

Journal of Applied Research on Children: Informing Policy for Children at Risk

Volume 2
Issue 1 *Human Trafficking*

Article 13

2011

Domestic Minor Sex Trafficking: The Challenges Faced In Prosecuting Those Who Prey on America's Youth

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Recommended Citation

Zack, Sherri (2011) "Domestic Minor Sex Trafficking: The Challenges Faced In Prosecuting Those Who Prey on America's Youth," *Journal of Applied Research on Children: Informing Policy for Children at Risk*: Vol. 2: Iss. 1, Article 13.
Available at: <http://digitalcommons.library.tmc.edu/childrenatrisk/vol2/iss1/13>

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There is no more disturbing subject than sex trafficking of children, regardless of whether they are being brought from south of the border or south of Main Street, U.S.A. *Human Trafficking, Sex Tourism, and Child Exploitation on the Southern Border* explores the challenges these heinous crimes pose for the victims and their communities (including law enforcement and prosecutorial agencies), in light of the jurisdictional, cultural and financial hurdles which must be overcome to achieve success.

The international trafficking of children for sex has unique problems besides the obvious language and cultural barriers. The most common issues stem from the fact that these children have no legal status in the United States.¹ This can and has been overcome by the mutual assistance of both law enforcement (for example, Immigration and Customs Enforcement) and non-governmental organizations (NGOs) that provide victim services. The victims' lack of legal status often results in better and more thorough services. Because these children are not in the United States legally, they can be detained by the government and are usually housed and provided services by NGOs until the prosecution of their sex trafficker takes place. Further, their status as crime victims may aid in their gaining legal status in the United States.

The benefits and services available to international victims stand in stark contrast to those available to American children trafficked for sex. The Trafficking Victims Protection Act of 2000 (TVPA)² is the most comprehensive federal law enacted to protect victims, both foreign and domestic, of trafficking and to prosecute their traffickers. Under the TVPA, individuals can be prosecuted for sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or by the mere fact that the person being induced has not attained 18 years of age. The TVPA has given prosecutors the legal tools to combat the traffickers in court, but the law by itself cannot overcome the additional inherent challenges faced in addressing domestic sex trafficking.

The greatest challenge faced in the prosecution of domestic sex traffickers, those persons commonly known as "pimps," is removing the victims from their immediate environment long enough for them to realize they are in fact victims and do need help. Currently, the criminal justice system is a revolving door for America's trafficked child victims. The victims are most often discovered during undercover vice operations, which quite often are based on advertisements for prostitutes on the Internet. They are typically arrested for prostitution as adults because they lie about their age, often at the instruction of their pimps. Under such circumstances, the children may be mistakenly sent to jail as adult

prostitutes. By the time the legal establishment realizes that a child has been arrested, pimps have bonded the child out and put him or her back to work. If, however, law enforcement officials discover that they have arrested a child, the child is sent to a juvenile facility or back to their often dysfunctional family. After a short period of time, the children will simply walk out the door to the waiting car of their pimp.

Because domestic trafficking victims are United States citizens, they have rights that preclude their detention. This creates a dilemma for law enforcement, NGOs and prosecutors who might want to locate and rehabilitate these children. Unfortunately, the pimp-victim relationship is very similar to that seen in a domestic violence relationship because the victim often returns to a pimp multiple times before he or she is ready to leave the pimp and the lifestyle. Many federal, state and local agencies, NGOs and non-profit organizations are making efforts to address this situation.

Recently, efforts have been made to recognize that these children are victims, not criminals. The Texas Supreme Court, in its decision, *In the Matter of B.W.*, recently made it illegal to prosecute a child under the age of 14 for prostitution.³ Furthermore, centers such as the Letot Center in Dallas, Texas, have provided much needed resources and guidance. The Letot Center was one of the first entities to address the plight of at-risk youth in this context. The Department of Justice and Shared Hope International recognized this Center as the only identified model in the United States that offers victims diversion to a staffed secure, non-punitive placement. The Center's short-term treatment of domestic minor sex trafficking victims allows for a child charged with prostitution to bypass the juvenile detention facility and transition directly to the Center to begin the process of restoration.

Experts estimate that at least 100,000 American children are victimized through prostitution in the United States each year.⁴ In May of 2006, Project Safe Childhood, a nationwide initiative, was launched by the U.S. Department of Justice to marshal federal, state and local resources to better locate, apprehend and prosecute individuals who exploit children via the Internet, as well as to identify and rescue victims.⁵

On August 2, 2010, the Department of Justice released the *National Strategy for Child Exploitation Prevention and Interdiction*,⁶ the first-ever comprehensive report on the issue that includes a threat assessment conducted by the Department.

There have been some successes in prosecuting traffickers. Recently the United States Attorney's Offices in the Middle and Southern Districts of Florida successfully prosecuted two cases,^{7,8} and in the

Southern District of Texas, a domestic trafficker received a 30-year sentence. Five other individuals are awaiting trial on charges of sex trafficking in minors as well as other charges including transportation and coercion and enticement of minor and adult victims.^{9,10}

The authors have certainly captured the nature of the challenges posed in their article, *Human Trafficking, Sex Tourism and Child Exploitation on the Southern Border*. In order to combat these crimes initiated south of the border, as well as those being committed against American children, one of the greatest challenges will be the battle for public perceptions. Until society can overcome the misconception that this does not happen in the United States and that these children, and the adults they become, want to be prostitutes, the battle will be fought only by those whose occupations expose them to this terrible crisis. As with international child victims, unique challenges are posed by the plight of victimized children on both sides of the southern border. The ongoing efforts of the justice system, NGOs, and non-profit organizations to research and document the problem, prosecute offenders, rehabilitate victims, and educate the community will serve the greater good on a multitude of levels, and hopefully meet and overcome these challenges.

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