which the court denied. Sacco was sentenced to life in prison and the court required Sacco to undergo a sex offender evaluation and treatment program if available in prison. This case serves as an example of a successful human trafficking and CSEC conviction.



Charge Category and Color Key	Initial Charge/ Max Penalty	Final Charge/ Max Penalty	Sentencing Outcome
1 Trafficking	Life	Life	Life
2 CSEC	Life	Life	Life
3 Child Pornography	30 Years	30 Years	30 Years



ENFORCING NEW ANTI-DEMAND LAWS IN MASSACHUSETTS

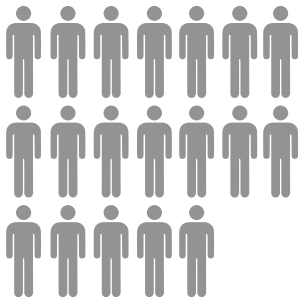


Quick Facts

3 Sting Operations



19 Buyers Arrested



Most Common Initial Charge

Felony

(Pay for Sexual Conduct
with a Child Under 18)

Most Common Final Charge

Misdemeanor

(Sexual Conduct
for a Fee)



Case Summary

The following case comparison (State v. “A”, “B”, “C”) includes incidents that occurred in Massachusetts between September 2012 and October 2012, and generally reflect how a series of cases involving sting operations conducted by police to target the demand of child sex trafficking victims concluded with minimal penalties. Each of the cases is a result of a law enforcement lead operation in which a police officer posed as a 17-year-old child. The sting operation generally consisted of a fictitious Backpage.com advertisement which was linked to a phone number operated by the police. The caller would become aware during the conversation that the person featured on the ad was underage. A caller that wished to commercially purchase sex was then instructed to go to a location where police arrested the offender.

Comparison of these cases reflects a consistent approach during prosecution to amend a felony commercial sexual exploitation of a child charge to a misdemeanor solicitation charge, which carries a much lower possible jail sentence. The three cases in the comparison reflect similar outcomes for numerous cases that were prosecuted in Massachusetts arising from the same sting operations. In State v. “A,” the defendant was never charged with the CSEC offense although he was charged with Electronic Enticement of A Child For Prostitution. The case was pled to the age-neutral offense of Sexual Conduct for a Fee. In State v. “B,” the defendant was initially charged with Pay for Sexual Conduct with a Child Under 18. That case was ultimately pled to the lesser and age-neutral crime of Sexual Conduct for a Fee. In State v. “C,” the defendant was charged with both Pay for Sexual Conduct with a Child Under 18 and Carry Dangerous Weapon. The defendant was carrying a leather black jack when he intended to meet a child for sex. He pled guilty to the amended charge of Sexual Conduct for a Fee and was sentenced to the least sentence of the three cases – 6 months of supervised probation.



Criminal Consequences

The Sting Operations

In each case represented, police placed an ad on Backpage.com that was similar to the advertisements that solicited for prostitution on the site. The defendants each contacted the police officer who was posing as a 17-year-old female and solicited the officer for commercial sex acts. The defendants were instructed by the officer to go to a physical location where they were apprehended. Although the incidents were extremely similar in nature, they occurred during different sting operations within months of each other.

The Prosecutions

In all three cases, the defendants pled guilty to Sexual Conduct for a Fee. In State v. “B” and “C,” the defendants were initially charged with the CSEC offense Pay for Sexual Conduct with a Child Under 18. All of the defendants were sentenced to a probationary period ranging from 6 to 12 months. The defendant in State v. “A” had conditions as a part of the probation to watch the film “John School” and stay off of Backpage.com. In State v. “B,” the defendant was ordered to complete a program. The defendant in State v. “C” was not ordered to complete any conditions as terms of his probation. None of the defendants were fined.

Case Highlights

	State v. “A”	State v. “B”	State v. “C”
Date of Arrest	October 10, 2012	September 29, 2012	September 30, 2012
Arrest Charges	Sexual Conduct for a Fee; Electronic Enticement of a Child for Prostitution	Pay for Sexual Conduct with a Child Under 18	Pay for Sexual Conduct with a Child Under 18; Carry Dangerous Weapon
Maximum Penalty for Arrest Charges	Imprisonment for up to 12 months, a possible fine up to \$500, or both; Imprisonment for up to 60 months in state prison or 30 months in a house of correction, a possible fine up to \$2,500 or both	Imprisonment for 120 months in state prison or 30 months in the house of correction, a possible fine up to \$10,000 but not less than \$3,000, or both	Imprisonment for 120 months in state prison or 30 months in the house of correction, a possible fine up to \$10,000 but not less than \$3,000, or both; imprisonment for not less than 30 months nor more than 60 months in the state prison, or for not less than six months nor more than 30 months in a jail or house of correction
Date Prosecution Commenced	October 10, 2012	October 1, 2012	October 1, 2012
Date of Sentencing	January 3, 2013	September 14, 2013	February 6, 2013
Final Charges	Sexual Conduct for a Fee	Sexual Conduct for a Fee	Sexual Conduct for a Fee
Sentence	Sentenced on January 3, 2013; plead guilty to Sexual Conduct for a Fee Sentenced to 1 year pretrial probation, ordered to watch film “John School,” and stay off of Backpage.com	Sentenced on September 14, 2013; plead guilty to lesser charge of Sexual Conduct for a Fee Sentenced to 1 year administrative supervision; ordered to complete the CANO program	Sentenced on February 6, 2013; plead guilty to lesser charge of Sexual Conduct for a Fee Sentenced to 1 year administrative supervision; ordered to pay supervision fee

SEX TRAFFICKING BUYER CONVICTIONS IN MISSOURI



Quick Facts

1 Sting Operation



7 Buyers Arrested



Most Common Initial Charge

Sex Trafficking

Most Common Final Charge

Sex Trafficking

Case Summary

The first federal cases to charge an attempted buyer of sex with a minor under the federal sex trafficking law were prosecuted in the Western District of Missouri in 2009. These prosecutions were the result of Operation Guardian Angel, which involved local and federal collaboration and led to 7 arrests, all of which concluded in guilty pleas under federal sex trafficking and CSEC (commercial sexual exploitation of children) laws. Even though these cases preceded the Eighth Circuit decision in *United States v. Jungers* that established appellate precedent for prosecuting buyers of sex with minors under federal sex trafficking law (18 U.S.C. 1591), prosecutors were able to bring the full force of federal sex trafficking and CSEC penalties to bear, including mandatory minimum sentences.

“...Operation Guardian Angel, the first law enforcement operation to target buyers of sex with minors as sex trafficking offenders.”

“Operation Guardian Angel, which involved local and federal collaboration... led to 7 arrests, all of which concluded in guilty pleas under federal sex trafficking and CSEC...laws.”

Criminal Consequences

The Sting Operation

Operation Guardian Angel was a collaborative investigation by the Independence Police Department, the Kansas City Police Department, the Federal Bureau of Investigation and U.S. Immigration and Customs Enforcement in conjunction with the Human Trafficking Rescue Project. In order to investigate and arrest those seeking to purchase sex with minors, law enforcement posted online advertisements for commercial sex with minors. According to a Department of Justice press release, “the ads clearly stated that the [decoy victims] were ‘little girls’ and were ‘young.’ Those who responded to the ads were given directions to an undercover location that was outfitted with audio and video recording equipment. When they arrived at the undercover residence and paid cash for [sex with] a child . . . they were arrested by task force officers.”

The Prosecution

The cases were prosecuted by former Assistant U.S. Attorney Cynthia L. Cordes and all defendants arrested in the sting were initially charged under the federal sex trafficking law. As confirmed in a Department of Justice press release, “[t]his operation marks the first time that the U.S. Department of Justice has utilized the Trafficking Victims Protection Act to prosecute customers who allegedly attempt to pay for sex with children.” In *United States v. Mikoloyck*, one of the defendants challenged the use of the federal sex trafficking law to prosecute him as an attempted buyer of sex. The magistrate made a recommendation to the district court judge that “18 U.S.C. § 1591 clearly applies to those who attempt to purchase underage sex, not merely the pimps of actual exploited children.” The district court accepted the magistrate’s decision and established precedent at the district court level that was later confirmed by an Eighth Circuit appellate decision in *United States v. Jungers* which held that buyers of sex with minors were not exempt from prosecution under the federal sex trafficking law.¹ Ultimately, six of the seven defendants pled guilty to child sex trafficking charges and all were sentenced to 10–15 years in prison.

“According to a Department of Justice press release, “the ads clearly stated that the [decoy victims] were ‘little girls’ and were ‘young.’”

Outcomes

Case Name	Initial Charges at Prosecution	Max Penalty Under Prosecution Charges	Final Charges at Disposition	Sentencing Outcome
US v. Albers	Sex trafficking, CSEC	Life imprisonment	Pled to sex trafficking charge ²	15 years in prison, 10 years supervised release
US v. Childers	Sex trafficking, CSEC (2 charges)	Life imprisonment	Pled to all charges	15 years in prison on each count (concurrent), 10 years supervised release
US v. Cockrell	Sex trafficking, CSEC (2 charges)	Life imprisonment	Pled to sex trafficking charge	10 years in prison, 5 years supervised release
US v. Offyng	Sex trafficking, CSEC	Life imprisonment	Pled to sex trafficking charge	15 years in prison, 5 years supervised release
US v. Doerr	Sex trafficking, CSEC	Life imprisonment	Pled to sex trafficking charge	15 years in prison on each count (concurrent), 10 years supervised release
US v. Johnson	Sex trafficking, CSEC (2 charges)	Life imprisonment	Pled to CSEC charge	15 years in prison, 5 years supervised release
US v. Mikoloyck	Sex trafficking, CSEC (2 charges)	Life imprisonment	Pled to sex trafficking charge ³	10 years in prison, supervised release term not set

¹ *United States v. Jungers*, 702 F.3d 1066, 1072 (8th Cir. 2013); see also Samantha Healy Vardaman & Christine Raino, Prosecuting Demand As A Crime Of Human Trafficking: The Eighth Circuit Decision In *United States v. Jungers*, 43 U. Mem. L. Rev. 917 (Summer 2013).

² 18 U.S.C. § 1591 (Commercial Sex Trafficking of a Child)

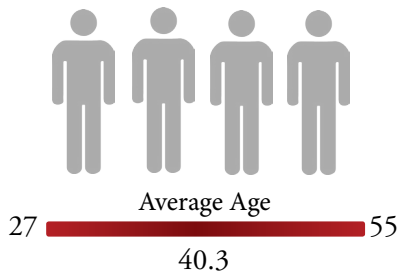
³ 18 U.S.C. § 2423 (Travel for purpose of engaging in illicit sexual conduct with a child)

WORKING WITH VICTIMS IN LAKEWOOD

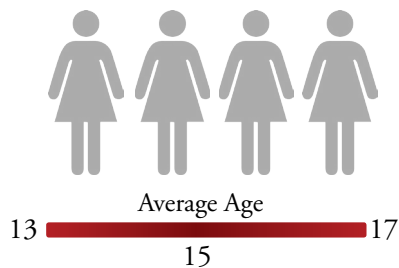


Quick Facts

Suspected Buyers



Minor Victims



Case Summary

The following comparison of three cases in Lakewood, Washington demonstrates the investigational technique of working from tips provided by recovered victims of child sex trafficking to identify and build evidence against buyers of sex with minors. In two cases, the defendants expressly knew the age of the victims and in another instance, the victim believed that the defendant was aware that she was a minor based on how he acted towards her. Two of the victims encountered buyers through personal introductions, another was solicited through an advertisement on Backpage.com, and a fourth was solicited by the defendant from a vehicle as he drove by. When interviewed by law enforcement, each of the victims had been acquainted with the defendant buyers for at least two weeks with relationships known to last up to six months. The suspected buyers were investigated, arrested and prosecuted in Pierce County Superior Court under a variety of charges with “Commercial Sexual Abuse of a Minor” and “Rape of a Child in Third Degree” being the most commonly employed. With the exception of a defendant who fled over the Canadian border and another who passed away during the proceeding, all suspects were arrested and prosecuted. One case was dismissed and transferred to federal court for prosecution, while the defendants in the other two cases pled guilty and received fines for lesser charges.

Criminal Cases

How the Investigations Proceeded

In two instances, the police officers involved were members of the Innocence Lost Task Force and were able to apply their understanding of domestic minor sex trafficking to identify the victims and elicit important information for the investigation. In State v. “A” the police were dispatched for a civil issue concerning retained property and residents of the apartment building informed the police that the girls were being kicked out because they were “prostituting and starting fights.” In State v. “B” the mother of a victim brought her daughter to the police station because she believed she was involved in prostitution. In State v. “C” the police took an active role by posing as buyers on Backpage.com in order to recover the victim and then worked with her to develop leads on a buyer who had been commercially sexually exploiting her and a friend of hers.

Evidence Gathering Process

The police utilized various methods to secure evidence. All minors were asked to identify their perpetrators and willingly gave statements. Other people involved, such as parents and neighbors, also presented oral or written statements. One victim consented to have her phone contents downloaded while two others allowed the police to utilize their phones to pose as the victim and contact the suspects. In two instances, the police with consent recorded the staged conversations that the minors had with their buyers. The buyers were all arrested with probable cause and their vehicles and residences were subjected to searches with items seized as evidence.

Criminal Consequences

In State v. “A”, there were no criminal consequences as one defendant passed away before sentencing while the other suspect fled to Canada. In two cases, the defendants pled guilty and received lesser sentences, respectively - voyeurism or communication with a minor for immoral purposes - with a fine ranging from \$1,200-1,800. In State v. “C”, all counts were dismissed as the case was picked up by the federal court. Sentencing in the federal case was held on June 11, 2013 and the defendant entered a guilty plea to one count of the “Use of a Community Facility to Promote Prostitution.” He was sentenced to imprisonment (Time Served), two years of supervised release, and a fine of \$100 Special Assessment which was waived.

Arrest & Prosecution

	State v. “A1”	State v. “A2”	State v. “B”	State v. “C”
Date of Arrest	None: fled over to Canada Bench warrant issued on March 17, 2011	March 17, 2011	April 06, 2011	February 23, 2012
Arrest Charges	Bench warrant charges: Prostitution—Solicitor	Commercial sexual abuse of a minor; Rape of a Child in Third Degree	Rape of a Child Third Degree; Commercial Sexual Abuse of a Minor two counts, Distribute Child Pornography	Commercial Sexual Abuse of a Minor; TASCOS – Unlawful Manufacture of a Controlled Substance
Maximum Penalty for Arrest Charges		Imprisonment for 21 months to 10 years, a possible fine up to \$20,000, or both imprisonment and a fine; Imprisonment for 12–14 months, a possible fine up to \$10,000, or both	Imprisonment for 12–14 months, a possible fine up to \$10,000, or both; Imprisonment for 21 months to 10 years, a possible fine up to \$20,000, or both imprisonment and a fine; Imprisonment for 6–60 months, a fine up to \$10,000, or both imprisonment and a fine	Imprisonment for 21 months to 10 years, a possible fine up to \$20,000, or both imprisonment and a fine
Date Prosecution Commenced	None: fled over to Canada	March 18, 2011	April 07, 2011	February 24, 2012
Date of Sentencing	None: fled over to Canada	None: defendant deceased	March 23, 2012	None

Final Charges	None	None	Voyeurism Commercial sexual Abuse of a Minor (three counts- dismissed)	All counts dismissed on December 3, 2012. Case was picked up by federal prosecutor.
Sentence	Suspect never arrested- fled to Canada (Police found out on March 16, 2011)	Dismissed on June 14, 2011- Defendant deceased on 06 June 2011	Sentenced on March 23, 2012; plead guilty to lesser charge of Voyeurism Sentenced to 90 days imprisonment, one year community supervision, fined \$1,800, registered sex offender, orders prohibiting contact sentencing with both victims for five years	Sentencing pending in federal court.

State v. "A1"/State v. "A2" Investigation

Officers encountered two juvenile females after responding to a civil disturbance call. They had been recently kicked out of a shelter they had been living in for the past few months and were complaining that they were not being allowed to recover their belongings. These girls were not listed as runaways and they were still in contact with a parent despite living in the shelter. Neither girl was currently attending school. Upon investigation, officers discovered that the girls were kicked out of the shelter because one was involved in prostitution and the other was starting too many fights. The officer, through questioning residents of the shelter, was able to receive further confirmation of the victim's prostitution activity. Residents reported that they had seen a man identified as Defendant "A1" pick up the victim from the shelter in his car on several occasions and had seen text messages she received from him talking about sex. The victim's friend also admitted to her knowledge of the victim having sex with Defendant "A1" for money. When the investigating officer explained the Innocence Lost Task Force, the victim agreed to assist in the investigation.

"Residents reported that they had seen a man ... pick up the victim from the shelter in his car on several occasions and had seen text messages she received from him talking about sex."

When interviewed, the victim stated that she first became involved in prostitution when she engaged in commercial sex acts with Defendant "A1" who she described as a 39-year-old tall white male claiming to be a law enforcement official. She reported that their first sexual encounter occurred when he paid her \$40 for sex acts knowing that she was only 14 years of age. The victim also described an instance in 2011 when she agreed to have sex with Defendant "A1" twice and spend the night with him in exchange for a \$700-\$800 television. She said that Defendant "A1" picked her up and they had sex in his car, then he later texted her his credit card number so she could buy the television. The victim reported that the last time they had sex was about 2 weeks prior to the interview when they hooked up in his car and he bought her a Kathy purse as repayment. The victim stated that they always had sex in Defendant "A1"'s car, never in his home or a motel.

When asked if Defendant "A1" was her only buyer, the victim admitted to having another buyer identified as Defendant

“A2”, whom she described as a 55-year-old white male. She reported that she first met Defendant “A2” when he pulled over next to her and asked if she needed a ride. She told him that she was 16 years old but later admitted to him that she was 14. He proceeded to rent a hotel room for the night and paid the victim \$150 to perform oral sex on him. Since that incident, the victim said the pair had intercourse 8-9 times in return for marijuana, shoes, a laptop, and more than \$600.

The investigating officer received two separate court orders giving him permission to intercept and record communications between the victim and both Defendant “A1” and Defendant “A2”. Two phone calls were made to each suspect by the victim. Defendant “A1” did not answer, while Defendant “A2” admitted to having “lots” of marijuana at his residence. Police conducted a warranted search of Defendant “A2”’s apartment and found the marijuana, then placed him into custody and brought him into the station. Once at the station, Defendant “A2” agreed to conduct a recorded interview. In the interview, Defendant “A2” admitted that he has been paying various “prostitutes” for sex for the last 8 years. He told officers that the victim initially told him that she was 18 years old but then learned that she was 13 after a phone conversation with her mother. He admitted to having sex with her 3 more times after he learned of her true age and also admitted to smoking marijuana with her. It was later found that Defendant “A1” fled the country.

1 Victim Recovered  2 Buyers Identified  

State v. “B” Investigation

A 14-year-old girl was brought into the police department by her mother because she suspected her daughter had engaged in commercial sex. In the interview, law enforcement learned that an adult male paid the victim to take a topless photo and offered to pay her in exchange for sex. The mother provided law enforcement the victim’s phone which contained several messages from a male identified only by his first name and included offers of money for sex and references to oral sex. The victim denied ever getting paid for sex, but admitted the man offered her money for sex and oral sex numerous times, and that she saw him fairly often. She said recently she and a 16-year-old friend were picked up by Defendant “B” and driven to his apartment where he offered them each \$50-\$100 for sex. When they both declined, he offered them an increased sum, asked about oral sex, then finally settled on taking a topless picture of the girls with his phone in exchange for \$20 each (which the girls agreed to). Following the reported incident the victim received a picture message with an image of money and seeking sex. The victim admitted she planned on setting up a meeting with Defendant “B” to perform oral sex in exchange for money until her parents caught her and took her phone. When asked how old Defendant “B” was, the victim replied that he was 27 and that she told him she was 16. Using the suspect’s phone number and the Internet site Accurint, the male was identified as Defendant “B”, 42, and the victim identified his photograph as the man she knew.

“After exchanging texts, the officer was able to set up a meeting with Defendant “B” in which he would pay “victim” \$120 in exchange for sex and oral sex.”

The investigating officer followed up this report by interviewing the victim’s 16-year-old friend. She indicated that she met Defendant “B” through another man who gave Defendant “B” her cellular number, and he proceeded to contact her wanting to hook up. Her account of the incident at Defendant “B”’s apartment matched the initial report exactly. She also said that the following day Defendant “B” picked her up at a shopping center (this time she was alone) and they engaged in vaginal and oral sex at his apartment for \$100. Since then Defendant “B” has continued to solicit her but she has been busy. The victim said she told Defendant “B” she was 16 and he told her he was 27. She identified a photograph of Defendant “B” and also allowed the investigating officer to download numerous text messages she received from Defendant “B.”

“The victim received a picture message with an image of money and seeking sex.”

The investigating officer kept possession of the one of the victims' cellphones so that he could make contact with Defendant "B" by assuming the victim's identity. After exchanging texts, the officer was able to set up a meeting with Defendant "B" in which he would pay "the victim" \$120 in exchange for sex and oral sex. Upon arriving at the meeting location in the same vehicle he used to pick up the victims in previously, Defendant "B" was arrested.

2 Victims Recovered  1 Buyer Arrested 

State v. "C" Investigation

This investigation took place as part of the FBI's Innocence Lost Task Force, whose goal is to recover child victims forced into prostitution and build cases against those involved in their prostitution. On February 2, 2012, the child victim was found and identified in the Erotic Services section of "Backpage.com" through the use of an undercover capacity. Upon recovery, the victim agreed to provide information about her exploitation. The victim stated that she had met a "Trick"—a slang term for a sex buyer—who responded to an advertisement on Backpage.com and she identified the buyer as Defendant "C". She stated that she had sex in exchange for money with Defendant "C" around

"The victim stated that she had met a "Trick"—a slang term for a sex buyer—who responded to an advertisement on Backpage.com... She stated that she had sex in exchange for money with Defendant "C" around 20-25 times."

20-25 times. When asked if Defendant "C" ever inquired her about her age, the victim said no but indicated that Defendant "C" was likely to know based on the way he acted towards her. When the victim found herself homeless, she reported that Defendant "C" offered to rent out one of his homes to her for \$400 per month instead of the standard \$900 as long as she agreed to have sex with him weekly for a few hours at a time. Due to difficulties paying the rent, the victim added that she was forced to spend extra time at the

man's home. On February 23, 2012, the investigating officer was granted authorization to record a phone call between Defendant "C" and the victim. Through the phone conversation, law enforcement was able to record Defendant "C" acknowledging that he and the victim indeed engaged in sex in exchange for money while the victim was still 17 years of age. The victim also set up a meeting for sex with Defendant "C" at a Western Inn hotel location. Upon his arrival to the meeting location, Defendant "C" was taken into custody. After the arrest, the victim's boyfriend was interviewed and he confirmed that Defendant "C" had rented out his home to the victim in exchange for reduced rent and weekly sex, and estimated that Defendant "C" had intercourse with the victim around 10 times before she was 18 years of age.

1 Victim Recovered  1 Buyer Arrested 

ANTI-DEMAND ENFORCEMENT IN THE DAKOTAS

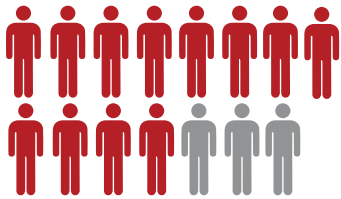


Quick Facts

3 Sting Operations



15 Buyers Arrested



■ Charged under Federal Sex Trafficking Law
■ Charged under State Sex Trafficking Law & Federal CSEC Law

Decoy Victim Age

11 ————— 17

Decoy Victim Gender



Case Summary

The four cases highlighted here reflect the confirmed ability to prosecute buyers under the federal sex trafficking law following the groundbreaking precedent set in *United States v. Jungers* which clarified that the federal sex trafficking law (18 U.S.C. § 1591) applies to buyers of sex with minors. The cases arose from sting operations conducted in South Dakota and North Dakota that are among the first operations to target buyers of sex with minors as sex trafficking offenders. After

“... the groundbreaking precedent set in United States v. Jungers [...] clarified that the federal sex trafficking law [...] applies to buyers of sex with minors.”

Operation Crossing Guard—the South Dakota sting operation that led to the precedent established in *United States v. Jungers*—a subsequent South Dakota sting targeted the Sturgis Motorcycle Rally and a North Dakota sting operation led to charges against buyers under the state human trafficking law. The state charges were later dismissed when federal prosecutors agreed to take over the prosecution. As a result, all of the highlighted cases were prosecuted federally.

Operation Crossing Guard

In this sting operation law enforcement created a fictional Backpage.com advertisement that led viewers to believe that a man who was babysitting twin 14-year-old girls and their 11-year-old sister was offering them for commercial sex. Jungers traveled from Sioux City, Iowa, to the house in Sioux Falls that law enforcement officers were using for the undercover operation. Jungers confirmed he would pay to receive oral sex from the eleven-year-old girl, but indicated

“...created a fictional Backpage.com advertisement [...] that a man who was babysitting twin 14-year-old girls and their 11-year-old sister was offering them for commercial sex.”

he was uncomfortable doing so at the house and would prefer to take the girl with him instead. Police arrested Jungers when he entered the house. When Bonestroo arrived at the house, he asked if the twins were there and he showed the undercover officer the money he brought to complete the transaction. A third defendant, using his cell phone to send emails, arranged to pay for sex with a 14 year-old girl in Sioux Falls. He was arrested by law enforcement after he arrived at the undercover location. While the third defendant pled guilty to

¹ See, e.g., Samantha Healy Vardaman and Christine Raino, Prosecuting Demand as a Crime of Human Trafficking: The Eighth Circuit Decision in *United States v. Jungers*, 43 U. MEM. L. REV. 917, 928-30 (2013).

“...he asked if the twins were there and he showed the undercover officer the money he brought to complete the transaction.”

Traveling with Intent to Engage in Illicit Sexual Contact with a Minor, Bonestroo and Jungers were convicted of sex trafficking by a federal jury. The district court granted the defendants’ motions for acquittal, holding that Congress did not intend for the federal sex trafficking law to apply to the conduct of purchasers of sex from sex trafficking victims. The U.S. Attorney’s Office for the District of South Dakota appealed the district court’s ruling and the 8th Circuit upheld the convictions, stating that the TVPA “criminalizes a broad spectrum” of acts victimizing children and that

no exception had been carved out for sex buyers. The appeals court reinstated the convictions and sent the cases back to the district court for sentencing. While Bonestroo was sentenced to the mandatory minimum of 10 years followed by 5 years of supervised release, Jungers committed suicide pending sentencing.

Post-Jungers Sting Operations in the Dakotas

Within months following the decision in *United States v. Jungers* and *United States v. Bonestroo*, federal and state law enforcement in South Dakota—where the Jungers and Bonestroo cases originated—and North Dakota ran sting operations targeting buyers of sex with minors.

In *U.S. v. “A”* and *“B,”* which arose from the North Dakota sting operation, an advertisement was placed on *backpage.com* for prostitution. In both cases, the defendants answered the ad and spoke with a female police officer posing as a mother who offered her two teenage daughters—aged 15 and 17—for commercial sex. After price negotiations, the defendant in *U.S. v. “A”* agreed to pay \$300 for 30 minutes with both the teenagers and rented a hotel room for the act, where he was arrested. In *U.S. v. “B,”* the defendant agreed to pay \$200 for 45 minutes with the 17-year-old child. He was arrested with \$200 on his person and multiple condoms.

“... the defendant traveled from his parent’s home in Iowa to the undercover location set up by law enforcement in Sioux Falls, South Dakota, where he was arrested.”

U.S. v. “C” and *“D”* involve defendants arrested during a sting operation during the 2013 Sturgis Motorcycle Rally taking place in western South Dakota. Advertisements were placed by law enforcement on *Backpage.com*, including age regressed photographs of undercover officers. Police officers posing as pimps fielded the phone calls from prospective buyers and gave them the choice of two fictitious children that were 12 and 13 years of age. The defendant in *“U.S. v. “C”* called the number in the advertisement and was alerted by the undercover

police officer posing as a pimp that the person he was soliciting for sex was a 14-year-old child. After making arrangements to purchase a sex act with the fictional minor, the defendant traveled from his parent’s home in Iowa to the undercover location set up by law enforcement in Sioux Falls, South Dakota, where he was arrested. Defendant *“D”* negotiated with the law enforcement decoy to pay \$200 for a sexual act with a 12-year-old girl. The police officer also instructed the defendant to bring a strawberry shake with gummy worms for the child. When the defendant arrived at the location he was arrested. In his possession were \$200 and a strawberry milkshake with gummy worms.

“the defendant agreed to pay \$200 for 45 minutes with the 17-year-old child. He was arrested with \$200 on his person and multiple condoms.”

Criminal Consequences

Case Examples

In U.S. v. “A,” the North Dakota defendant was sentenced on an amended age-neutral charge of Coercion and Enticement to 1-year and 1-day imprisonment and 5 years of supervised release,² even though the Government had requested a sentence of 5 years imprisonment and 5 years of supervised release. In urging the court to impose its recommended sentence, the Government stated, “...

there are no statutory factors that suggest that a defendant who loses more money and community stature should be treated differently. That notion is, in fact, contrary and repugnant to the American system of criminal justice. The symbolism of Lady Justice’s blindness anticipates this very argument.” The North Dakota case U.S. v. “B” culminated in a plea to the CSEC charge of Coercion and Enticement of A Minor. Sentencing is pending, but the charge carries a mandatory minimum of 120 months in prison. In the South Dakota case, U.S. v. “C,” the defendant pled guilty to Travel with Intent to Engage in Illicit Sexual Conduct with a Minor and was sentenced to 46 months incarceration and 5 years of supervised release. In the South Dakota case U.S. v. “D” the defendant pled guilty to the charge of Attempted Trafficking with Respect to Involuntary Servitude and Forced Labor and was sentenced to 120 months in prison and 3 years of supervised release.

“The symbolism of Lady Justice’s blindness anticipates this very argument.”

	U.S. v. “A”	U.S. v. “B”	U.S. v. “C”	U.S. v. “D”
Date of Arrest	July 25, 2013	June 12, 2013	February 12, 2011	August 3, 2013
Arrest Charges	Attempted coercion and enticement of a minor	Attempted coercion and enticement of a minor	Sex Trafficking of a Minor	Sex Trafficking of a Minor
Maximum Penalty for Arrest Charges	Imprisonment for no less than 120 months and no more than life	Imprisonment for no less than 120 months and no more than life	Imprisonment for not less than 15 years and for not more than life	Imprisonment for not less than 15 years and for not more than life
Final Charges	Coercion and enticement	Attempted coercion and enticement of a minor (Guilty plea entered; sentencing is pending)	Travel with intent to engage in illicit sexual conduct with a minor	Attempted Trafficking with Respect to Involuntary Servitude and False Labor
Sentence	12 months and 1 day imprisonment, with credit for time served; 5 years supervised release	Pre-trial release revoked pending sentencing; defendant found to possess photos of nude females, messages pertaining to prostitution, condoms, and notes with hotel information, in violation of his release terms.	Imprisonment for 46 months; 5 years supervised release	Imprisonment for 120 months; 3 years supervised release

Conclusions & Next Steps

Next Steps for Anti-Demand Enforcement Change

Investigate demand locally, nationally and internationally.

The problem of demand for sex acts with minors is local, national and international in scope, with the pervasive use of the Internet to solicit and purchase sex acts with minors continuously taking the problem across all borders. A comprehensive plan for anti-demand enforcement is multi-faceted, with elements addressing online exploitation, street-based exploitation, and exploitation by family members, community members or other persons of trust. This comprehensive approach requires that enforcement of anti-demand laws not be restricted to local vice units, but instead coordinated as an interdepartmental, interagency and cross-jurisdictional effort.

Collaboration and training are crucial to ensuring enforcement of anti-demand laws.

A wide range of entities and organizations can have an impact on enforcement of anti-demand laws, ranging from service providers working with minor victims of commercial sexual exploitation who may disclose their buyers, to law enforcement officers and prosecutors who work to identify buyers and bring them to justice, to judges who ensure buyers face appropriate sentences, to victim advocates and legal service providers who ensure that buyers are held liable to their victims through restitution and civil damages. Without adequate training and understanding of the demand for minor sex trafficking victims, this level of collaboration is not possible. Training must be seen as a prerequisite to truly effective collaboration, which in turn can close many of the gaps in enforcement.

Ensure demand enforcement efforts retain the goal of victim-centered justice.

While efforts to combat sex trafficking have historically focused on the traffickers, these investigations are often challenging since victims are reticent to provide information to law enforcement about their traffickers for many reasons, often relating to trauma-bonding and fear of reprisal. Child sex trafficking victims may, however, be willing to disclose information about their buyers. Pursuing investigations of buyers rather than focusing solely on prosecution of traffickers, allows victims to access justice, receive restitution for their injuries, and most importantly, receive appropriate treatment as crime victims rather than being relegated to the status of uncooperative witnesses. If the recovery of each victim of domestic minor sex trafficking led to one buyer being arrested and prosecuted to the fullest extent of the law, this would represent a dramatic shift in the justice system and in the fight against sex trafficking.

Next Steps for Legislative Change

Recognize the crime of sex trafficking to include the conduct of buying sex acts with a minor.

One striking outcome of the desk review data was the broad range of offenses used to prosecute buyers identified in the study and the outcomes of those prosecutions, as well as the variation of circumstances in which buyers of sex acts with minors exploit children. While some cases fit the model of what is considered a typical sex trafficking case, in which a child is prostituted by a trafficker and the buyer exchanges something of value for the sex acts, few were this straightforward. The majority of buyers approached minor victims (or persons they believed were minors) directly, either in person or online, bypassing the third party trafficker. While the end result—a commercially sexually exploited child, whether real or intended—was present in each case, the criminal charges against the buyer and the outcomes varied drastically. The emerging trend of prosecuting persons who purchase sex acts with a minor under the sex trafficking law helps to clarify the

role of the buyer under existing laws. In the same way enactment of human trafficking laws has brought clarity to the issue of sex trafficking and helped increase awareness and recognition of the offense, that same clarity is needed in defining the role of the buyer in domestic minor sex trafficking cases.

Divorce child commercial sexual exploitation laws from prostitution laws.

As indicated in the research, and demonstrated in the Massachusetts court record on page 40, reducing the serious felony crime of commercial sexual exploitation of a child to a misdemeanor prostitution offense may be as simple as changing a subsection. While incorporating the offense of commercial sexual exploitation into the prostitution law serves the important function of distinguishing the offense of buying sex with a child from buying sex with an adult, merging the offenses under the same section raises irrelevant issues of agency and fails to reflect that the offense involves child exploitation. A preferable approach is adding a reference to the CSEC law in the prostitution law, rather than establishing the CSEC law under the prostitution offense.¹⁶³ This accomplishes two goals: (1) distinguishing between buying sex with a child versus an adult, and (2) making the general patronizing or solicitation offense unavailable when the person patronized or solicited is a minor.

Promote victim-centered justice through demand enforcement.

Shifting focus to demand enforcement can play a role in clarifying the status of commercially sexually exploited minors as victims, and prosecutions of buyers may result in victim restitution awards that could help victims to fund their recovery. However, several factors can impede a victim's efforts to access victim restitution, most notably the fact that victims may not know that prosecutors can request restitution and both victims and prosecutors need support with developing the evidence necessary to prove a victim's eligibility for restitution. Victim advocates could help fulfill these needs by ensuring that victims are aware of their rights, connecting them with legal service providers who can help with seeking restitution and victim compensation, and equally importantly, making sure that the victim has emotional and psychological support necessary to stay engaged in the process and pursue available remedies.

Next Steps for Community Awareness

Promote media coverage of demand cases.

Media impact society's perception of demand. Journalists focus on those cases in which the defendant is a public figure or a person in a position of authority or trust, causing the readers to lose sight of the more commonplace cases and the less sympathetic victims. As with the information regarding buyers, it is important to consider how media sources influence the information about minor victims. Although buyer prosecutions may be less frequent, advocates can assist the efforts of law enforcement and prosecutors by promoting the good work being done around the country through targeted outreach to media outlets and social media campaigns that bring attention, and consequently scrutiny, to buyer cases. Public investment in the outcomes of these cases may shift the treatment of these cases in sentencing and ensure outcomes that deter the crime and bring justice to those who have been exploited.

¹⁶³ For example, Tenn. Code Ann. § 39-13-514 (Patronizing Prostitution), as amended by Senate Bill 1815 (2014), provides "(A) Patronizing prostitution from a person who is younger than eighteen (18) years of age or has an intellectual disability is punishable as trafficking for commercial sex acts under § 39-13-309 [Trafficking for commercial sex acts]."

Raise awareness about demand for domestic minor sex trafficking in our communities.

Thought leader roundtable participants agreed that prosecutions alone cannot address the problem of demand for child sex trafficking victims—that cultural change must accomplish alongside enforcement efforts. Many of the thought leader roundtable participants also cited the need to raise awareness at the community level. Since buying sex with children is generally a hidden crime, there has been no public outcry to raise the importance of this issue amongst local leaders. As communities learn that this problem is happening right at home, impacting children from the community and that the failure to combat this problem deprives the community of justice as it deprives its children of justice, public outcry could shift the tide and urge community leaders to take the problem of demand seriously.

Appendix: Demanding Justice Benchmark Assessment State Comparison Chart

	Number of Buyer Cases	Case involved a decoy sting	Number of cases involving actual victims	Initial CSEC/trafficking charge	Final charge remained CSEC/trafficking	State Trafficking or CSEC law applies to buyers
Alabama	3	1	2	3	0	Yes
Alaska	1	0	1	0	0	Yes
Arizona	10	2	8	6	1	Yes
Arkansas	1	0	1	1	0	Yes
California	19	6	13	0	0	No
Colorado	14	0	14	14	1	Yes
Connecticut	2	1	1	0	0	Yes
D.C.	0	0	0	0	0	Yes
Delaware	2	0	2	0	0	Yes
Florida*	38	6	29	21	3	Yes
Georgia	8	0	8	0	0	Yes
Hawaii	0	0	0	0	0	Yes
Idaho	0	0	0	0	0	Yes
Illinois	8	1	7	6	3	Yes
Indiana	7	1	6	0	0	Yes
Iowa	2	0	2	0	0	Yes
Kansas	7	3	4	0	0	Yes
Kentucky	3	1	2	1	0	Yes
Louisiana	4	0	4	0	0	Yes
Maine	1	1	4	0	0	Yes
Maryland	6	3	0	2	2	Yes
Massachusetts	21	17	3	12	1	Yes
Michigan	7	0	4	1	0	No
Minnesota	7	2	7	3	2	Yes
Mississippi	1	0	5	0	0	Yes
Missouri	13	12	1	7	7	Yes
Montana	1	0	1	0	0	Yes
New Hampshire	1	0	1	0	0	Yes
Nebraska	6	1	5	1	0	Yes
Nevada	4	3	1	0	0	Yes
New Mexico	3	1	2	1	0	Yes
New Jersey	8	1	7	3	1	Yes
New York	23	2	21	5	2	Yes
North Carolina	5	1	4	1	1	Yes
North Dakota*	5	1	3	3	1	Yes
Ohio	20	1	19	12	8	Yes
Oklahoma	6	2	4	2	1	Yes
Oregon	4	0	4	2	0	Yes
Pennsylvania	33	7	26	10	2	Yes
Rhode Island	1	0	1	1	0	Yes
South Carolina	4	0	4	1	0	Yes
South Dakota	15	14	1	12	4	Yes
Tennessee	10	0	10	6	0	Yes
Texas	21	7	14	6	0	Yes
Utah*	9	1	6	1	0	Yes
Vermont	0	0	0	0	0	Yes
Virginia	9	4	5	3	0	Yes
Washington	23	4	19	15	5	Yes
West Virginia	4	0	4	0	0	Yes
Wisconsin	5	0	5	3	2	Yes
Wyoming	1	0	1	0	0	Yes
US Territories	1	0	0	1	1	(federal)
TOTALS	407 cases	107 cases	296 cases	166 cases	48 cases	48 states & D.C.

* In 6 cases there was insufficient information to determine whether the case involved an actual minor victim or a law enforcement decoy.

** Of the 69 cases with information on both state versus federal prosecution and initial charges that included CSEC/trafficking charges, there was a significant difference found (using a chi square analysis, at the .01 level) between State and Federal cases with CSEC as the initial charge and as the conviction charge. For cases at the state level, 30 remained CSEC/trafficking while 25 shifted to non-CSEC/trafficking upon conviction. By contrast, zero federally prosecuted cases changed from CSEC/trafficking to non-CSEC/trafficking upon conviction; all 14 remained CSEC/trafficking charges upon conviction.

*** See buyer penalties chart for more information about applicable offenses.

Appendix: State Law Survey of Base Penalties for Buyers of Sex Acts with a Minor

State	Relevant laws	Trafficking or CSEC law applies to buyers ¹	Base penalty under CSEC or trafficking law protects all minors under 18
Alabama	Ala. Code § 13A-6-152(a)(2) (Human trafficking in the first degree)	Yes, trafficking**	Yes
Alaska	Alaska Stat. § 11.66.100(c) (Prostitution)	Yes, CSEC	Yes
Arizona	Ariz. Rev. Stat. Ann. § 13-3212(B) (Child prostitution) Ariz. Rev. Stat. Ann. § 13-1307(B) (Sex trafficking)	Yes, both*	Yes
Arkansas	Ark. Code Ann. § 5-18-103 (Trafficking of persons) Ark. Code Ann. § 5-27-305(a) (Transportation of minors for prohibited sexual conduct)	Yes, both	Yes
California	Cal. Penal Code § 266e (Acquiring prostitute)	No	n/a
Colorado	Colo. Rev. Stat. Ann. § 18-3-504 (Human trafficking of a minor for sexual servitude), § 18-7-406(1) (Patronizing a prostituted child)	Yes, both*	Yes
Connecticut	Conn. Gen. Stat § 53a-83(c) (Patronizing a prostitute)	Yes, CSEC	Yes
Delaware	Del. Code Ann. tit. 11, § 787(b)(1) (Trafficking an individual, forced labor, and sexual servitude)	Yes, trafficking	Yes
DC	D.C. Code § 22-1834 (Sex trafficking of children) D.C. Code § 22-2705 (Pandering; inducing or compelling an individual to engage in prostitution)	Yes, both*	Yes
Florida	Fla. Stat. Ann. § 787.06(3) (Human trafficking) Fla. Stat. Ann. § 800.04(4)(b) (Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age)	Yes, both*	Trafficking: Yes CSEC: No (16)
Georgia	Ga. Code Ann. § 16-5-46(c) (Trafficking of persons for labor or sexual servitude) Ga. Code Ann. § 16-6-12 (Pandering)	Yes, both*	Yes
Hawaii	Haw. Rev. Stat. Ann. § 712-2901.1(5) (Solicitation of a minor for prostitution)	Yes, CSEC	Yes
Idaho	Idaho Code Ann. § 18-8603 (Penalties) Idaho Code Ann. § 18-5610 (Utilizing a person under eighteen years of age for prostitution)	Yes, both	Yes
Illinois	720 Ill. Comp. Stat. Ann. 5/10-9 (Trafficking in persons, involuntary servitude, and related offenses) 720 Ill. Comp. Stat. Ann. 5/11-18.1(a), (a-5) (Patronizing a minor engaged in prostitution) ⁵	Yes, both*	Yes
Indiana	Ind. Code Ann. § 35-42-3.5-1(d) (Promotion of human trafficking—Sexual trafficking of a minor—Human trafficking)	Yes, trafficking ⁶	n/a (age-neutral)
Iowa	Iowa Code § 710A.2(4) (Human trafficking), § 710A.2A24 (Solicitation of commercial sexual activity), § 725.1(b) (Prostitution)	Yes, both	Yes
Kansas	Kan. Stat. Ann. § 21-5426(b)(4) (Human trafficking) Enacted House Bill 2034 (Commercial sexual exploitation of a child)	Yes, both*	Yes
Kentucky	Ky. Rev. Stat. Ann. § 529.100 (Human trafficking) Ky. Rev. Stat. Ann. § 530.070 (Unlawful transaction with a minor in the third degree)	Yes, both	Yes

Penalty is enhanced for younger minors	Base penalty is sufficient for all minor victims ²	Age of consent under statutory rape law ³	State
Yes	Yes: Class A felony (life or 10-99yrs, \$60k)	16	Alabama
No	Yes: Class C felony (max. 5yrs, \$50k)	16	Alaska
Yes	No: CSEC—Under 15 = Class 2 felony (13–27yrs, \$150k); Age 15–17 ⁴ = Class 6 felony (max. 2yrs, \$150K) Yes: Trafficking—Under 15 = Class 2 felony (13–27yrs, \$150k); Age 15–17 = felony (3-12.5yrs, \$150k)	18	Arizona
No	Yes: Trafficking = Class Y felony (10–40yrs or life) Yes: CSEC = Class A felony (max. 30 yrs, \$15k)	16	Arkansas
n/a	n/a	18	California
No	Yes: Class 2 or 3 felony (4yrs–life, \$3k–750k)	17	Colorado
No	Yes: Class C felony (1–10yrs, max. \$10k)	16	Connecticut
No	Yes: Class C felony (max. 15yrs)	18	Delaware
No	Yes: Trafficking = Max. 20yrs, \$200k, Yes: CSEC = max. 20yrs, \$20k	16	DC
Trafficking: Yes CSEC: n/a	Yes: Trafficking = Under 15 (1st degree felony, max. life, \$10k); Age 15–17 (life felony, max. life, \$15k) No: CSEC = Under 16 only (2nd degree felony, max. 15yrs, \$10K)	18	Florida
Yes (CSEC)	Yes: Trafficking = Felony (10–20yrs, \$100k) Yes: CSEC = Under 16 (max. 30yrs, \$100k); Age 16–17 (max. 20yrs, \$10k)	16	Georgia
No	No: Class C felony (max. 5yrs, \$2k–10k)	16	Hawaii
No	Yes: Trafficking = max. 25yrs, \$50k; Yes: CSEC = Felony (2 yrs-life, \$50k)	18	Idaho
Yes (trafficking)	Yes: Trafficking = Under 17 (Class X felony, 6–30yrs, \$25k), Age 17 (Class 1 felony, 4–15yrs, \$25k) No: CSEC = Class 3 felony (max. 5yrs, \$25k)	17	Illinois
No	No: Class C felony (max. 8yrs, \$10k)	16	Indiana
No	Yes: Trafficking = Class C felony (max. 10yrs, \$10k) No: CSEC = Class D felony (max. 5yrs, \$750-7,500)	16	Iowa
Yes	Yes: Trafficking = Under 14 (25yrs–life, \$500k), Age 14–17 (147–165 months, \$300k) No: CSEC = Under 14 (25yrs–life, \$500k), Age 14–17 (31–34 months)	16	Kansas
No	Yes: Trafficking = Class B felony (10–20yrs, \$1k-\$10k); No: CSEC = Class A misdemeanor (max. 1yr, \$500)	16	Kentucky

Appendix: State Law Survey of Base Penalties for Buyers of Sex Acts with a Minor

State	Relevant laws	Trafficking or CSEC law applies to buyers ¹	Base penalty under CSEC or trafficking law protects all minors under 18
Louisiana	La. Rev. Stat. Ann. §§ 14:46.3(A)(1) (Trafficking of children for sexual purposes), 14:82.1(A)(1) (Prostitution; persons under eighteen), 14:82(C)(4), (5) (Prostitution)	Yes, both	Yes
Maine	Me. Rev. Stat. Ann. tit. 17-A, § 855(1)(A) (Patronizing prostitution of minor)	Yes, CSEC	Yes
Maryland	Md. Code Ann., Crim. Law § 3-324(b) (Sexual solicitation of minor)	Yes, CSEC	Yes
Massachusetts	Mass. Gen. Laws ch. 265, § 50 (Human trafficking—Sexual servitude) Mass. Gen. Laws ch. 272, § 53A(c)34 (Engaging in sexual conduct for fee; payors and payees; penalties)	Yes, both	Yes
Michigan	Mich. Comp. Laws Ann. § 750.449a (Engaging services for purpose of prostitution, lewdness, or assignation, offer to engage; penalty)	No	n/a
Minnesota	Minn. Stat. Ann. § 609.324 (Patrons; prostitutes; housing individuals engaged in prostitution; penalties)	Yes, CSEC	Yes
Mississippi	Miss. Code Ann. § 97-3-54.1(1)(c) (Anti-Human Trafficking Act; prohibited conduct; penalty)	Yes, trafficking	Yes
Missouri	Mo. Rev. Stat. § 566.212(1)(2) (Sexual trafficking of a child) and § 566.213(1)(2) (Sexual trafficking of a child under age twelve) Mo. Rev. Stat. § 567.030 (Patronizing prostitution)	Yes, both	Yes
Montana	Mont. Code Ann. § 45-5-601(1) (Prostitution) and Patronizing a child under Enacted House Bill 478	Yes, both	Yes
Nebraska	Neb. Rev. Stat. Ann. § 28-831(2) (Human trafficking; forced labor or services) Neb. Rev. Stat. Ann. § 28-802(1)(d)(Pandering)	Yes, both	Yes
Nevada	Nev. Rev. Stat. Ann. § 201.300(2)(a)(1) (Sex trafficking) Nev. Rev. Stat. Ann. § 201.354 (Engaging in prostitution or solicitation for prostitution)	Yes, both*	Yes
New Hampshire	N.H. Rev. Stat. Ann. § 645:2 (Prostitution and related offenses)	No	n/a
New Jersey	N.J. Stat. Ann. § 2C:13-8 (Human trafficking) N.J. Stat. Ann. § 2C:34-1(b)(7) (Prostitution and related offenses)	Yes, both*	Yes
New Mexico	N.M. Stat. Ann. § 30-52-1(A)(2) (Human trafficking) N.M. Stat. Ann. § 30-6A-4(B) (Sexual exploitation of children by prostitution)	Yes, both*	Trafficking: Yes CSEC: No (13-16 only)
New York	N.Y. Penal Law § 230.06 (Patronizing a prostitute in the first degree), § 230.05 (Patronizing a prostitute in the second degree), § 230.04 (Patronizing a prostitute in the third degree)	Yes, CSEC	Yes
North Carolina	N.C. Gen. Stat. § 14-43.13 (Sexual servitude) & N.C. Gen. Stat. § 14-43.11 (Human trafficking) N.C. Gen. Stat. § 14-205.1 (Solicitation of prostitution) N.C. Gen. Stat. § 14-205.2 (Patronizing a prostitute)	Yes, both	Yes
North Dakota	North Dakota Century Code (N.D. Cent. Code) § 12.1-40-01(1) (Human trafficking—Penalty)	Yes, trafficking*	Yes
Ohio	Ohio Rev. Code Ann. § 2907.21(A)(3), (4) (Compelling prostitution), § 2907.24(A)(1) (Patronizing prostitution)	Yes, CSEC	Yes

Penalty is enhanced for younger minors	Base penalty is sufficient for all minor victims ²	Age of consent under statutory rape law ³	State
Yes (both)	Yes: Trafficking & CSEC = Felony: under 14 (25–50yrs, \$75k0, aged 15–17 (15–50yrs, \$50k)	17	Louisiana
No	No: Class D crime (max. 1yr, \$2k) ⁷	16	Maine
No	Yes: Felony (max. 10yrs, \$25k)	16	Maryland
No	Yes: Trafficking = Felony (5–life, \$25k) Yes: CSEC = Felony (max 10yrs, \$3k–10k)	16	Massachusetts
n/a	n/a	16	Michigan
Yes	No: Under 13 = Felony (max. 20yrs, \$40k); age 13–15 = Felony (max. 10yrs, \$20k); age 16–17 = Felony (max. 5yrs, \$10k)	16	Minnesota
No	Yes: Felony (max. 30yrs, \$10k)	16	Mississippi
Yes (both)	Yes: Trafficking = Under 12 (Felony, max. life, \$250k); Age 13–17 (Felony, 10yrs–life, \$250k) No: CSEC = Under 15 (Class D felony, max. 4yrs); Age 15–17 (Class A misdemeanor, max. 1yr)	17	Missouri
No	Yes: Trafficking & CSEC = Felony (max. 100yrs, \$50k)	16	Montana
Yes (trafficking)	Yes: Trafficking: Under 15 (Class II felony, 1–50yrs); Age 15–17 (Class III felony, max. 20yrs, \$25k) Yes: CSEC = Class III felony (max. 20yrs, \$25k)	16	Nebraska
No	Yes: Trafficking = Category A felony (5yrs–life, \$10k) No: CSEC = Category E felony (1–4yrs or probation, \$5K)	16	Nevada
n/a	n/a	16	New Hampshire
No	Yes: Trafficking = 1st degree crime (20yrs–life, \$25–200k) Yes: CSEC = 2nd degree crime (max. 10yrs, \$150k)	16	New Jersey
Yes (trafficking)	No: Trafficking = Under 13 (1st degree felony, max. 18yrs, \$15k), Age 13–15 (2 nd degree felony, 9yrs, \$10k), Age 16–17 (3 rd degree felony, 3yrs, \$5k) No: CSEC = Age 13–15 only (2 nd degree felony, max. 9yrs, \$10k)	16	New Mexico
Yes	No: Under 11 = Class D felony (max. 7yrs, \$5k); Under 14 = Class E felony, (max. 4yrs, \$5k)	17	New York
No	No: Trafficking = Class C felony (max. 73 months) No: CSEC = Class G felony (max. 13 months) or Class F felony (max. 16 months)	16	North Carolina
No	Yes: Class AA felony (max. life)	18	North Dakota
No	No: Felony of the 3 rd degree (max. 36mo, \$10k)	16	Ohio

Appendix: State Law Survey of Base Penalties for Buyers of Sex Acts with a Minor

State	Relevant laws	Trafficking or CSEC law applies to buyers ¹	Base penalty under CSEC or trafficking law protects all minors under 18
Oklahoma	Okla. Stat. Ann. tit. 21, § 748(B) (Human trafficking) Okla. Stat. Ann. tit. 21, § 1029(A)(2) (Engaging in prostitution, etc.)	Yes, both	Trafficking: Yes CSEC: No (16)
Oregon	Or. Rev. Stat. § 163.266 (Trafficking in persons) § 163.413 (Purchasing sex with a minor)	Yes, both**	Yes
Pennsylvania	18 Pa. Cons. Stat. § 6318(a)(3) (Unlawful contact with minor), § 3013 (Patronizing a victim of sexual servitude)	Yes, CSEC	Yes
Rhode Island	R.I. Gen. Laws Ann. § 11-67-6(b) (Sex trafficking of a minor) R.I. Gen. Laws Ann. § 11-37-8.8(a) (Indecent solicitation of a child)	Yes, both	Yes
South Carolina	S.C. Code Ann. § 16-3-2020 (Trafficking in persons) S.C. Code Ann. § 16-15-425 (Participating in prostitution of a minor defined)	Yes, both*	Yes
South Dakota	S.D. Codified Laws § 22-49-2 (First degree human trafficking) S.D. Codified Laws § 22-49-3, (Second degree human trafficking)	Yes, trafficking**	Yes
Tennessee	Tenn. Code Ann. § 39-13-309 (Trafficking for commercial sex acts) Tenn. Code Ann. § 39-13-514(b) (Patronizing prostitution)	Yes, both	Yes
Texas	Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons) Tex. Penal Code Ann. § 43.02(a) (Prostitution)	Yes, both	Yes
Utah	Utah Code Ann. § 76-5-310(2) (Aggravated human trafficking) Utah Code Ann. § 76-10-1303 (Patronizing a prostitute)	Yes, both**	Yes
Vermont	Vt. Stat. Ann. tit. 13, § 2655(a) (Solicitation), codified in the human trafficking chapter	Yes, trafficking	Yes
Virginia	Va. Code Ann. § 18.2-346(B) (Prostitution; commercial sexual conduct; commercial exploitation of a minor; penalties.)	Yes, CSEC	Yes
Washington	Wash. Rev. Code Ann. § 9A.40.100(1)(a) (Trafficking) Wash. Rev. Code Ann. § 9.68A.100(1) (Commercial sexual abuse of a minor)	Yes, both	Yes
West Virginia	W. Va. Code Ann. § 61-2-17(a)(5) (Human trafficking; criminal penalties) W. Va. Code Ann. § 61-3C-14b (Soliciting, etc. a minor via computer; penalty)	Yes, both*	Yes
Wisconsin	Wis. Stat. § 948.051 (Trafficking of a child) Wis. Stat. § 948.08 (Soliciting a child for prostitution)	Yes, both*	Yes
Wyoming	Wyo. Stat. Ann. § 6-2-707 (Patronizing a victim of sexual servitude)	Yes, trafficking	Yes
TOTALS:		48	48

Endnotes

- 1 Evaluations of state laws are based on legislation enacted as of August 1, 2014. Responses with an asterisk (*) indicate that the human trafficking law applies to buyers based on federal precedent, and responses with a double asterisk (**) indicate that the human trafficking law limited in application to buyers because proof of force, fraud or coercion is required.
- 2 A sufficient base penalty is a maximum sentence up to 10 or more years, aligning with the minimum sentences provided under the federal sex trafficking law, 18 U.S.C. § 1591.
- 3 See *Statutory Rape: A Guide to State Laws and Reporting Requirements*, U.S. Department of Health and Human Services, Summary of Current State Laws, Table 1 (2004), available at: <http://aspe.hhs.gov/hsp/08/st/statelaws/summary.shtml>. The ages listed here do not account for marital exceptions or the age difference between the defendant and victim which may be necessary for prosecution under state statutory rape laws.

Penalty is enhanced for younger minors	Base penalty is sufficient for all minor victims ²	Age of consent under statutory rape law ³	State
Yes (CSEC)	Yes: Trafficking = Felony (min. 10yrs, max. life, \$250K) No: CSEC = Under 16 (Felony, max. 10yrs, \$5k); Age 16-17 = (Misdemeanor, 30 days–1yr, \$2.5k)	16	Oklahoma
No	Yes: Trafficking = Class A felony (max. 20yrs, \$375k); No: CSEC = Class C felony (max. 5yr, \$10k mandatory)	18	Oregon
n/a (age-neutral)	Yes: Trafficking - 2nd degree felony (max 10yrs, \$25k) No: CSEC = 3 rd degree felony (max. 7yrs, \$15k)	16	Pennsylvania
No	Yes: Trafficking = Felony (max. 40yrs, \$40k) No: CSEC = Felony (max. 5yrs)	16	Rhode Island
No	Yes: Trafficking = Felony (max. 30yrs) No: CSEC = Class F felony (2–5yrs)	16	South Carolina
Yes	Yes: Under 16 (Class 2 felony, max. 25yrs, \$50k); Age 16-17 (Class 4 felony, max. 10yrs, \$20k)	16	South Dakota
Yes	Yes: Trafficking = Under 15 (Class A felony, 15–60yrs, \$50k), Age 15–17 (Class B felony, 8–30, \$25k) No: CSEC = Class E felony (max. 6yrs, \$3k)	18	Tennessee
No	Yes: Trafficking = First degree felony (max. 99yrs, \$10k) Yes: CSEC = Second degree felony (2–20yrs, \$10k)	17	Texas
No	Yes: Trafficking = 1st degree felony (5yrs–life, \$10k) No: CSEC = 3 rd degree felony (max. 5yrs, \$5k)	18	Utah
No	No: Felony (max. 5yrs, \$100k)	16	Vermont
Yes	No: Under 16 = Class 5 felony (1–10yrs, \$2.5k); Age 16-17 = Class 6 felony (1–5yrs, \$2.5k)	18	Virginia
No	Yes: Trafficking = Class A felony, seriousness level XIV (max. 397 months, \$50k); Yes: CSEC = Class B felony, seriousness level VIII (max. 10 years, \$20k)	16	Washington
No	Yes: Trafficking = Felony (3–15yrs, \$200k) Yes: CSEC = Felony (max. 10yrs, \$5k)	16	West Virginia
No	Yes: Trafficking = Class C felony (max. 40yrs, \$100k) Yes: CSEC = Class D felony (max. 25yrs, \$100k)	18	Wisconsin
No	No: Felony (max. 3yrs, \$5k)	16	Wyoming
16		Avg = 17	TOTALS:

⁴ Unless the prosecution can prove the buyer knew the victim was under 18, buyers face a substantially lower penalty for engaging in prostitution with a minor aged 15–17. In cases where a buyer's knowledge of the victim's minority can be shown, the penalty for buying sex with a minor aged 15–17 increases to a Class 2 felony punishable by 7–21 years imprisonment. Ariz. Rev. Stat. Ann. § 13-3212(G)).

⁵ Buyers also face prosecution under 720 Ill. Comp. Stat. Ann. 5/11-26(a) (Traveling to meet a minor) which is punishable as a Class 3 felony by imprisonment for 2–5 years and a possible fine up to \$25,000, and 720 Ill. Comp. Stat. Ann. 5/11-14.1(a) (Solicitation of a sexual act) and 720 Ill. Comp. Stat. Ann. 5/11-25(a) (Grooming) which are punishable as Class 4 felonies by imprisonment for 1–3 years and a possible fine up to \$25,000.

⁶ Subsection (d) of Ind. Code Ann. § 35-42-3.5-1 clearly applies to buyers but is age-neutral and requires knowledge that the victim was forced to engage in prostitution.

⁷ If the buyer knew the victim was a minor, Me. Rev. Stat. Ann. tit. 17-A, § 855(1)(B) (Patronizing prostitution of minor) enhances the penalty to a Class C felony with a maximum sentence of 5 years and a fine of up to \$5,000.

Appendix: State Law Survey of Criminal Liability for Buyers of Sex Acts with a Minor

State	Trafficking law could be applied to buyers ¹	CSEC could be applied to buyers	Highest Offense Level and Penalty (max. sentence and fine for first offense)	Applicable offense ²
Alabama	Yes**	No	Class A felony (10-99yrs, \$60k)	Ala. Code § 13A-6-152(a)(2) (Human trafficking in the first degree)
Alaska	No	Yes	Class C felony (max. 5yrs, \$50k)	Alaska Stat. § 11.66.100(c) (Prostitution)
Arizona	Yes*	Yes	Class 2 felony (max. 13-27yrs, \$150k)	Ariz. Rev. Stat. Ann. § 13-1307(B) (Sex trafficking)
Arkansas	Yes ³	Yes	Class Y felony (10-40yrs or life)	Ark. Code Ann. § 5-18-103 (Trafficking of persons)
California	No	No	Age-neutral felony (max. 3yrs, \$10k)	Cal. Penal Code § 266e (Acquiring prostitute)
Colorado	Yes*	Yes	Class 2 felony subject to mandatory enhancement (4yrs-life, \$3k-750k)	Colo. Rev. Stat. Ann. § 18-3-504 (Human trafficking of a minor for sexual servitude)
Connecticut	No	Yes	Class C felony (1-10yrs, max. \$10k)	Conn. Gen. Stat. § 53a-83(a) (Patronizing a prostitute)
Delaware	Yes	No	Class C felony (max. 15yrs)	Del. Code Ann. tit. 11, § 787(b)(4) (Patronizing a victim of sexual servitude)
DC	Yes*	Yes	Max. 20yrs, \$200k	D.C. Code § 22-1834 (Sex trafficking of children)
Florida	Yes*	Yes	Life felony (max. life, \$15K)	Fla. Stat. Ann. § 787.06(3) (Human trafficking)
Georgia	Yes*	Yes	Felony (10-20yrs, \$100k)	Ga. Code Ann. § 16-5-46(c) (Trafficking of persons for labor or sexual servitude)
Hawaii	n/a	Yes	Class C felony (max. 5yrs, \$10k)	Haw. Rev. Stat. Ann. § 712-2901.1(5) (Solicitation of a minor for prostitution)
Idaho	Yes	Yes	Felony (2 yrs-life, \$50k)	Idaho Code Ann. § 18-5610 (Utilizing a person under eighteen years of age for prostitution)
Illinois	Yes*	Yes	Class 1 felony (4-15yrs, \$25k)	720 Ill. Comp. Stat. Ann. 5/10-9 (Trafficking in persons, involuntary servitude, and related offenses)
Indiana	Yes**	No	Class C felony (max. 8yrs, \$10k)	Ind. Code Ann. § 35-42-3.5-1(d) (Promotion of human trafficking Sexual trafficking of a minor Human trafficking)
Iowa	Yes	Yes	Class C felony (max. 10yrs, \$10k)	Iowa Code § 710A.2(4) (Human trafficking)
Kansas	Yes*	Yes	Felony (25-life, \$500k)	Kan. Stat. Ann. § 21-5426(b)(4) (Human trafficking)
Kentucky	Yes	Yes	Class B felony (10-20yrs, \$1k-\$10k)	Ky. Rev. Stat. Ann. § 529.100 (Human trafficking)
Louisiana	Yes	Yes	Felony (15-50yrs, \$50k, OR 25-50yrs, \$75k if under 14)	La. Rev. Stat. Ann. §§ 14:46.3(A)(1) (Trafficking of children for sexual purposes), 14:82.1(A)(1) (Prostitution; persons under eighteen), 14:82(C)(4), (5) (Prostitution)
Maine	No	Yes	Class D crime (max. 1yr, \$2k) If knows <18, Class C (max. 5yrs, \$5k)	Me. Rev. Stat. Ann. tit. 17-A, § 855(1)(A) (Patronizing prostitution of minor)

State	Trafficking law could be applied to buyers ¹	CSEC could be applied to buyers	Highest Offense Level and Penalty (max. sentence and fine for first offense)	Applicable offense ²
Maryland	No	Yes	Felony (max. 10yrs, \$25k)	Md. Code Ann., Crim. Law § 3-324(b) (Sexual solicitation of minor)
Massachusetts	Yes	Yes	Felony (max. life, \$25k)	Mass. Gen. Laws ch. 265, § 50 (Human trafficking—Sexual servitude)
Michigan	No ⁴	No ⁵	Misdemeanor (93 days, \$500)	Mich. Comp. Laws Ann. § 750.449a (Engaging services for purpose of prostitution, lewdness, or assignation, offer to engage; penalty)
Minnesota	No	Yes	Felony (max. 20yrs, \$40k)	Minn. Stat. Ann. § 609.324 (Patrons; prostitutes; housing individuals engaged in prostitution; penalties)
Mississippi	Yes	Yes	Felony (5–30yrs, \$50–500k)	Miss. Code Ann. § 97-3-54.1(1)(c) (Human Trafficking Act), § 972951 (Procuring the services of a prostitute)
Missouri	Yes	Yes	Felony (max. life, \$250k)	Mo. Rev. Stat. § 566.212(1)(2) (Sexual trafficking of a child) and § 566.213(1)(2) (Sexual trafficking of a child under age twelve)
Montana	Yes ⁶	Yes	Felony (25–100yrs, \$50k)	Mont. Code Ann. § 45-5-601(1) (Prostitution), § 45-5-310 (Sexual servitude of child) and § 45-5-311 (Patronizing of child)
Nebraska	Yes	Yes	Class III felony (max. 20yrs, \$25k)	Neb. Rev. Stat. Ann. § 28-831(2) (Human trafficking; forced labor or services)
Nevada	Yes*	Yes	Category A felony (5yrs–life, \$10k)	Nev. Rev. Stat. Ann. § 201.300(2)(a)(1) (Sex trafficking)
New Hampshire	No	No	Class B misdemeanor (\$1.2k)	N.H. Rev. Stat. Ann. § 645:2(I)(f) (Prostitution and related offenses)
New Jersey	Yes*	Yes	1st degree crime (20yrs–life, \$25–200k)	N.J. Stat. Ann. § 2C:13-8 (Human trafficking)
New Mexico	Yes*	Yes	1st degree felony (max. 18yrs, \$15k)	N.M. Stat. Ann. § 30-52-1(A)(2) (Human trafficking)
New York	No	Yes	Class A misdemeanor, if 14-17 (max. 1yr, \$1k) Class E felony, if under 14 (max. 4yrs, \$5k) Class D felony, if under 11 (max. 7yrs, \$5k)	N.Y. Penal Law § 230.05 (Patronizing a prostitute in the second degree) if under 14; N.Y. Penal Law § 230.06 (Patronizing a prostitute in the first degree) if under 11
North Carolina	Yes ⁷	Yes	Class C felony (max. 73 months, discretionary fine)	N.C. Gen. Stat. § 14-43.13 (Sexual servitude) & N.C. Gen. Stat. § 14-43.11 (Human trafficking)**
North Dakota	Yes*	No ⁸	Class AA felony (max. life)	North Dakota Century Code (N.D. Cent. Code) § 12.1-40-01(1) (Human trafficking—Penalty)
Ohio	No	Yes	Felony of the 3 rd degree (max. 36mo, \$10k)	Ohio Rev. Code Ann. § 2907.21(A)(3), (4) (Compelling prostitution), § 2907.24(A)(1) (Patronizing Prostitution)
Oklahoma	Yes	Yes	Felony (max. life, \$250k)	Okla. Stat. Ann. tit. 21, § 748(B) (Human trafficking)

Appendix: State Law Survey of Criminal Liability for Buyers of Sex Acts with a Minor

State	Trafficking law could be applied to buyers ¹	CSEC could be applied to buyers	Highest Offense Level and Penalty (max. sentence and fine for first offense)	Applicable offense ²
Oregon	Yes**	Yes	Class A felony (max. 20yrs, \$375k)	Or. Rev. Stat. § 163.266 (Trafficking in persons)
Pennsylvania	No ⁹	Yes	3 rd degree felony (max. 7yrs, \$15k)	18 Pa. Cons. Stat. § 3013 (Patronizing a victim of sexual servitude)
Rhode Island	Yes	Yes	Felony (max. 40yrs, \$40k)	R.I. Gen. Laws Ann. § 11-67-6(b) (Sex trafficking of a minor)
South Carolina	Yes**	Yes	Felony (max. 30yrs)	S.C. Code Ann. § 16-3-2020 (Trafficking in persons)
South Dakota	Yes**	No ¹⁰	Class 2 felony (25yr, \$50k)	S.D. Codified Laws § 22-49-1 (Human trafficking prohibited)
Tennessee	Yes	Yes	Class A felony (15–60yrs, \$50k)	Tenn. Code Ann. § 39-13-309 (Trafficking for commercial sex acts)
Texas	Yes	Yes	Felony of the 1 st degree (max. 99yrs, \$10k)	Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons)
Utah	Yes**	Yes	1 st degree felony (5yrs–life, \$10k)	Utah Code Ann. § 76-5-310(2) (Aggravated human trafficking)
Vermont	Yes ¹¹	No	Felony (20yrs–life, \$100k)	Vt. Stat. Ann. tit. 13, § 2653(a)(1) (Aggravated human trafficking)
Virginia	n/a	Yes	Class 5 or 6 felony (max. 10yrs, \$2.5k)	Va. Code Ann. § 18.2-346(B) (Prostitution; commercial sexual conduct; commercial exploitation of a minor; penalties)
Washington	Yes	Yes	Class A felony, seriousness level XIV max. 397 months, \$50k	Wash. Rev. Code Ann. § 9A.40.100(1)(a) (Trafficking)
West Virginia	Yes*	Yes	Felony (3–15yrs, \$200k)	W. Va. Code Ann. § 61-2-17(a)(5) (Human trafficking; criminal penalties)
Wisconsin	Yes*	Yes	Class C felony (max. 40yrs, \$100k)	Wis. Stat. § 948.051 (Trafficking of a child)
Wyoming	Yes	No	Felony (max. 3yrs, \$5k)	Wyo. Stat. Ann. § 6-2-707 (Patronizing a victim of sexual servitude)
TOTALS:	39	41		CSEC or Trafficking law applies to buyers: 49 Neither CSEC nor trafficking law applies to buyers: 2 (CA, MI)

Endnotes

- 1 Evaluations of state laws are based on legislation enacted as of August 1, 2014. Responses with an asterisk (*) indicate that the human trafficking law applies to buyers based on federal precedent, and responses with a double asterisk (**) indicate that the human trafficking law is limited in application to buyers because proof of force, fraud or coercion is required.
- 2 Reflects only the offenses that carry the highest maximum penalty and does not reflect all offenses with which buyers of sex with a minor could be charged. Where the state does not have a CSEC or trafficking offense applicable to buyers, the age-neutral prostitution law that would instead apply to buyers is listed.
- 3 Buyers face prosecution under two provisions of the state human trafficking law: Ark. Code Ann. § 5-18-103 (Trafficking of persons) following federal precedent based on use of the term “obtains,” and § 5-18-104 (Patronizing a victim of human trafficking) which applies directly to buyers. Since violations of Ark. Code Ann. § 5-18-104 involving a minor victim are punishable as a Class A felony by up to 30 years and a possible fine of \$15,000, the highest buyer applicable penalty is provided under Ark. Code Ann. § 5-18-103(a)(4) (Class Y, 10–40 years or life).

Endnotes, cont.

- 4 While Michigan's human trafficking law might apply to buyers through the term "obtains," the definition of "services" which includes commercial sexual activity, requires "an ongoing relationship" between the defendant and the victim that renders application to buyers unlikely.
- 5 The sex offense, Mich. Comp. Laws Ann. § 750.145a (Accosting, enticing or soliciting child for immoral purpose) may apply to a buyer who "solicits" a minor under 16 for the purpose of a sexual act, however this offense does not expressly apply to solicitation for purposes of commercial sex.
- 6 Buyers face prosecution and equivalent penalties under two provisions of the state human trafficking law: Mont. Code Ann. § 45-5-310 (Sexual servitude of child) following federal precedent based on use of the term "obtains," and Mont. Code Ann. § 45-5-311 (Patronizing of child) which applies directly to buyers.
- 7 Buyers face prosecution and equivalent penalties under two provisions of the human trafficking chapter: N.C. Gen. Stat. § 14-43.13 (Sexual servitude) for subjecting a minor to commercial sexual activity and N.C. Gen. Stat. § 14-43.11 (Human trafficking) following federal precedent based on use of the term "obtains."
- 8 N.D. Cent. Code § 12.1-20-05 (Corruption or solicitation of minors) makes it a distinct offense for adults to "engage[] in, solicit[] with the intent to engage in, or cause[] another to engage in a sexual act with a minor . . .", however this offense does not expressly apply to solicitation for the purpose of commercial sex acts.
- 9 Pennsylvania's human trafficking law does not specifically apply to trafficking of persons for commercial sex.
- 10 S.D. Codified Laws § 22-24A-5(1) (Solicitation of minor) establishes a Class 4 felony when a person 18 or older "(1) Solicits a minor, or someone the person reasonably believes is a minor, to engage in a prohibited sexual act." However this offense does not expressly apply to solicitation of a minor for purposes of commercial sex.
- 11 Buyers face prosecution under four provisions in the human trafficking chapter: Vt. Stat. Ann. tit. 13, § 2652(a)(1) (Human trafficking), § 2653(a) (Aggravated human trafficking) and § 2654(a) (Patronizing or facilitating human trafficking) following federal precedent based on use of the term "obtains," and § 2655(a) (Solicitation), which applies directly to buyers who solicit a minor for commercial sex. Violations of Vt. Stat. Ann. tit. 13, § 2655(a) (Solicitation) and § 2654(a) (Patronizing or facilitating human trafficking) are punishable as a felony by up to 5 years and a possible fine of \$100,000, while § 2652(a)(1) (Human trafficking) are punishable by a maximum of life imprisonment.

Appendix: State Law Survey of Prohibition on Mistake of Age Defense for Buyers of Sex Acts with a Minor

State	Trafficking or CSEC law applies to buyers ¹	Mistake of Age Defense prohibited under buyer-applicable CSEC ² or sex trafficking offense	Buyer-applicable laws under which mistake of age defense is prohibited
Alabama	Yes, trafficking**	Yes	Ala. Code § 13A-6-152(a)(3) (Human trafficking in the first degree)
Alaska	Yes, CSEC	No	n/a
Arizona	Yes, both*	No (only under 15) ³	Ariz. Rev. Stat. Ann. § 13-3212 (Child prostitution)
Arkansas	Yes, both	Yes	Ark. Code Ann. § 5-18-103 (Trafficking of persons)
California	No	n/a ⁴	n/a
Colorado	Yes, both	Yes	Colo. Rev. Stat. Ann. §§ 18-7-406(1) (Patronizing a prostituted child), § 18-3-504 (Human trafficking of minor for sexual servitude)
Connecticut	Yes, CSEC	No	n/a
Delaware	Yes, trafficking	Yes	Del. Code Ann. tit. 11, § 787(b)(1) (Trafficking an individual, forced labor, and sexual servitude) ⁵
DC	Yes, both*	No	n/a
Florida	Yes, both*	No ⁶	n/a
Georgia	Yes, both*	Yes	Ga. Code Ann. § 16-5-46(d) (Trafficking of persons for labor or sexual servitude)
Hawaii	Yes, CSEC	No	H.R.S § 712-1209.1 (solicitation of a minor for prostitution)
Idaho	Yes, both	No	n/a
Illinois	Yes, both*	No	n/a
Indiana	Yes, trafficking	No	n/a
Iowa	Yes, both	Yes	Ind. Code Ann. § 35-42-3.5-1(d) (Promotion of human trafficking—Sexual trafficking of a minor—Human trafficking)
Kansas	Yes, both*	No	n/a
Kentucky	Yes, both	No ⁷	n/a
Louisiana	Yes, both	Yes	La. Rev. Stat. Ann. §§ 14:46.3(A)(1) (Trafficking of children for sexual purposes), 14:82.1(A)(1) (Prostitution; persons under eighteen), 14:82(C)(4), (5) (Prostitution)
Maine	Yes, CSEC	Yes ⁸	Me. Rev. Stat. Ann. tit. 17-A, § 855(1)(A) (Patronizing prostitution of minor)
Maryland	Yes, CSEC	No	n/a
Massachusetts	Yes, both	No	n/a
Michigan	No ⁹	No	n/a
Minnesota	Yes, CSEC	Yes	Minn. Stat. Ann. § 609.324 (Patrons; prostitutes; housing individuals engaged in prostitution; penalties)
Mississippi	Yes, trafficking	Yes	Miss. Code Ann. § 97-3-54.1(1)(c) (Anti-Human Trafficking Act; prohibited conduct; penalty)
Missouri	Yes, both	Yes	Mo. Rev. Stat. § 566.212(1)(2) (Sexual trafficking of a child) 566.213(1)(2) (Sexual trafficking of a child under age twelve), 567.030 (Patronizing prostitution)

State	Trafficking or CSEC law applies to buyers ¹	Mistake of Age Defense prohibited under buyer-applicable CSEC ² or sex trafficking offense	Buyer-applicable laws under which mistake of age defense is prohibited
Montana	Yes, both	Yes	Mont. Code Ann. § 45-5-601(1) (Prostitution)
Nebraska	Yes, both	No	n/a
Nevada	Yes, both*	Yes	Nev. Rev. Stat. Ann. § 201.300(2)(a)(1) (Sex trafficking)
New Hampshire	No	n/a	n/a
New Jersey	Yes, both*	Yes	N.J. Stat. Ann. § 2C:13-8 (Human trafficking) N.J. Stat. Ann. § 2C:34-1(b)(7) (Prostitution and related offenses)
New Mexico	Yes, both*	No	n/a
New York	Yes, CSEC	No	n/a
North Carolina	Yes, both	No	n/a
North Dakota	Yes, trafficking*	Yes	N.D. Cent. Code § 12.1-40-01(3) (Human trafficking)
Ohio	Yes, CSEC	Yes	Ohio Rev. Code Ann. § 2907.21(A)(3), (4) (Compelling prostitution)
Oklahoma	Yes, both	No	n/a
Oregon	Yes, both**	No (only for second or subsequent CSEC offenses)	O.R.S. § 163.413 (Purchasing sex with a minor)
Pennsylvania	Yes, CSEC	No	n/a
Rhode Island	Yes, both	No ¹⁰	n/a
South Carolina	Yes, both**	Yes	S.C. Code Ann. § 16-3-2020(K)(5) (Trafficking in persons) S.C. Code Ann. § 16-15-425 (Participating in prostitution of a minor defined)
South Dakota	Yes, trafficking**	No	n/a
Tennessee	Yes, both	Yes	Tenn. Code Ann. § 39-13-309 ¹¹ (Trafficking for commercial sex acts) Tenn. Code Ann. § 39-13-514(b) (Patronizing prostitution)
Texas	Yes, both	Yes	Tex. Penal Code Ann. § 20A.02(a)(8) (Trafficking of persons)
Utah	Yes, both*	Yes	Utah Code Ann. § 76-5-310 (Aggravated human trafficking) Utah Code Ann. § 76-10-1303 (Patronizing a prostitute) Utah Code Ann. § 76-10-1313 (Sexual solicitation)
Vermont	Yes, trafficking	No	n/a
Virginia	Yes, CSEC	No	n/a
Washington	Yes, both	Yes, but with exception ¹²	Wash. Rev. Code Ann. § 9.68A.100(1) (Commercial sexual abuse of a minor)
West Virginia	Yes, both*	No	n/a
Wisconsin	Yes, both*	No	n/a
Wyoming	Yes, trafficking	No	n/a
TOTALS:	48	21	13 (trafficking), 13 (CSEC)

Endnotes

- 1 Evaluations of state laws are based on legislation enacted as of August 1, 2013. Responses with an asterisk (*) indicate that the human trafficking law applies to buyers based on federal precedent, and responses with a double asterisk (**) indicate that the human trafficking law applies to buyers based on federal precedent but is limited in application because proof of force, fraud or coercion is required.
- 2 Commercial sexual exploitation of children (CSEC).
- 3 Buyers prosecuted under Ariz. Rev. Stat. Ann. § 13-3212(B) (Child prostitution) involving a victim under 15 years of age can be convicted without proof that the buyer knew the victim was a minor, but the penalty drops substantially when the victim is aged 15–17 unless the prosecution proves the buyer knew the victim was a minor, and the defense is not specifically prohibited.
- 4 Proposition 35 (“C.A.S.E. Act”) eliminated mistake of age defense under trafficking law, but the trafficking law does not apply to buyers.
- 5 However, Delaware permits a defense in certain child pornography prosecutions that the defendant believed a child under 14 years of age was over 16.
- 6 A mistake of age defense is not specifically prohibited under Fla. Stat. Ann. § 787.06(3) (Human trafficking) but the government is not required to prove that the defendant knew the minor’s age in a sex trafficking prosecution if the defendant had a reasonable opportunity to observe the victim.
- 7 However there is a presumption as to minority in applicable CSEC and sex trafficking prosecutions that a victim who “appears to be under 18” is under 18.
- 8 While buyers may be prosecuted for patronizing prostitution of minor without regard to their knowledge of the age of the minor, enhanced liability applies if the offender knew the victim was under 18.
- 9 While Michigan’s human trafficking law might apply to buyers through the term “obtains,” the definition of “services” which includes commercial sexual activity, requires “an ongoing relationship” between the defendant and the victim that renders application to buyers unlikely.
- 10 However, the government need not prove that the defendant knew the minor’s age in a sex trafficking prosecution.
- 11 The text of Tenn. Code Ann. § 39-13-309 included here and elsewhere in this report includes amendments made by the passage of Senate Bill 2371 during the Tennessee 107th General Assembly, 2012 Tenn. Public Acts (effective July 1, 2012).
- 12 While an age mistake defense is generally prohibited for CSEC offenses, a buyer may assert an age mistake defense if the buyer made an attempt to ascertain the minor’s age by actions beyond relying on the oral statements or apparent age of the minor, such as requiring a driver’s license.

Appendix: Buyer Cases by Source and Year

Search tools

Researchers used the following sources to identify and search for buyers:

Source	Percent of Cases Identified
Google	37.2%
Meltwater Search	35.2%
Backpage search	4.6%
Library of Congress Proquest database	15.3%
Lexis Advantage	5.4%
Shared Hope employee tip/law enforcement tip/state report	3.1%

Cases by Year

Year	Number of cases found	Percent of total
2008	30	7.4%
2009	39	9.6%
2010	65	16%
2011	42	10.3%
2012	85	20.9%
2013 (to September)	146	35.9%

Appendix: State Law Survey: Victim-Witness Protections

State	"Rape shield" protection available to minors testifying in sex trafficking or CSEC prosecutions? ¹	Testimony by closed-circuit television available to minors testifying in sex trafficking or CSEC prosecutions?
Alabama	No	Under 16
Alaska	Yes (only 1 CSEC offense)	Under 16 ²
Arizona	No	Under 15
Arkansas	No	Under 13
California	Yes	No
Colorado	No	No ³
Connecticut	No	No
Delaware	Yes	Under 11 (CSEC and porn only)
DC	Yes	No
Florida	No	Under 16
Georgia	Yes	No
Hawaii	No ⁴	No
Idaho	No	Under 13 ⁵
Illinois	No	No ⁶
Indiana	Yes (only 1 CSEC offense)	Under 14
Iowa	Yes ⁷	Yes (all minors under 18 ⁸)
Kansas	Yes	Under 13
Kentucky	Yes ⁹	Under 12
Louisiana	Yes	Under 17
Maine	Yes (CSEC only) ¹⁰	No
Maryland	No	No
Massachusetts	Yes (HT, not CSEC)	Under 15
Michigan	No	No
Minnesota	No	Under 12
Mississippi	No	Under 16
Missouri	No	No
Montana	No	Under 16
Nebraska	No	No ¹¹
Nevada	No	Under 14 ¹²
New Hampshire	Yes ¹³	No ¹⁴
New Jersey	Yes (limited to child pornography cases)	No
New Mexico	Yes	No
New York	No	Under 14
North Carolina	No	Under 16
North Dakota	No	No
Ohio	No	Under 13 (preliminary hearing only ¹⁵)
Oklahoma	No	No
Oregon	No	Under 12
Pennsylvania	Yes ¹⁶	Under 16
Rhode Island	No	Under 18 ¹⁷
South Carolina	Yes	No

State	“Rape shield” protection available to minors testifying in sex trafficking or CSEC prosecutions? ¹	Testimony by closed-circuit television available to minors testifying in sex trafficking or CSEC prosecutions?
South Dakota	No	No
Tennessee	No	No
Texas	No	Under 13
Utah	Yes ¹⁸	Under 14
Vermont	Yes	No
Virginia	Yes	Under 15 or 17 ¹⁹
Washington	No	Under 10
West Virginia	No	Under 13
Wisconsin	Yes	Under 16
Wyoming	No	No
TOTALS:	21	29

Endnotes

- 1 This chart looks at whether the rape shield law or closed circuit testimony law is specifically available to victims testifying in CSEC or sex trafficking investigations. A “No” response indicates that the applicable law only applies to non-commercial sex offenses or the state does not have a law providing this protection. Analysis of state laws is based on component 5.8 of the Protected Innocence Challenge Legislative Framework and reflects legislation enacted as of August 1, 2013, unless otherwise indicated.
- 2 Under Alaska Stat. § 12.45.046(a) (Testimony of children in criminal proceedings) the court “may order that the testimony of the child be taken by closed circuit television or through one-way mirrors. . . .”
- 3 Videotaped deposition testimony is permitted for victims under 15, but not testimony by closed-circuit television. A hearsay exception applies to victims of an “unlawful sex offense,” defined to include commercial sexual exploitation of children offenses.
- 4 Rape shield protections apply generally to victims of sex offenses but do not specifically apply to victims of CSEC or domestic minor sex trafficking.
- 5 Applies in any criminal case.
- 6 Victims of sex offenses are protected by the rape shield and closed circuit television testimony laws but victims of CSEC and domestic minor sex trafficking are not specifically protected.
- 7 As amended by House File 2309 (2014).
- 8 However, if a minor is married or has been “sentenced as an adult and committed to the custody of the director of the department of corrections,” they will be treated as having reached the age of majority. Iowa Code § 599.1 (Period of minority—exception for certain inmates).
- 9 Applies in any proceeding involving alleged sexual misconduct.
- 10 Applies in all cases involving sexual misconduct.
- 11 Videotaped testimony is permitted for child victims under 11, but not testimony by closed-circuit television.
- 12 While closed circuit testimony is generally limited to victims under 14, videotaped testimony is permitted for all sex trafficking victims.
- 13 As amended by Senate Bill 317 (2014).
- 14 Videotaped testimony is permitted for victims under 16, but not testimony by closed-circuit television.
- 15 As amended by House Bill 130 (2014).
- 16 As amended by Senate Bill 75 (2014).
- 17 Applies to all sexual assault victims.
- 18 Applies in all cases involving sexual misconduct.
- 19 Applies to “an alleged victim who was fourteen years of age or under at the time of the alleged offense and is sixteen or under at the time of the trial and to a witness who is fourteen years of age or under at the time of the trial.” Va. Code Ann. § 18.2-67.9 (Testimony by child victims and witnesses using two-way closed-circuit television).

