

Rapid Field Assessment of

Domestic Minor Sex Trafficking

In Harris and Galveston Counties, Texas

August 2011



Houston Rescue and Restore Coalition's mission is to confront modern-day slavery by educating the public, training professionals and empowering the community to take action. HRRC envisions dedicated individuals taking responsibility for the role they play in eradicating modern-day slavery in their own community.



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Shared Hope International exists to rescue and restore women and children in crisis. They are leaders in a worldwide effort to prevent and eradicate sex trafficking and slavery through education and public awareness.



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Houston/Harris County and Galveston County Assessment

Identification of domestic minor sex trafficking victims and their access to services

August 2011

Prepared by Kendra Penry
Director of Programs
Houston Rescue and Restore Coalition

Acknowledgements

Domestic minor sex trafficking is one of the most hidden, under investigated, and misunderstood crimes that affects society today. The children involved are often treated as criminals rather than the victims of circumstance that they are. They are often first exploited or abused by a family member, only to seek acceptance with someone who in turn sells them repeatedly, and then the system that should help them rehabilitate instead criminalizes them and effectively removes many of their options for a better future. The community exacerbates the problem by either perpetuating the myth that the children are bad kids who need to be arrested or by simply ignoring them. The children's dual status as victim and offender further complicates the matter and makes addressing their needs even more difficult.

In spite of all of these challenges to working with this special population, there are many individuals within the Greater Houston Metro Area who are determined to find a way to change the community's mindset and begin to address the victimization that the children are suffering under. It is not an easy or a quick task, but thankfully, Houston is blessed with some very dedicated service providers, attentive law enforcement and juvenile justice system employees, and concerned legal representatives. Before identifying the challenges and loopholes that are a part of the GHMA's response to domestic minor sex trafficking, we would be remiss if we did not acknowledge the individuals and agencies that are an integral part of the movement to change the way the children trapped in this horrifically abusive situation are treated. First of all, thank you to each person, organization, and entity that participated in this research project either in person, through data collection, or through creating the connections to reach the appropriate people. We envision this report as a jumping off point for all of the GHMA to continue engaging with this population and improve our response to the victims.

Next, we would like to recognize the individuals who are a part of the Human Trafficking Rescue Alliance in Houston as well as the FBI Innocence Lost Task Force and the Domestic Minor Victim Task Force, many of whom dedicate each and every day to identifying, rescuing, and responding to the needs of trafficking victims. The partnerships forged through and between these groups are integral to combating this crime and rescuing victims. They serve as an example of what can be accomplished through communication, collaboration, and transparency.

Additionally, there are many excellent social service providers working tirelessly to make their efforts victim-centered and provide a sense of restorative justice to the children who are rescued. Primarily, we must recognize the YMCA International of Houston who provides case management services to all victims of trafficking in the GHMA. Their dedication to this population is evident and appreciated. The Youth Services Center, also, is continually striving to learn more about this issue and how to appropriately respond and that desire to learn and adapt is what is most necessary in addressing the needs of domestic minor victims. The Family Services Center of Galveston, while very new to the effort, is making great strides in learning and educating their community and the enthusiasm and energy they exhibit is irreplaceable and can never be taught. A huge acknowledgment goes out to Mission Centers of Houston for not only offering to participate in the interview procedure, but also allowing us to survey their youth to be sure those voices which are most relevant are heard in this assessment.

A special thank you goes to Juvenile Court Judge Mike Schneider and his colleagues for their continued work to provide the best possible resources to the most at-risk and vulnerable youth within the Harris County Juvenile Justice System. The establishment of a “GIRLS (Growing Independence, Restoring Lives) Court” which offers these youth the chance to see that the entire community cares about their rehabilitation and is there to support their exit from “the life” is such a promising practice that it will be mentioned numerous times in this report.

Lastly, we must thank Melissa Snow and Elizabeth Scaife at Shared Hope International for sharing their tools, expertise, advice, and insight with us to make this Rapid Assessment available to the GHMA. Without them, this would have never been possible.

Finding, rescuing, and serving domestic minor sex trafficking victims will always be a challenge, but the GHMA has shown a dedication and desire to engage with this population and provide the best possible continuum of care to each victim. This report will hopefully be a guide to anyone wanting to join the movement or find ways to expand what they are doing already to better address the issues of prevention, prosecution, and protection.

Sincerely,

A handwritten signature in cursive script that reads "Kendra B. Penry". The signature is written in a dark ink and is positioned above the printed name and title.

Kendra Penry, Lead Field Assessor
Director of Programs
Houston Rescue and Restore Coalition

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Executive Summary

The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations in 2003, 2005, and 2008 defined sex trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.” The term “commercial sex act” was further defined as “any sex act on account of which anything of value is given to or received by any person.” When the person induced to perform such an act has not yet reached 18 years of age, it becomes a “severe form” of trafficking.¹ Therefore, youth under the age of 18 who are involved in any form of prostitution, pornography, stripping, dancing, erotic massage or other activity with a sexual connotation that involves the exchange of anything of value is a victim of sex trafficking and deserves the same rehabilitative and restorative resources that other victims of sex crimes are given. However, in regards to this particular crime, an overwhelming number of the victims are criminalized as the activity they are engaged in may very well be a crime. This dual status is one of the greatest challenges to addressing this special population.

Shared Hope International (SHI), with funding from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, developed the *Rapid Assessment Methodology and Field Interview Tool: Domestic Minor Sex Trafficking in the U.S.* to research the resources available to these victims and how they are accessed and delivered. The original tool was disseminated among ten locations in the U.S. in 2008. This assessment was run in Houston and Galveston, Texas in 2011, in response to a growing number of organizations seeking to serve this population. There was a need to better understand the real scope of the problem and create more open lines of communication among individuals and agencies working to address it. As one of the most intense jurisdictions for trafficking in the nation, it is essential that this community’s efforts be as coordinated and effective as possible to truly address the magnitude of the issue.

This assessment was conducted from April to July of 2011 and included three parts: 1) a survey of existing research, data, and statistics; 2) the completion of 39 interviews with representatives of 22 different organizations operating in Houston and Galveston who interact with domestic minor sex trafficking victims or those at-risk for sexual exploitation; and, 3) the distribution of anonymous and confidential surveys to youth served by a selected number of social service providers in the area. The goal was to obtain a glimpse of the problem as it affects these two distinct communities in the Greater Houston Metropolitan Area (GHMA) and highlight the need for creativity and specificity in addressing the issue according to the community being served.

This assessment seeks to emphasize best practices and also identify the loopholes, gaps, or challenges that persist for those who are directly interacting with this population. The GHMA is very large and diverse in geography, victimology, resources available, and socioeconomic conditions, which causes many challenges, but there are numerous agencies and individuals working diligently and creatively to identify and serve this population. Despite good intentions and even some basic understanding among law enforcement and the community about the complexities and victimization of the youth, there are still children being arrested for crimes that should dictate they automatically be categorized as victims. The result is that many of the youth begin to see themselves as criminals and fail to access the myriad of services available. Many in

¹ TVPA 2000, P.L. 106-386

the community still have the mistaken idea that there are no services available when in fact there are many options for treatment, rehabilitation, and restoration, but no one is communicating this effectively nor accessing the services appropriately because of a lack of knowledge.

In order to begin to understand the issue and the situation facing Houston and Galveston, the Rapid Assessment Methodology is designed to mirror the Trafficking Victims Protection Act which utilized the three P's approach: Prevention, Prosecution, and Protection. Recognizing that one without the other two would be an incomplete response, both the law and this tool seek to provide equal emphasis to all three. This method is considered the most comprehensive way to address the entire issue of trafficking both globally and locally, and also appears in the annual Trafficking in Persons Report issued by the U.S. Department of State, Office to Monitor and Combat Trafficking in Persons. The definitions of the three P's are as follows:

- *Prevention* requires identification on all levels, community to law enforcement, that prostituted and sexually exploited children are victims, not criminals. The first step is public awareness as no social movement is successful without an informed public and nothing can be prevented if those at-risk do not know how to avoid victimization. Also included are trainings for law enforcement, the juvenile justice system, social service providers, and all others who interact with the victims or those at-risk to become victims about how to recognize the signs and symptoms and begin a victim-centered response.
- *Prosecution* of traffickers, pimps, and exploiters (including clients and facilitators) is an essential component but must result in convictions and appropriate sentences commensurate with the severity of this type of abuse. The first step is ensuring that strong legislation is in place that criminalizes those who traffic minors and protects the victims. Training is again important as law enforcement, attorneys, and judges must know of the laws and how to use them to build a case and prosecute the criminals.
- *Protection* includes both a victim-centered rescue and restoration. An effective rescue that does not put the victim or others at-risk is critical, but without further restorative treatment, the rescue is ineffective. Long-term services must be in place and take into account the specific needs of this population.

For the purposes of this assessment, and according to the laws that govern this crime, all domestic minor sex trafficking victims and commercially exploited children, even if they are found within the juvenile justice system due to prostitution-related charges, are considered victims of sex trafficking. The definitions utilized for this assessment will be that of the federal TVPA which defines a minor as an individual under the age of 18 and a victim of sex trafficking to be anyone exploited through the commercial sex industry which includes prostitution, stripping, massage, dancing, and pornography, among other commercial sex acts.

This assessment will be made available to the task forces in Houston, the Human Trafficking Rescue Alliance, all of the individuals and agencies who participated in the assessment, and the community at large with the hopes of improving the identification of victims and their access to services. The tool as well as this report is also available for any further locations wishing to understand the issue within the context of their community.

Key Findings

1. *Victims are frequently misidentified as sexual abuse victims or delinquents.* This is due to a variety of reasons including a lack of training on the specifics of trafficking and also no universal agreement on what these youth should be labeled. Some agencies still use the term “prostitution,” others “abuse victims,” and others “sex trafficking victims.” This causes confusion because some victims receive a duality of services and others receive no services as the agencies are not clearly communicating with each other in a language that they all understand. Some agencies are not even identifying or screening for victims of trafficking at all, due to a misunderstanding about what it means or if the clients they serve are even affected by this crime. The victims rarely, if ever, self-identify or disclose due to trauma bonding² or confusion about their status as a victim versus a criminal. For all of these reasons, there is no systematic tracking of DMST victims and there is no way to know the exact number of victims. However, it is possible to begin to understand how many youth are at-risk and provide the services necessary to avoid victimization.
2. *Training and awareness about how to identify a DMST victim remains low.* This is changing in some regards, such as for certain law enforcement officers who are now mandated to receive training on human trafficking according to HB 4009, Section V (See Appendix A). However, they are not the only segment of society with the potential to interact with and, thus, identify victims. Those within the juvenile justice system have a special opportunity to interact with youth who may be in the system for other reasons and then reveal abuse, but they are still rarely, if ever, trained. Training for prosecutors and defense attorneys is practically non-existent and while training for judges and child protective services is available, it is not mandatory so it is sporadic at best. There is a limited knowledge within the GHMA and some passionate individuals are taking great strides to educate their colleagues and the community, but much more is needed.
3. *Funding and other resources needed to combat trafficking are very limited.* Especially within law enforcement in the GHMA, it was repeatedly mentioned that the reason they are not further investigating this issue or pursuing those who profit off of this crime, such as the facilitators and clients, is a lack of resources and funding. The focus has been on the crimes that gain more attention within the community, such as robbery and murder. Funding is especially challenging in the recent economic climate, but when combating a crime that directly links to many other crimes (such as robbery, murder, identify theft, kidnapping, and more), there must be resources in place to protect the real victims (the youth) and prosecute the perpetrators, whether pimps/traffickers, clients, or facilitators.
4. *Community awareness remains low.* Multiple agencies cited the need for the community to be more aware and diligent about reporting DMST and motivating their legislative representation to make positive changes. Again, this is changing thanks to dedicated organizations and individuals working to make sure all segments of society are educated on the topic, but in such a large and diverse community, there is still more to be done.

² Trauma bonding is often used as a synonym for Stockholm syndrome. These bonds are often the greatest challenge to recovery for a victim of DMST. Dr. Patrick Carnes, an expert on trauma bonds, states, “This [traumatic bonding] means that the victims have a certain dysfunctional attachment that occurs in the presence of danger, shame, or exploitation. There is often seduction, deception, or betrayal. There is always some form of danger or risk.” (Carnes, Patrick J. *The Betrayal Bond: Breaking Free of Exploitative Relationships*. Deerfield Beach, FL: HCI Publisher, 1997, p. 29.) These bonds exist for both biological and psychological reasons and are extremely hard to break, often characterized by an extreme devotion and connection to the trafficker on the part of the victim. For more information on trauma bonds, see *The National Report on Domestic Minor Sex Trafficking*, by: Smith, Vardaman, and Snow. Shared Hope International, May 2009, p. 41.

5. *DMST victims are often treated as delinquents due to misidentification or a perceived lack of other options to help them.* Many individuals cited a lack of appropriate placement for these victims as proof that they need to be arrested for something, if for no other reason than to separate them from their trafficker and give them access to the resources available in the juvenile detention system. However, this system was never meant to be rehabilitative and many reports show that incarceration can lead to more recidivism and relapse than finding alternative rehabilitation resources.³ Many in the community, though, still believe that there are no services available for these victims, so until there are, incarceration is best. This mistaken idea has caused further victimization for many of the youth or an inability to obtain long-term recovery services because of an arrest record or other stigma associated with criminalization.
6. *There is an extreme lack of communication within and between organizations and even a distrust of each other that leads to incomplete care for victims.* There is currently no method in place for sharing information between agencies, even between agencies that sit on the same task force. This is very frustrating for organizations trying to serve a child who may already be receiving services elsewhere or be better suited to a service offered at another agency, but without a way to share information, the children are not receiving the best care possible. It is recognized that this can be because of confidentiality requirements when serving juveniles, but there has to be a way for like-minded, trusted organizations to share relevant information or even just unidentifiable statistics to grasp the true scope of this problem. Until the entire community has a better understanding of the full extent of the problem, resources cannot be adequately allocated.
7. *The number of victims rescued is very low as compared to the number of at-risk victims.* There are thousands of youth at-risk in Houston, and yet the number of rescues is extremely low. Youth do not often self-identify, which is part of the reason for the low number, and some youth and service providers are unsure of what a victim really is. The resulting problem is that many agencies and organizations persist in the belief that there is not an issue in our area because the numbers are so low.
8. *There are no real prevention strategies in place to prevent those who are most vulnerable from becoming victims.* The risk factors are recognized and “prevention” is an element of the TVPA, but even within that law, prevention is defined as how to identify a victim rather than preventing victimization. Real prevention is rare and sporadic.
9. *The Greater Houston Metropolitan Area presents a unique situation in that it is incredibly large and diverse.* The GHMA covers ten counties, each with a distinct population ethnically and socioeconomically and a different level of awareness, knowledge, and service provision about the issue of trafficking. Properly addressing the issue will require that law enforcement, service providers, and the community become educated about the specifics in the community where they work. For example, this assessment revealed the incredible differences between what Harris County is facing versus what Galveston County is facing even though they are only an hour apart. This must be addressed by any agency seeking to serve this population because what might be necessary in Harris County may be ineffective in Galveston, Ft. Bend or elsewhere.

³ Grissom, Brandy. “Advocates: Youth Probation Cuts too Costly.” *The Texas Tribune*. 18 June 2010. <http://www.texastribune.org/texas-state-agencies/texas-youth-commission/advocates-youth-probation-cuts-too-costly/>

10. *There is a recognized lack of appropriate services, but even more of a problem is that what is available is not being used.* There is not a shelter in the GHMA specifically for DMST victims, which is an issue often cited by service providers and law enforcement as one of the largest gaps. However, there are shelters available that are informed about the needs of DMST victims and willing and able to work with them, but they are not being used. In many cases, there are individuals or organizations working to fill in what they see as missing pieces, but there are times when it is better to invest in improving what exists and connecting victims to the resources that are already available rather than expending time and resources on efforts that may be duplicative and ineffective.
11. *Arrests and prosecutions of traffickers and pimps remain limited and prosecutions of facilitators and johns are nonexistent.* There has been a concerted effort in the past few years to investigate and prosecute the producers, facilitators and users of child pornography and most law enforcement agencies do not see a need to equate sexual exploitation and child pornography as the latter already has a great deal of attention and resources dedicated to it. The issue of sex trafficking, though, has yet to reach that level. No cases against clients or facilitators have yet been made. When the trafficker is pursued, the case is often prosecuted under a different label so statistics on trafficking are still hard to accumulate. This is often attributed to lack of resources or case law, but with such a complex crime, it is essential that both the supply and demand sides of the issue be addressed. Without addressing the facilitators and clients, the demand side remains unabated and where there is a market, there will be a supply of victims.

Conclusions

Because of limited resources, budget concerns, and a lack of manpower allocated to investigating and prosecuting domestic minor sex trafficking cases, it is difficult for the community to respond appropriately to these victims. There is a severe deficiency in data on the issue because of the lack of trust between agencies, a disagreement over terminology, and the fact that some agencies are not even screening or accumulating statistics on the issue. The agencies that are addressing the issue often are not utilizing each other to provide the continuum of services that each victim needs. They are unaware of the resources available and without being willing to share information, the youth are not getting the best possible care.

One of the most important steps needed at this point is more training. Even the agencies and individuals with a basic knowledge of human trafficking, were frequently unaware of the TVPA and its stipulation that a minor is an individual under the age of 18. This need for awareness means there are many 17 year olds still being criminalized when they are in fact victims. Other agencies had very little knowledge of the issue at all, but when informed, were very enthusiastic to pursue further information which is evidence of the need for more training.

All of the individuals and organizations who participated exhibited a great concern for this specific population and a desire to know more about how to provide appropriate services. Many were very frustrated by the lack of resources and the sense that the community is not collaborating as well as it could be. While there is great work being done and many barriers are being crossed, especially within law enforcement task forces, there is still much to be done.

Methodology

The Rapid Assessment (RA) is an extensive project dedicated to investigating and identifying services available to domestic trafficked minors (DTMs) in the Greater Houston Metropolitan Area (GHMA). This report outlines the methods from the *Rapid Assessment Methodology and Tool: Domestic Minor Sex Trafficking in the United States* as developed by Shared Hope International. The findings in this assessment are based on a desk review of data and statistics from Harris and Galveston County, Texas from 2000 to 2011 and a series of interviews with representatives of organizations that work with or have the potential to identify DMST.

Kendra Penry, Director of Programs with Houston Rescue and Restore Coalition (HRRC), was the Principal Investigator for this assessment. The interviews and methods utilized in this assessment can be obtained from Shared Hope International (SHI), *Rapid Assessment Methodology and Field Assessment Tool: Domestic Minor Sex Trafficking in the United States*. The Rapid Assessment examines seven sectors of the community: Law Enforcement, Prosecutors, Public Defenders, Juvenile Court Judges, Juvenile Detention Facilities, Child Protective Services, and Non-Governmental Organizations/Social Service Providers. As this assessment necessitated research with human participants, it was approved by Institutional Review Board of the National Institutes of Health (NIH) Office of Extramural Research under certification number 670069.

A total of 39 interviews were conducted from May-August 2011, including but not limited to representatives from the following 22 agencies and organizations:

- Children's Assessment Center
- Eddie Living
- Houston FBI Innocence Lost Task Force
- Galveston County District Attorney's Office
- Galveston County Juvenile Court
- Galveston County Juvenile Justice Department
- Galveston County Juvenile Probation Department
- Galveston County Teen Health Clinics
- Harris County Juvenile Court
- Harris County Juvenile Probation Department
- Harris County Protective Services for Children & Adults
 - Community Youth Services
 - Kinder Emergency Youth Shelter
 - TRIAD Program
- HISD Police Department
- Mission Centers of Houston
- Montrose Counseling Center
- Texas Alcohol and Beverage Commission
- Texas Children's Hospital

- The Children's Center, Inc., Galveston
- YMCA International Houston

Each participant was provided with and signed an informed consent form or verbally consented to participation according to the guidelines of the Institutional Review Board (IRB) prior to the interview. Information gleaned from the interviews is presented in this Rapid Assessment (RA).

The findings from Harris and Galveston Counties on DMST will be made available to the task forces in Harris and Galveston Counties, all organizations working to provide services to this population and the community at large. The overall purpose of this Rapid Assessment (RA) is to serve as a guide to better serve domestic trafficked minors (DTMs) in the Greater Houston Metropolitan Area.

Please note that every effort has been made to cite and give credit to sources for the information included in this report. If the reader notices an error or a missing citation, please contact the Houston Rescue and Restore Coalition for corrections.

Glossary of Acronyms

- CINS
Child in Need of Supervision/Conduct in Need of Supervision
- CPS
Child Protective Services
- DFPS
Department of Family and Protective Services
- DHHS
Department of Health and Human Services
- DMST
Domestic Minor Sex Trafficking
- DTM
Domestic Trafficked Minor
- FBI
Federal Bureau of Investigation
- GHMA
Greater Houston Metropolitan Area
- HB
House Bill
- HCJPD
Harris County Juvenile Probation Department
- HCSO
Houston County Sheriff's Office
- HISD
Houston Independent School District
- HILTF
Houston Innocence Lost Task Force
- HPD
Houston Police Department
- HTRA
Human Trafficking Rescue Alliance
- NGO
Non- Governmental Organization
- OVC
Office for Victims of Crime
- SB
Senate Bill
- TABC
Texas Alcohol and Beverage Commission
- TCLEOSE
Texas Commission on Law Enforcement Officer Standards and Education
- TVPA
Trafficking Victims Protection Act (TVPA)

Background Research

“Human trafficking is slavery happening right now in our own communities. The ultimate goal of Houston Rescue and Restore Coalition and every organization against human trafficking is to ensure that one day, human slavery will truly be a thing of the past. No human life should be for sale.”

Houston Rescue and Restore Coalition

Harris and Galveston County

Houston is located in Harris County, Texas and is the fourth-largest city in the United States of America, and the largest city in the state of Texas. In 2010, Houston had a population of 2.1 million people within an area of 579 square miles (1,500 km²).⁴ As of 2009, it was reported that individuals under 18 years of age made up 28.9 % of the population in Harris County.⁵ Galveston County is a branch of the Houston – Sugar land – Baytown metropolitan area. The Galveston County population is estimated to be 291,309 as of 2010 with youth making up 26.1% of the population.⁶ In addition to Harris and Galveston, the remaining eight counties that form the Greater Houston Metropolitan Area are: Ft. Bend, Montgomery, Brazoria, Liberty, Waller, Chambers, Austin, and San Jacinto. This assessment covers only the largest county, Harris, and Galveston.

The Human Trafficking Rescue Alliance (HTRA)

For the purposes of addressing the issue of human trafficking, the Human Trafficking Rescue Alliance was formed with the intent of bringing together law enforcement and social service providers in 2005 and covers nine of the ten counties in the Greater Houston Metropolitan Area: Austin, Brazoria, Chambers, Ft. Bend, Galveston, Harris, Montgomery, San Jacinto, and Waller. The law enforcement agencies represented on the task force are: HPD, DHS (ICE), FBI, TABC, Texas Department of Public Safety, and the Harris County Sheriff’s Office. Since its founding, HTRA has rescued about 200 victims of trafficking, trained over 4,000 law enforcement officers on the issue of trafficking, and prosecuted over 50 individuals with human trafficking related charges. The goals of HTRA are: “1) Improve interagency coordination among local, state and federal law enforcement agencies; 2) Utilize non-governmental organizations to assist victims and educate the public; 3) Improve ways to treat and care for victims as material witnesses needed for prosecution; 4) Train first responders to identify potential victims of trafficking; 5) Hold regional training conferences to discuss the problem; 6) Evaluate ways to identify trafficking victims; and, 7) Prosecute traffickers and trafficking organizations.”⁷

Trafficking Victims Protection Act (TVPA)

The United States Congress passed the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386), the Trafficking Victims Protection Reauthorization Act of 2003 (H.R. 2620), the Trafficking Victims Protection Reauthorization Act of 2005 (H.R. 972), and the Trafficking Victims Protection Reauthorization Act of 2008 (H.R. 7311) in order to “combat

⁴ U.S. Census Bureau, American Fact Finder. <http://factfinder.census.gov>

⁵ U.S. Census Bureau, State and County QuickFacts. <http://quickfacts.census.gov/qfd/states/48/48225.html> (Accessed on August 01,2011)

⁶ U.S. Census Bureau, State and County QuickFacts. <http://quickfacts.census.gov/qfd/states/48/48167.html> (Accessed on August 01,2011)

⁷ From presentation, “Houston’s Success Story: How Best to Work Together,” by Assistant U.S. Attorneys Ed Gallagher and Ruben Perez, on May 10, 2011.

trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.”⁸ The TVPA defines “severe forms of trafficking in persons” as: sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not yet attained 18 years of age. A “commercial sex act” is further defined as any sex act on account of which anything of value is given to or received by any person.⁹ This has created a unique category of domestic minor sex trafficking where any individual under 18 who is engaged in the commercial sex industry can be considered a victim of sexual exploitation or sex trafficking. To combat this crime, the TVPA focuses on three primary areas, the three “P’s” for combating trafficking in persons: prosecution, protection, and prevention (in 2009, a fourth was added, “partnership,” though this addition is so new as to not be included in the rapid assessment methodology used for this report):¹⁰

Prevention: involves raising awareness about human trafficking, educating and training the frontline professionals to recognize victims, and educating the public in order to reduce the demand that fuels the modern day slave trade.

Prosecution: requires that appropriate laws that criminalize trafficking are passed and then utilized to prosecute and punish those who are exploiting others.

Protection: includes the identification of victims, a victim-centered rescue from their situation, and then the provision of appropriate health and social services, including witness protection, shelter, and medical care when and if necessary.

Texas Human Trafficking Law

A great deal of work has been accomplished recently to bring the Texas Human Trafficking Law into agreement with the Federal TVPA. Texas Human Trafficking Law is enshrined in the Texas Penal Code Chapter 20A (see Appendix F for its full text as of August 2011). This code defines domestic minor sex trafficking victims to be individuals under the age of 18 employed in the commercial sex industry.¹¹ It is important to emphasize recent changes to the Texas Penal Code are not available as of the writing of this report, but that the need to prove “forced labor or services” when the victim is a minor was removed as of the 82nd Legislative session of the Texas Legislature and will take effect later in 2011 bringing the law into alignment with the TVPA.

Texas Sexual Offenses Law and Prostitution Law

Because human trafficking legislation is new and still changing, many times cases that could be classified as human trafficking are pursued under the sexual offenses or prostitution laws in Texas. These laws have been enforced for much longer, have extensive case law histories, and, in some cases, can guarantee a stiffer penalty for the perpetrators. They also can be and have been used to protect victims based on their current wordings without need to advocate for more

⁸ U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, Legislation. <http://www.state.gov/g/tip/laws/>

⁹ TVPA 2000, P.L. 106-386

¹⁰ U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, Four “P’s.” www.state.gov/g/tip/4p/index.htm

¹¹ U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, U.S. Laws on Trafficking in Persons. <http://www.state.gov/g/tip/laws/61124.htm>

changes. Texas Penal Code § 43.0 defines offenses against public order and decency, including prostitution which is often a form that sex trafficking will take (see Appendix E for the full text of Penal Code 43). This code affirms that it is a crime to “deliberately: (1) cause another by force, threat, or fraud to commit prostitution; or (2) cause by any means a child younger than 18 years to commit prostitution, regardless of whether the actor knows the age of the child at the time the actor commits the offense.” This law as written would serve to protect youth engaged in prostitution (regardless of the trafficker/pimp knowing age which is an important development) even without pursuing a human trafficking case, and has been used to do so. In the State of Texas compelling prostitution is a second degree felony punishable by 2-20 years imprisonment and up to a \$10,000 fine (Tex. Penal Code § 12.33). It is important to note that recent changes from the 82nd Legislative Session have increased these penalties to potentially 99 years in prison if the victim is under 18 years of age.¹²

Law Enforcement Structure in Houston/ Galveston County

The Houston Police Department (HPD) is the primary law enforcement agency in the city of Houston. The Galveston Police Department serves the same function in the city of Galveston. However, there are multiple other agencies who are able to enforce the laws and codes in the GHMA, including, but not limited to the Harris County Sheriff’s Office, Houston Independent School District (HISD) Police Department (and the police departments accompanying each of the other school districts), Harris County Constable’s Office, the Texas Alcohol and Beverage Commission (TABC), the Federal Bureau of Investigations (FBI), Department of Homeland Security (DHS), and more. The same is true for Galveston which includes multiple police departments for each of the cities, school districts, and the county. While their jurisdictions are different, they all have the potential to be operating within the GHMA, identifying and rescuing victims, or identifying and arresting traffickers/pimps.

Human Trafficking in Harris and Galveston County

Houston is one of the nation’s largest hubs for human trafficking according to the U.S. Department of Justice.¹³ There are many reasons for this, including the presence of two large airports, proximity to a seaport, and multiple large highway systems running through the city, all of which provide ways into and out of the city. Additionally, Houston is very sprawling and incredibly diverse, both ethnically and age-wise. For example, Houston has one of the youngest populations in the country.¹⁴ Houston has a very large commercially sexually oriented business community which draws quite a few traffickers/pimps to Houston to make money. Multiple conventions, sporting events, and other large festivities make Houston a prime location for trafficking. Because of these reasons, it is easy to both recruit in Houston and to bring in victims who are subsequently easy to hide. Proof of the level of trafficking in Houston includes that out of the calls from Texas to the National Human Trafficking Hotline, the majority come from Houston.¹⁵ Furthermore, one of the largest human trafficking busts in the country happened in

¹² Shared Hope International, Protected Innocence Initiative, Analysis and Recommendations: Texas.

http://www.sharedhope.org/Portals/0/Documents/TX_AR_2.28.11.pdf

¹³ “Houston, Texas Major Hub for Human Trafficking.” October 31, 2007. <http://www.humantrafficking.org/updates/807>

¹⁴ Houston Facts and Figures. The City of Houston. <http://www.houstontx.gov/about/houston/houstonfacts.html>

¹⁵ National Human Trafficking Resource Center 2010 Annual Report.
<https://na4.salesforce.com/sfc/p/300000006E4SNoRwfxn5yYo.PX2rSthecYrhc7g=>

Houston,¹⁶ in addition to the largest domestic sex trafficking case in the history of the Southern District of Texas.¹⁷ In the latter case, five of the six defendants were arrested on charges of transporting women and children with the intention of sex trafficking, sex trafficking by force, fraud and coercion, and commercial sex trafficking (see Appendix C for more information on this case, U.S. v. Butler, et. al.). The minors in this case were as young as 16. According to prosecutors, each count of sex trafficking and transportation of minors carries a maximum of life in prison.

Houston is also home to one of the most groundbreaking cases that has set a precedent for all future cases of sex trafficking/prostitution of minors in the state of Texas. In January 2007, Houston Police Department conducted a “vice” sting operation where a 13-year-old girl, B.W., was arrested on the charge of prostitution. B.W. claimed to be 18 and as there was no proof otherwise, the Harris County District Attorney’s accepted charges on B.W. as an adult. The case was reexamined after investigators discovered that B.W. had lied about her age and was in fact 13. As a result, the case was returned to the juvenile court where B.W. was charged and adjudicated for prostitution. Her attorney, though, continued to argue that since B.W. was 13, she could not legally consent to the act of sex whether for money or not, and therefore, was a victim in this case, not a criminal. The case was pursued to the Texas Supreme Court, where “In the Matter of B.W.” was heard in 2010. In the majority opinion, the court reversed the appeals’ court judgment finding instead that B.W. was a child victim of sexual exploitation and should not be treated as a juvenile offender.¹⁸ Based on their decision, no longer can a child under 14 be arrested for prostitution in the state of Texas. That individual is now seen as a victim of sexual exploitation.

In Galveston County, there is less information about trafficking. It is known that trafficking occurs in Galveston as it has some of the same risk factors that Harris County does: a diverse population, a seaport for easy transportation, and its proximity to Houston are all risk factors. However, there have been no large cases in Galveston in regards to trafficking as of yet. There have been allegations of cases,¹⁹ but no confirmed victims. Multiple reasons can cause this phenomenon including a lack of awareness and training on the issue. Some individuals have suggested, though, that the reason is that Galveston may be more of a recruiting ground than a trafficking destination, because of its isolation as an island. There were stories shared about girls “running away” to make some money and then returning. This is an interesting perspective that has yet to be explored.

Juvenile Justice System

One of the primary elements of the Juvenile Justice System in Harris County is the Juvenile Probation Department (HCJPD). HCJPD is “committed to the protection of the public, utilizing intervention strategies that are community-based, family-oriented and least restrictive while

¹⁶ U.S. v. Mondragon was a case of servitude trafficking that occurred in 2008. It rescued about 100 women who were forced to work as bargirls in Houston after being recruited and smuggled from Central America. From presentation, “Houston’s Success Story: How Best to Work Together,” by Assistant U.S. Attorneys Ed Gallagher and Ruben Perez, on May 10, 2011.

¹⁷ “Six Charged in Largest Domestic Sex Trafficking Case in Houston.” <http://www.fbi.gov/houston/press-releases/2009/ho082509.htm>

¹⁸ Johnson, Ann. Presentation, “In the Matter of B.W.: How Texas Treats Victims of Sexual Exploitation: The Texas Family and Penal Code.” <http://www.juvenilelaw.org/Education/2011/Plenary%20Sessions/JohnsonBWPP.pdf>

¹⁹ “Modern day slavery: the problem of human trafficking in Texas,” <http://uhelgato.com/2011/01/modern-day-slavery-the-problem-of-human-trafficking-in-texas/>

emphasizing responsibility and accountability of both parent and child.”²⁰ Feeding into HCJPD is the juvenile court system which includes five juvenile courts (each with a different judge presiding), a juvenile mental health court, and a juvenile drug court. There are multiple programs accessible through the juvenile justice system in Harris County that will be discussed in depth later in the report.

In Galveston County, the Juvenile Justice Department’s aim is to provide “a simple judicial procedure through which the juvenile is assured a fair hearing. The program, in accordance with Title III: Juvenile Justice Code of the Texas Family Code, the Texas Constitution and related statutes of the Texas Administrative Code and Texas Penal Code, assures the juvenile due process and the protection of all parties’ constitutional and other legal rights.”²¹

Child Protective Services (CPS)

In Texas, Child Protective Services (CPS) is a part of the Department of Family and Protective Services (DFPS) and the two terms are often used interchangeably to represent the same office. During the process of this field assessment, research demonstrated that CPS is a crucial element in the fight against domestic minor trafficking. The majority of victims rescued in the Houston area were engaged with CPS at some point in time prior to their trafficking and, therefore, it can be deduced that CPS could play a critical role in helping at-risk children avoid exploitation. When found, most agencies interviewed said their first step was contacting CPS, so those without prior involvement with CPS could come into contact with them at that stage. Additionally, CPS could become a part of a domestic minor trafficking case through a report to their hotline. The CPS intake process typically begins with a report from the tip line, centrally located in Austin, which produces a written report that includes information about child abuse or neglect of any kind. A CPS case worker is assigned if the report reveals it is in fact a credible situation of abuse or neglect, and that case worker evaluates the urgency of the particular case. The notification of law enforcement is required if a situation of abuse is suspected (See Appendix G for an overview of the intake process).²² At this point, it would become an investigation necessitating that CPS and law enforcement work together effectively. Up until recently, a situation of trafficking that did not involve a caretaker living in the child’s home was commonly categorized as being outside CPS jurisdiction and would not reach the investigation stage. Now, however, the 82nd Legislative session has expanded the CPS mandate to include any case of domestic minor sex trafficking that is reported to the hotline, regardless of the trafficker being within the home, be investigated. This was encompassed in Senate Bill 24 which also further defined trafficking for the state of Texas.²³

Media Coverage of DMST

Anyone who has attempted to research and investigate human trafficking would admit that there are many questions about this topic that remain unanswered. There are many correlated issues that complicate how human trafficking, and domestic minor sex trafficking especially, is viewed

²⁰ HCJPD Mission Statement. <http://www.co.harris.tx.us/hcjpgd/mission.asp>

²¹ Galveston County Juvenile Justice Mission Statement. http://www.co.galveston.tx.us/juvjustice/mission_statement.htm

²² Guiding Principles of the CPS Program. Texas Department of Family and Protective Services. http://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_1120.jsp#CPS_1123

²³ Information on SB 24 from presentation given to the Texas Human Trafficking Prevention Task Force meeting on July 21, 2011, entitled “82nd Texas Legislative Session: Human Trafficking Update,” by the Attorney General of Texas’ Office

by the public, law enforcement and public officials. These include economic and domestic policies, international globalization, social determinants that place certain children at risk, crime control and health outcomes among others. While human trafficking and slavery have always existed, the issue of human trafficking as a crime and a social justice issue that needed to be addressed only began to gain attention in the late 1990s and early 2000s. The media, like with all social issues, serves as a spotlight that can bring attention to this issue or send attention elsewhere as trends ebb and flow. Human trafficking and domestic minor trafficking have been viewed through multiple lenses by the media including as an element of organized crime, through reports on recent criminal prosecutions, and community awareness events. However, the attention has not been consistent and has often focused on the tangential issues. For example, the coverage of the Green River Killer in the 1990s reported that he admitted to killing 48 women/prostitutes. 27 of those victims were under 18, but nowhere did the media report that his victims were in fact minors or domestic minor sex trafficking victims.²⁴ The youth were categorized as adult women or as prostitutes, not as minors or victims of exploitation despite the fact that their exploitation led directly to their becoming his victims. This categorization of minors involved in prostitution as adults has caused a sense of disconnect for most viewers. Youth are not aware that they could become victims and parents are not aware of the dangers, which means they are not educating their children. Society also continues to view these youth as “adults” in the sense that they are involved in an adult crime and must have made the choice which skews how the community responds to them. The media can play a critical role in changing this perspective and the response to these youth by how the situations are reported, how often, and how the youth are portrayed. The media can also be pivotal in just making the community more aware of the issue.

In Houston, research suggests that media reports on domestic minor sex trafficking did not make headlines until 2005. While there were most likely reports on prostitution and related crimes, the term “domestic minor sex trafficking” did not appear until about 2005. A few cases were prosecuted by the courts in Houston from 2005 to 2011 and subsequently reported by the media (see Appendix C for a summary of the cases that could be found). There have been numerous other reports and spotlights on trafficking through the lens of community awareness, particularly covering activities of non-profits campaigning against trafficking in Houston. In 2009, for example, the Houston Rescue and Restore Coalition had 336 separate instances of media outreach including radio, TV, magazine, and newspaper interviews, website and blog articles, billboards, mall, taxi, and airport shuttle signage, and radio PSAs. In 2010, they had another 354 instances of media outreach through the same outlets. The majority of reports found covered more of the angle of international human trafficking, but there is an increasing prevalence of information on domestic minor trafficking as well, especially through the work of Children at Risk.

Children at Risk (CAR) has worked diligently to raise awareness about a variety of challenges that children face in Harris County, human trafficking being one of those. Many of the recent developments in regards to legislative changes are in response to their successful advocacy efforts. For example, their efforts during the recent 82nd Texas Legislative Session played a huge

²⁴ Girls Education and Mentoring Services (GEMS). Commercial Sexual Exploitation Training, Module 1, “What is the Commercial Sexual Exploitation of Children (CSEC)?”, 2010.

role in the accomplishment of 33 of the 35 goals set forth by the state-wide Human Trafficking Prevention Task Force, including improved definitions of trafficking, increased penalties for traffickers and better protection for minor victims. Some of their events that have garnered much needed media coverage include a yearly summit on human trafficking in Houston and Dallas, highlighting domestic minor trafficking on their radio show in Houston, occasional press conferences covering issues such as the safe house movement in Houston, and multiple references and interviews for local newspaper, radio, and television interviews. CAR has developed and led continuing education courses for attorneys in Houston in 2009 and 2010 to educate about human trafficking laws and cases and hosted a Human Trafficking Summer Law Institute in summer 2009. CAR also researched and published *The State of Human Trafficking in Texas* in 2009. Human trafficking, especially of children in Harris County, is highlighted in their biannual publication, *Growing Up in Houston*.

While there are few instances of coverage in Houston, there are even less in Galveston. Absolutely no media coverage was found besides a newspaper report when the Houston Rescue and Restore Coalition ran a 5K to raise awareness about trafficking and a local university newspaper that reported on a situation of suspected domestic trafficking that was never investigated.²⁵ The first step in combating this crime is public awareness on the issue. Therefore, it is critical that both Harris and Galveston continue or begin to tap into the power of the media to educate the public about the prevalence and types of trafficking seen in these communities.

Addressing the prevalence of the issue will always be a challenge because of the lack of accurate data and statistics. Media requests always want data and statistics and when accurate ones cannot be found, speculations become rampant which causes challenges for social service providers and the public. Organizations operating in Harris and Galveston Counties need to find a way to record data on the number of victims they are seeing and a way to share that information with other agencies. Once accurate information is available, it can be better reported and available to the media. This can allow for better care for the victims and a more accurate response from law enforcement and the community.

²⁵ Torregrossa, Bernice. "Galveston Race Spotlights Human Trafficking." *Galveston Daily News*. Sept. 10, 2010, and "Modern day slavery: the problem of human trafficking in Texas," <http://uhelgato.com/2011/01/modern-day-slavery-the-problem-of-human-trafficking-in-texas/>

I. Prevention

Prevention of domestic minor sex trafficking is one of the hardest components of the TVPA to quantify as it is nearly impossible to determine if something that does not happen was in fact prevented through a particular effort. However, it is recognized that prevention begins with community awareness, both of community members who can identify victims and also of youth to equip them with the skills to not become a victim. Included in prevention are demand reduction efforts since only addressing the supply side will never fully eliminate the problem. This can be done through identifying, arresting, and punishing those who facilitate or actively engage in the purchasing of a minor for the purpose of a commercial sex act.

The second crucial step in prevention is the training of frontline professionals who have the potential to identify and protect victims of DMST and prosecute the perpetrators. This includes judges, law enforcement, prosecutors, and defense attorneys. Training is essential also for child protective services, educators and any other adults who are responsible for youth and can identify proactively the vulnerabilities and symptoms of an at-risk youth.

1.1 Law Enforcement

The GHMA is comprised of ten counties, each with separate federal, state, county, city, and local law enforcement agencies including, but not limited to, the Harris County Sheriff's Office, Houston Police Department (HPD), Houston Independent School District (HISD) Police Department, Harris County Constable's Office, the Texas Alcohol and Beverage Commission (TABC), the Federal Bureau of Investigations (FBI), Department of Homeland Security (DHS), and more. The GHMA is fortunate to have two law enforcement task forces dedicated to combating human trafficking, HTRA discussed earlier and an FBI Innocence Lost Task Force which is tasked with investigating solely domestic minor sex trafficking. "The Houston Innocence Lost Task Force (HILTF) was originally formed as an informal working group composed of FBI agents and officers from the Houston Police Department Vice Division to investigate domestic human trafficking. A formal task force was created in 2007 and added deputies from the Harris County Sheriff's Department. The HILTF proactively locates and rescues U.S. children who are trafficked throughout the country for purposes of commercialized sex."²⁶ For the purposes of this assessment, the law enforcement agencies included were: HPD, HISD Police Department, TABC, and the FBI Innocence Lost Task Force.

1.1.1 Training

On September 1, 2009, HB 4009 went into effect which requires any peace officer in the state of Texas who is licensed by the commission on or after January 1, 2011 to complete a one-time basic education and training program on trafficking of persons, both international and domestic. Prior to this ruling, there was no mandated training for law enforcement in Texas.

This mandate is a very positive development that affects not only Houston, but all of Texas. However, it is only mandated for new cadets or those seeking promotion on or after January 1, 2011. Not all law enforcement officers interviewed were aware of this mandate. Those that were not, were more than willing to seek out training for their departments once they were aware because even though it was not required, it does offer TCLEOSE credits of which a certain number are required for officers to maintain their certification. As HB 4009 is so new, results are not yet measurable, but research indicates that there have been at least four trainings conducted so far this year, affecting over 150 officers within a variety of agencies in the Houston area, including the HPD, the HISD police department, the Harris County Constables precincts 6 and 7 and others. There are also multiple other trainings for Texas Peace Officers that address sexual exploitation through the angle of child abuse and neglect. Trainings are available through a variety of non-governmental agencies as well as government entities (such as the Texas Center for the Judiciary), and many interviewees had heard about the issue in a superficial way through trainings such as these, but did not have an in-depth understanding of the complexities and victimologies of DMST. This was especially evident among those agents who were most familiar with international human trafficking. Sentiments ranged from not feeling the information would be relevant to their position to directly stating that the domestic victims that have been seen were there because they wanted to be. These are the opinions that are most important to correct through training, and it will take time to measure the effects of the new mandate. Of the agents interviewed, all but one had received at least some type of training on human trafficking, and the

²⁶ <http://www.fbi.gov/houston/partners>

one who had not, immediately asked to arrange a training for the future which has since been conducted for his department not once, but three times. No matter his/her background, each of the officers was more than willing to learn more about the dynamics of trafficking.

1.1.2 Identification

The units most likely to come into contact with a victim are the vice unit of HPD and the HILTF. The numbers identified through HILTF are significantly higher than those through vice who is still somewhat unsure of how to process or identify these cases. The representatives from HPD admitted that it would depend on the arresting officer to make sure the victim is sent to the appropriate unit or services.

Although Texas state law and the TVPA state that minors (those under 18) involved in prostitution should be treated as victims, there are still arrests occurring (there were three referrals to the juvenile justice system for prostitution as of April of this year and nine arrests of 17-year-olds who are “adults” in Texas but “minors” federally). The officers interviewed did not believe there were more than a couple seen each year, but the statistics show that there were more than a couple (see Appendix B, Graphs A and B for prostitution arrest statistics in Harris County). Most often, the DMST victims that HPD had seen were labeled as prostitutes, whether directly or indirectly. They normally would then be taken to juvenile detention under a lesser charge which would get the youth off the street but not cause them to have a prostitution charge on his/her record. Thus, it can be concluded that there are more victims than statistics show. Other courses of action were to treat the youth as a runaway and take them to the Youth Services Center (YSC) for emergency shelter and services, though it was admitted that this was risky as the youth was expected to run away from there and what they were doing is in fact illegal. According to Texas state law and penal code, a 17-year-old is an adult, so there were federally defined victims criminalized within the system (See Appendix B, Graph B). None of the officers were aware of any follow-up investigations once the victim was in the juvenile detention system.

There are specific individuals tasked with investigating these crimes, as evidenced by representation on the task forces in Houston; however, most officers were not aware of who those individuals are or believed that there was a need for even more representation to address the full scale of this issue. All of the individuals interviewed were familiar with at least one minor who was involved in prostitution, but no one, other than the officers with the HILTF, were aware of any of those youth being treated as a victim of trafficking.

An interesting note made by one of the interviewees was that he wished that the youth who had violated a law, such as running away, that could put them at risk or be a red flag for trafficking, would not be pursued or arrested at school. His reason for this is that, yes, they are easier to find there, but it also negates their returning to that location and if they are receiving services through the school or at least being seen and monitored while at school, it is better to keep them engaged in some way than to close them off from engaging with the system anywhere.

1.1.3 Protocols

If a law enforcement officer encounters an instance of human trafficking, it is recommended that they contact the point person within their agency for trafficking cases, or the local human

trafficking task force or the HILTF for further investigation and interviewing as the process of information collection with these youth is very complicated. However, interviewees were unaware if this had yet been done for DMST victims, though this process has worked well for international victims. Further training should educate officers to see the similarities and the need to treat cases of domestic trafficking with the same urgency as international trafficking. There is currently no written procedure for determining whether a minor engaged in prostitution should be arrested, though a recent Texas Supreme Court case (*In the Matter of B.W.*) dictates that no minor under the age of 14 can be arrested for prostitution.²⁷ Whether or not this is done is contingent upon the officer being aware of the existence of this case (which few are), and the ability to prove the minor's age which many officers admitted can be very difficult. In these cases, it is common that the youth will claim to be and often look much older and have no identification present. An additional challenge is for a youth between the ages of 14 and 17. There is no precedent setting case dictating if they can be arrested or not in the state of Texas. Technically they should not be as they are a victim of trafficking or sexual exploitation if they are engaged in the commercial sex industry, but there is no written protocol other than the TVPA and Texas state law and many of the officers were unaware of what these laws state.

The officers interviewed indicated that it is rare for them to actually encounter a prostituted child, but they have been found through various sting operations and reports from concerned community members. When the child is found, they are interrogated as any other individual involved in a crime would be and there are no specific questions that the officers were aware of that would identify a victim of domestic minor sex trafficking. This is different when it comes to the HILTF as they pursue only these types of cases and know how to interrogate to uncover exploitation. Even so, the investigation often stops with the child and removing them from the situation, rather than pursuing the presence of a pimp/trafficker. Although prosecuting the criminal is a priority, it is just not seen as important as removing the child from exploitation.

If the minor victim is encountered by a representative of the Harris County Sheriff's Office, there is a slightly different procedure. The officers know to call in a case of suspected trafficking to the dispatcher who will notify the designated point of contact. The point of contact will do an initial interview and then call the YMCA International (the primary service provider for all victims of trafficking in the GHMA) for placement if it is deemed a situation of trafficking. They will also notify CPS as necessary since it is a minor.

In regards to the HILTF, the procedure is different as well. They are trained in forensic interviewing and understand the methods most beneficial for the investigation and the child. While they originally worked with other agencies in the community for the purpose of forensic interviewing, they have recognized the need to keep as much "in-house" as possible and have trained many of their officers to use the same methods. After interviewing, the general next step is to hold the child in custody under a lesser charge. The officers interviewed were adamant that they do not treat the youth as a criminal and would prefer not to have to hold them in such a manner, but there are no other options where they can guarantee the youth will stay for enough time for the officers to have access for further interviews and/or to break the youth's connection to the pimp. If there were another way, they would use it, but for now that is what they see as the best method to ensure the youth's safety and ability to be involved in the rest of the investigation.

²⁷ "In the Matter of B.W. Majority Opinion." <http://law.justia.com/cases/texas/supreme-court/2010/2001564.html>

In general, if the youth is encountered by any other law enforcement agency besides HILTF, there are two responses: take them to juvenile detention, most likely under a lesser charge, or take them to the YSC though they were reticent to do so as they were fairly certain the child would run away from the center, which puts them back in the situation that they were before. There are no set protocols or procedures, though, so it depends on the arresting officer.

1.1.4 Information Sharing

HPD officers interviewed stated there are not adequate systems in place to share information; it depends on the initiative of the officers involved.

This situation is different for the task forces. They have officers co-located to allow for better information sharing between those who represent HPD, the HILTF or the other agencies involved. The need for having representatives in one location in order to facilitate communication cannot be overemphasized. Specifically the existence of HTRA is a great development for the sharing of information as it allows law enforcement and social service providers to share what they might need or new developments.

1.1.5 Resources

All the law enforcement agencies interviewed are under extreme financial constraints including lay-offs and budget reductions due to recent economic crises. When asked about conducting reverse stings to address the demand side of the crime, every agency admitted they had neither the officers necessary (female officers especially) to conduct such an operation, nor time nor resources considering the need to respond to victims as well. Some officers encouraged community members to contact their legislative representatives to make this issue more of a priority, but for now there does not seem to be other options. An interesting note about law enforcement made by a couple other interviewees was that all of the DMST cases seen so far were investigated by the same undercover cop further emphasizing the lack of resources invested in investigating this crime. Interviewees stated that higher profile crimes, such as murder and robbery, get much more media attention and, therefore, more resources. This would not change until people recognize DMST as the abuse that it is and stop seeing the victim as a criminal.

Particularly the vice unit of HPD is not adequately equipped to respond to both the victims and the perpetrators, so efforts tended to stop with rescuing the victim, especially since they are also tasked with regulating gambling, sexually oriented businesses, and pornography. The unit was already taxed to the maximum, having lost multiple officers over the past few years and operating with as few as 13 officers on the night shift – the time when most of these victims would be on the streets. They were encouraging community involvement to make this issue a higher priority. Given the nature of DMST and its connection to a variety of other crimes, it was recommended that it become more important, with more officers on the various task forces, as it would simultaneously address some of the co-existing crimes and public health issues. While not as overwhelmed, HILTF also mentioned that they also do not pursue clients and facilitators as their resources are so thin and their primary goal is the rescue of the victim.

1.1.6 Collaboration

Collaboration among agencies is growing though many officers interviewed recommended having even more representatives of their agencies tasked with investigating this crime or participating on task forces. HISD police, for example, work most closely with youth on a daily basis but have no representation on any task force and were the least likely to be a part of an investigation. They were also the least informed of the crime and did not see what role they could play in identifying it. There is even more limited collaboration between law enforcement and non-law enforcement agencies due to the different needs of the agencies. There was a sense of the case having to come first and the social services second, and the social services as necessary only as a way to support the prosecution of the case. The establishment of the task force to bring them into one location is a positive development, but since this is a new development, it has yet to be effective according to many of the interviewees. There was definitely a sense of territoriality between agencies and prioritization as to whose information was most important and who should have access to what information.

1.1.7 Interaction with Child Protective Services (CPS)

Interactions with CPS are varied and some interviewees were uncomfortable commenting on their encounters with CPS. Most, though, felt that CPS, too, was understaffed and lacked resources to respond appropriately. Interactions were sporadic and some were positive and others not. It is protocol for law enforcement to call CPS if working with a minor, and they all know and will follow the protocol, but keep low expectations as response cannot be guaranteed.

The point was made that CPS is not meant to be involved in the rescue and/or the investigation as that is the role of law enforcement. However, there was a continued emphasis on understaffing and narrow jurisdiction. Most were unsure if CPS would respond to a trafficking case if there were not a parent involved. Interviewees commented that if CPS did respond, they believed it would be for the short-term, and they would have limited responses besides taking the child home, which may not be helpful as the child most likely ran away from home to begin with, or placing him/her in a shelter from where they would probably run away as well.

1.1.8 Public Education

Currently, HPD, HISD and TABC do not have any programs in place to educate the public about DMST specifically. The HILTF actively participates in collaborative trainings of professionals organized by outside non-profits about the identification of victims and working with them once they are in the system, but none were engaged with preventative trainings. While all admitted that this was a good idea, they do not have the time or resources to do so. Again, the officers emphasized jurisdiction and that their role is to rescue the victim and arrest the perpetrators. It is the role of other agencies to educate and while they might participate when possible, it is not their primary function. There is a Crime Prevention Unit within HPD which includes sexual assault prevention programming, but it does not address the issue of trafficking. The HISD-PD offers resources for crime prevention, especially in regards to Internet safety, but it also does not address trafficking, though it could since trafficking is increasingly appearing through the Internet. Most of the officers, while cognizant of the need for public education, were wary to have their departments involved as resources are already stretched so thin.

1.2 Prosecutors

Regrettably, the Harris County prosecutors were unwilling or unable to participate in the research process. However, an interview was secured with a current Galveston county prosecutor and two former prosecutors in Harris County. Information included is from those sources as well as desk research.

1.2.1 Training

There is currently no training for prosecutors in either Harris or Galveston County on the issue of trafficking. Prosecutors in Harris County were aware of the laws that indicate minors are to be considered victims, but there are still youth being brought up on charges of prostitution. Depending on the prosecutor, the prostitution charge is often converted to a different or lesser charge, but that is dependent upon the knowledge of the prosecutor. In Galveston County, the prosecutor's office was not even aware of the recent Texas Supreme Court decision stating children under 14 were no longer able to be arrested for prostitution at all, unless the prosecutor was self-motivated to research the issue. Therefore, youth are still being brought in on these charges and could be adjudicated unless the prosecutor is aware. The individual who participated in this assessment was very passionate about not only educating the prosecutors' office but also the officers who report to them about this issue. The interviewee stressed that while there is a specific ruling from the Texas Supreme Court that protects those under 14, the law as written also protects up to 17 year olds and even without a specific ruling on the issue, had advocated favorably for an officer not arresting a 15 year old for prostitution. Again, this was a matter of personal investigation, not standard procedure. All those who participated were adamant that training was necessary and should be available to prosecutors, but were not aware of anyone offering it.

1.2.2 Identification

The prosecutors involved in the assessment were more likely to rely on law enforcement to identify sex trafficking victims. They mentioned that they are not normally able to interview the youth in such a way that would lead to their identifying them, so training would be necessary for defense attorneys as well. Most of the individuals who had prosecuted youth on prostitution charges were a little frustrated that the youth were so adamant that they had made the choice to be there and would not admit victimization and, therefore, providing services or identifying them as a victim seemed impossible.

1.2.3 Protocol

All of those who participated stated that it was very unusual to encounter a youth being charged with prostitution and had only seen it in one or two instances. It was more common that the charge was reduced or pled out so that the child did not face the consequences or stigma of such a charge.

1.3 Public Defenders/Defense Attorneys

Harris County currently does not have a public defender, but there are defense attorneys who are able to apply and be appointed to a list of defense attorneys available when needed. Interviewees were a part of this list of available attorneys.

1.3.1 Training

Only one of the defense attorneys interviewed was aware of trainings available on the issue of domestic minor sex trafficking, though they were all at least somewhat aware of the issue due to personal education on the topic. The one attorney who was aware of trainings was only made aware recently due to participation as a presenter in some of the trainings. None of the attorneys was particularly aware of the TVPA in detail either, but admitted that this was not a necessary part of their work as the laws as they are written now in Texas should offer adequate defense and protection for youth accused of prostitution or other related charges without necessarily addressing the issue as trafficking.

1.3.2 Identification

Only one of the attorneys interviewed had had the opportunity to work with a victim of sex trafficking. The challenges to identification were: 1) the youth's identifying her trafficker as a boyfriend, not a perpetrator, and 2) overcoming public opinion, but in reality all of the signs were apparent even without the youth's participation and laws as written allow for protection of that youth if utilized appropriately. Even without prior training on the issue, the defense attorney recognized the youth as a victim of exploitation and was able to successfully defend the youth from the charge of prostitution without even including a charge of trafficking. The pimp/boyfriend was never brought up on charges.

1.4 Juvenile Court Judges

1.4.1 Training

Included in the legislation contained in HB 4009 that took effect on January 1, 2011, training is encouraged for the judiciary in Texas on the issue of human trafficking. Training is mandated on the issue of child abuse and domestic violence and the judges interviewed believed that training on the issue of trafficking would be very beneficial as well. The judge interviewed from Galveston was aware of an upcoming training offered by the Texas Center for the Judiciary specifically on the topic of trafficking and applicable laws for judges, including appellate, district, and associate judges. While it was not a mandated training, it did offer continuing education credits for participants and is a positive step.

1.4.2 Identification

The judges interviewed did not have a formal process to identify potential victims as they rarely had the chance to directly question the youth. However, all of those who participated said that charges of prostitution would not be adjudicated in their courts. The Harris County judge who participated was working on taking the issue one step further and establishing a specific court for those involved in exploitation so that their specific needs are addressed and resources provided that encourage rehabilitation. Any child identified as involved “in the life” would be diverted to that court for further support.

1.4.3 Interaction with CPS

The judges interviewed stated that they wished that CPS could find a way to provide services to victims of trafficking. They recognized the dilemmas involved as far as defining the pimp as a caretaker, but also admitted that most of these youth already have a history with CPS and that the juvenile justice system was not designed to be the service provider that the youth need. In general, once the juvenile justice system was involved, they had seen a tendency of CPS to disengage believing the system would take care of the child. This was problematic as the youth needed extensive services outside of the system as the charges they faced were not very likely to land the child in a detention facility, or if they did, it would be for a length of time that might not be nearly long enough to begin to address the trauma the child faced.

1.5 Juvenile Detention Facilities

1.5.1 Training

There is no mandated training for juvenile detention facilities or probation officers in Harris or Galveston County. Some very dedicated and passionate individuals have begun to offer or find trainings offered by other agencies and non-profits on the issue, but nothing is mandated in the same way that the identification of child abuse and neglect are. Very few of the individuals interviewed had received training on trafficking or were even aware of what it is.

1.5.2 Identification

Staff members rarely identify victims of trafficking, though they admitted to overhearing many of the youth in the system talk about working on the streets or being “in the life.” The interviewees stated that the youth were more likely to talk about sleeping with older men or of their sexual history rather than talk about a pimp or trafficker that would be more of an indicator of DMST. Those involved in prostitution were seen as delinquents and if heard about, the issue would be reported to the youth’s probation officer. The main challenge the staff faced was that the youth know that if they admit having sex with someone much older, the staff have to report it so they would rarely mention it. However, the staff who were able to forge strong relationships with the youth admitted that many of the children they work with would open up about the issue once there was a level of trust. This necessitated a strong personal involvement with the youth, which each staff person may not have the time or opportunity to develop. The staff are trained to identify sexual abuse which affects over 60% of youth within the Texas Youth Commission and also affects about 80% of DMST youth,²⁸ so they are already seeing the victims or potential victims and are equipped to recognize some of the risk factors if they are just trained in the specifics of trafficking and how to connect what they already know to the subject of DMST.

The staff admitted they are aware of many of the youth who exhibit risk factors for victimization, but no activities are in place to prevent exploitation specifically. Youth who runaway or have a history of sexual abuse are funneled into programs to address these issues, such as working with specific sexual abuse counselors, but there is rarely further screening to see if the youth is a DMST victim. There are a few probation and parole options for youth that address the identification and avoidance of exploitation, but these are rare and just beginning through local non-profits. When asked if youth should be charged with prostitution or identified as victims, the response was mixed. Some felt it depended on the child and others felt there were few other options and if the child was in the juvenile detention center, at least they would have mandated counseling and/or other resources available that are not guaranteed outside of the system. Most of the staff were concerned that they saw the youth for such a limited amount of time (normally during pre-adjudication which can only be 24-72 hours) that they were not sure how they could be engaged in the problem. No one was aware of any youth where they suspected a trafficking situation actually pursuing a case or being plugged into an appropriate service provider.

In Harris County, staff mentioned that they are beginning to use an assessment tool provided by a local service provider to better screen for the risk factors associated with DMST as they are

²⁸ Girls Education and Mentoring Services (GEMS). Commercial Sexual Exploitation Training, Module 1, “What is the Commercial Sexual Exploitation of Children (CSEC)?”, 2010.

seeing many individuals engaged in prostitution, but not charged with prostitution. They admitted they needed better training to continue in the process.

1.5.3 Interactions with CPS

Interviewees were mixed in their reactions to CPS involvement. Most stated that CPS' general reaction is to not get involved if the child is involved with the juvenile detention system because they are already being "served." However, respondents were adamant that juvenile detention centers are not meant as rehabilitation nor service providers, especially for the long term which is what DMST victims need. Most detention center employees were not aware of outcomes of the cases they had seen as they are not meant to follow up in individual cases as CPS would be.

1.6 Child Protective Services

Regrettably, no representatives of CPS were willing or able to participate in this assessment. Therefore, all of the information is accumulated through desk research and the responses from other interviewees.

It is often questioned if CPS can respond to issues of domestic minor sex trafficking if the pimp or trafficker is not a family member or a “caretaker.” In order to decide if this is possible, it is important to understand how abuse and neglect are defined in Texas, and what categorizes a “caretaker.”

In the state of Texas, CPS is mandated to investigate all reports that meet the definition of abuse or neglect. These definitions are available in Texas Family Code 261²⁹:

(1) "Abuse" includes the following acts or omissions by a person:

- (A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
- (B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;
- (C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;
- (D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
- (E) sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;
- (F) failure to make a reasonable effort to prevent sexual conduct harmful to a child;
- (G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code;
- (H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;
- (I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;
- (J) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code; or

²⁹ “Texas Family Code; Title 5: The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship; Subtitle E: Protection of the Child; Chapter 261: Investigation of Report of Child Abuse or Neglect; Subchapter A: General Provisions.”
<http://www.statutes.legis.state.tx.us/docs/FA/htm/FA.261.htm>

- (K) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code.
- (2) "Department" means the Department of Family and Protective Services.
- (3) "Designated agency" means the agency designated by the court as responsible for the protection of children.
- (4) "Neglect" includes:
 - (A) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;
 - (B) the following acts or omissions by a person:
 - (i) placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;
 - (ii) failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;
 - (iii) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;
 - (iv) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or
 - (v) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child; or
 - (C) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.
- (5) "Person responsible for a child's care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including:
 - (A) a parent, guardian, managing or possessory conservator, or foster parent of the child;
 - (B) a member of the child's family or household as defined by Chapter 71;
 - (C) a person with whom the child's parent cohabits;
 - (D) school personnel or a volunteer at the child's school; or
 - (E) personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides.

Based on these definitions, it is interesting to note that DMST has the potential to meet all of the criteria for abuse of a child and sexual exploitation is expressly identified as a type of abuse and

neglect. Furthermore, a pimp or trafficker could be considered a “caretaker” even when not a family member because in most cases the pimp becomes the one responsible for the child’s care. While not a traditional definition of caretaker, these are not traditional cases of abuse and deserve care from all possible social service providers. If CPS remains adamant that the perpetrator must be within the “household,” it is interesting to note that the definition of a household is defined by Texas Family Code § 71.005 as “a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other.” In most DMST situations, the youth are living together in a makeshift “family,” that while not related, are certainly in the same dwelling and would fulfill the definition of a household. Additionally, in many cases, these are youth who are already within the CPS system because of a history of abuse, neglect or running away and, therefore, definitely should have CPS engagement. Two of the greatest risk factors are a history of running away and abuse (multiple studies show that 70-90% of sex trafficking victims have a history of sexual abuse³⁰). Within Harris County, in 2010, there were 632 incidences of running away reported to Harris County law enforcement agencies (please note that these are incidences recorded and may include repeat runaways) and 10,613 substantiated victims of abuse (See Appendix B, sections C and F for a breakdown of cases of running away and abuse since the passage of the TVPA). Even if these individuals do not become trafficking victims, they are certainly at high risk and there is an opportunity for CPS involvement to avoid exploitation. Recent legislation passed during the 82nd Texas Legislative session mandates DFPS to investigate trafficking cases reported to their hotline even if it involves a pimp who is not a parent or a traditional “caretaker.”

Many interviewees, though, were extremely concerned by the prospect of including investigation of trafficking under CPS’ mandate as this would overburden an already taxed system.

1.6.1 Training

CPS staff is well trained to identify sexual and physical abuse, but have no mandated training on domestic minor sex trafficking. There is training being offered for CPS in Harris County, which includes continuing education credits that they must obtain each year to keep their certification current, but there is high turnover and the training is not required meaning that only those who are personally motivated or need the credits will attend.

1.6.2 Identification

Most cases of abuse or neglect investigated by CPS begin with a report to the CPS hotline which is centrally located in Austin, Texas. There are no specific questions used in the intake process on the hotline to specifically identify trafficking. Most cases would be identified as sexual abuse rather than trafficking. The intake staff does not have specific training on trafficking unless personally motivated to pursue it, so in most cases it is either mislabeled or possibly not investigated as the perpetrator reported most likely would not be a family member (though this should change under the new legislation). CPS would intervene if it is a child under 18 where abuse or neglect is reported and perpetuated by someone in the home. There is currently no way

³⁰ Bagley, C. & Young, L. *Juvenile Prostitution and Child Sexual Abuse: A Controlled Study*, Canadian Journal of Community Mental Health, 1987; *Annual Report*. Council for Prostitution Alternatives. Portland, Oregon, 1991; Murphy, Patricia. *Making Connections: Women, Work, and Abuse*. Paul M. Deutsch Press, Florida, 1993.

to categorize specifically trafficking and while there is some discussion of changing this, it has as yet to happen. (See Appendix G for a depiction of the intake process.)

An additional problem is turnover and high case loads. For example, in FY 2010, the turnover rate for CPS Region 6, which includes both Houston and Galveston, was 24.6% and the average daily caseload for investigations (not including cases at other stages) was 30.³¹ Many cases that begin with one caseworker where the child may exhibit risk factors for victimization, are given to another caseworker later who might not be as familiar with the situation or very experienced with the questions necessary to disclose trafficking which is such a hidden crime. The high turnover and low resources also mean caseworkers have incredibly high caseloads, which necessitates prioritization. While not ideal, many times a caseworker must choose between investigating a case with a three or four year old versus a case of a chronic runaway who is 15 or 16 and has been worked with in the past. The younger child is seen as a higher priority with more time to intervene to create change and if necessary, the older child can defend him or herself as they seem old enough. This is not CPS' fault but more of an issue of allocation of time and resources. The children engaged in prostitution, whether perpetrated by a parent or other person, most likely would be considered victims, but not specifically of human trafficking. In most cases identified in Harris County, the youth were between the ages of 15-17, the age when they are believed to be able to defend themselves against a perpetrator unlike a much younger child.

1.6.3 Collaboration

The general impression of most individuals interviewed who had interactions with CPS was that CPS is so overloaded and short on resources that collaboration was minimal. This was solidified by the inability to find someone willing and able to participate in the research. It is understandable that working with juveniles requires a certain level of confidentiality, but this has led to a generally negative impression of the work that CPS is doing as they are so closed off to other agencies. There is a general suspiciousness of CPS and most people are slow to expect positive changes, though CPS is working to improve services. However, these efforts have been stymied by incredibly large recent budget cuts (in the 2011 budget, CPS received about ten percent less than what it estimated to need to operate at full capacity for the next two years).³²

Interactions with law enforcement, especially, have been very negative from the perspective of law enforcement as there are issues of territoriality and what constitutes the best interest of the child. Every person involved admitted to knowing the limitations of CPS due to resources and staffing.

A few agencies interviewed had a positive impression of CPS as they worked in an environment where CPS had representatives located to ensure quicker response times. Co-location is extremely valuable and had created a much better working relationship for these organizations.

³¹ CPS Databook 2010. http://www.dfps.state.tx.us/documents/about/Data_Books_and_Annual_Reports/2010/5CPS.pdf

³² The 2012-2013 Budget for Child Protective Services: The Good, the Bad, and the Ugly." Center for Public Policy Priorities. http://www.cppp.org/files/6/060811_CPS_FinalBudgetSummary.pdf

1.7 NGOs/Social Service Providers

1.7.1 Training

The level of training for NGOs and social service providers in Harris and Galveston County was extremely varied. In Harris County, the Houston Rescue and Restore Coalition operates under a variety of grants, each which specifically allows for training to be provided as requested free of charge to any community member, frontline professional, or social service provider.

Additionally, the grant for the task force in Houston requires training to be offered to the community. These trainings are designed to address both international and domestic trafficking. Further, a recent grant awarded to the YMCA International of Houston requires trainings to be developed and delivered on the specific issue of domestic minor trafficking. This is a new grant that only took effect in 2011, but has already been used to train 258 people at eight separate trainings, including one for CPS. However, different agencies have had different levels of training depending on the interest level of employees and the motivation of management to have their staff trained on this issue. Many interviewees did not see how it was relevant to the particular client population that they serve, though they were still interested in learning more. Their primary interest was how to make awareness education and trafficking prevention programming available to the youth they serve even more than for the staff.

1.7.2 Identification

Most of the agencies who participated in the assessment were not currently identifying DMST victims as such. Instead, they either were going unidentified or labeled as another category. Some still used the term prostitution as it was the most recognizable label, and others were terming it sexual abuse. If the abuse were disclosed, the staff would most commonly call CPS to report it as abuse, though there were no written protocols or procedures at the agencies interviewed. Many agencies were reticent to call CPS for fear of reprisal from the youth, fear that they would no longer even seek the services they were currently accessing once they knew the situation had been reported, or that the youth would not receive the attention needed since the staff was unsure of resources available in the community.

The YMCA International is a special case as they are the primary service provider, providing case management for all victims of trafficking in the GHMA. Their intake procedure is specifically designed to uncover if the case is a situation of trafficking, and they do provide resources based on the exploitation to the victim and the victim's family if trafficking is identified. This is a fairly new process for them, though they have been serving international victims for six years, so numbers are still low, but they are already identifying and serving domestic minor victims.

None of the agencies interviewed were offering any type of preventative trainings for at-risk youth. Many were interested in learning more about doing so but unsure of how or where to start or how to identify vulnerabilities and red flags of trafficking if they were to see them. Those who had seen DMST youth made the observation that in most cases, it seemed to be a generational issue that had affected the mother and then the youth so it is clear that the agencies have the opportunity to identify at-risk youth and institute preventative training if they are better educated on the issue and know how to access these programs.

1.8 Conclusions

Prevention of trafficking within Harris and Galveston County is not very well developed, especially in Galveston County. Training and identification of victims is very dependent upon the engagement and personal motivation of the people involved. In Harris County, efforts are more formal and standardized, though still new and evolving. Most participants were very interested in further training and awareness activities, though resources and funding are at an all-time low for most agencies making this difficult.

Further public awareness is an immense first step. This includes not just the community at large, but especially those who are most at risk: children who have a history of abuse, running away, or poverty. Efforts to engage with the latter is almost non-existent except for a few scattered efforts by social service providers, nonprofit agencies, or other outreach programs that address Internet safety or sexual assault prevention though those do not yet touch trafficking specifically. Broader community awareness efforts are much more prevalent in Harris County, though have not really begun in Galveston. In Harris County, the Houston Rescue and Restore Coalition, for example, has been operating for six years and has posted billboards, hosts an annual Human Trafficking Awareness Month and a variety of other general community awareness activities. Other nonprofits have joined in these events and also created their own, but even so, these efforts cannot yet be considered unnecessary or completed.

Beyond awareness, training for frontline professionals on the identification of trafficking is equally important, especially for those most likely to receive a child's disclosure or come in contact with a victim, such as juvenile detention staff, law enforcement, and attorneys. While some of this is beginning to be addressed, there is much more to be done as so many of the respondents had not only not been trained but also were not even aware of available trainings. This was most evident in Galveston County where trainings are not yet offered, but still a problem in Harris County despite the operation of multiple task forces and organizations providing trainings.

Identification of victims is also an issue in Harris and Galveston County. Most victims continue to be mislabeled or not identified at all. Agencies are not using common terminology meaning they cannot agree on treatment plans or understand exactly what the child may be facing if referred to them from another agency. The minors who are found by law enforcement are sometimes referred to the appropriate services and sometimes not depending on the officer. Those charged with lesser crimes were often adjudicated through the juvenile system and most likely remained unidentified as trafficking victims as those who were tasked with sentencing for these particular juveniles were equally unlikely to be trained on identifying and providing services to them. As awareness increases, many are asking for training and what best practices they should be utilizing so this could be different in the near future.

1.8.1 Best Practices

The presence of multiple task forces and a coalition against human trafficking in Houston has led to a great increase in public awareness in Harris County and a desire by many to know more. While scattered, the presence of media attention on both international and domestic trafficking cases has heightened interest further. Through the education provided by NGOs and task force

members, the community, social service providers and frontline professionals have been made much more aware of this issue as evidenced by the increase in calls with credible tips to the national hotline and other resources. There are many very dedicated individuals in the Harris and Galveston County area who are ensuring that this issue is not allowed to be ignored.

Several agencies who participated in this assessment were eager to learn more and ensure their services are beneficial to these victims. Many want to know how to improve intake, identification methods and service provision and are encouraged that it would not be difficult to add domestic minor trafficking to the issues for which they screen. All agencies are committed to providing services to victims, but might simply need further training on identifying these youth as victims as opposed to delinquents or “bad kids.”

A very promising development is the emergence of prevention programming for youth in the Harris County area and an interest in Galveston County to do the same. While still in its fledging stages, the presence of such a program is encouraging as only identifying them after the fact is not necessarily the best strategy to addressing this crime.

The addition of a specific human trafficking court to the juvenile justice system is a particularly positive advancement in Harris County. The idea that the court would be structured in such a way as to provide the youth with the support and comprehensive case management needed to rehabilitate and leave “the life” is encouraging. With the support of Judge Mike Schneider and other committed individuals, there is every reason to believe it will be successful in the same vein as the mental health court that already exists in Harris County.

1.8.2 Gaps

Though it is improving, the level of knowledge about the issue of domestic minor trafficking remains low in Harris County and even lower in Galveston County. Dedicated efforts are underway to change this through coalitions and task forces in Harris County and committed individuals in Galveston County, but there were many people interviewed who had never heard of the TVPA, the Texas state law on human trafficking, or were unaware of the inclusion of all minors under 18 as victims of trafficking if engaged in the commercial sex industry. Equally disturbing was the continued notion that there are no services available to these victims if they are identified, causing many people to be reticent to identify victims as they were not sure they would be treated appropriately. This is not the case in the GHMA as many services are available, just not being used or publicized widely. Training could address this issue, hopefully fostering an environment where more people are willing to report and victims are connected more quickly and effectively to services in the area.

Communication between agencies is practically nonexistent and distrust is rampant. The task forces and the coalition in Houston are working diligently to bring all entities into one location to facilitate better coordination and collaboration, but the unwillingness to share even the most basic, non-identifying information was a problem with many agencies. The animosity towards CPS continues as does the tension between law enforcement and social service providers who feel they are often treated as secondary or less important partners as the “case” must take precedence to the victim’s treatment. There needs to be a better way where trusted agencies can share information so that victims receive the most comprehensive and targeted care possible, be

that a memorandum of understanding or a consent form signed by parents/legal guardians or whatever it may be. There has to be a respectful and transparent way that organizations can work together without undermining confidentiality.

DMST victim identification remains low as evidenced by the numbers rescued. However, those at risk are incredibly high (See Appendix B for a breakdown of at-risk youth in Houston and Galveston versus rescued victims). There is a missing link somewhere between how many are being found versus how many are actually in existence. This is an issue of training and awareness as well as terminology and incomplete intake procedures for many agencies. These youth are being seen by a variety of organizations, but not identified appropriately or being termed something else. It is also a lack of data gathering on this issue specifically. Few agencies are tracking domestic minor trafficking victims at all. CPS central intake is a hotline in Austin, TX which does not categorize sex trafficking as an issue in and of itself; rather it is tracked as sexual abuse. Most social service providers in Harris and Galveston County do not include questions that would allow for disclosure in their intake procedures. The juvenile justice system is not trained on identification and not equipped to identify through intake or other procedures. Therefore, DMST remains mislabeled or unidentified.

The greatest challenges to combating DMST are resources, staffing, and funding. This is a concern for many agencies right now as budgets have been so drastically cut during the recent economic crisis. Despite that DMST is an issue that, if not properly addressed, creates an even greater financial burden on society and there are many resources and training/awareness activities available that are offered free of charge. While more funding would be outstanding, there are many activities and procedures that can be implemented without necessitating increased resources, such as revamping intake questions, accessing free trainings, having appropriate referrals available when faced with a potential victim, finding the agencies that can provide services and know how to refer to them, tracking victims in the same way that other abuses are tracked, or sharing information that is available with other trusted agencies. These should not affect many organizations' budgets, but can greatly affect the services provided to victims and their subsequent rehabilitation.

II. Prosecution

Prosecution of domestic minor sex trafficking cases is critical for two reasons: as a deterrent against the traffickers, facilitators, clients and anyone else who wishes to profit directly or indirectly off the sexual exploitation of children and as a measure of closure and step toward rehabilitation for the victim.

The first step to a successful prosecution is effective legislation that criminalizes the perpetrators and protects the victims. Equally important is ensuring that law enforcement, prosecutors, defense attorneys, and judges are educated about these laws and how to use them effectively.

The process of prosecution can be detrimental and traumatizing for victims; and, therefore, it is extremely important for victim service providers and the justice system to work together in a way that protects and secures safety for the victims. The recommended approach is a very victim-centered process that respects the healing process and the needs of the survivor.

2.1 Law Enforcement

2.1.1 Prosecution of Traffickers

There have been successful cases of prosecution of traffickers in Harris County, though none yet in Galveston County. (See Appendix C for summaries of recent cases in Harris County). These are few as victims are continually misidentified or unwilling to prosecute their pimp or trafficker, and/or the cases are re-categorized as a different crime (such as compelling prostitution) which might be easier or quicker to prosecute or carry a stiffer penalty.

Most law enforcement agents interviewed were unaware of the TVPA, or at least unaware of how it affects what they do, except for the HILTF which operates under the TVPA. With local and city law enforcement, there continues to be confusion around the definition of a victim as the age of consent to sexual activity in Texas is 17 and the Texas Penal Code treats a 17-year-old as an adult making it possible to arrest a 17-year-old for prostitution, but the TVPA and Texas State Human Trafficking Law (See Appendix F) states a victim is anyone under 18 involved in the commercial sexual industry which includes prostitution. This duality for a 17-year-old is confusing, leading to several 17-year-olds being arrested for prostitution despite protections in place for them (See Appendix B, Section B). Until 2010, it was possible to arrest any youth from ages 10 to 17 for prostitution until the Texas Supreme Court case “In the Matter of B.W.” ruled a youth under 14 could not be arrested for prostitution. This still leaves 14-17-year-olds in a perplexing position, particularly for law enforcement. According to interviewees, it depends on the officer on the scene whether or not they are familiar with the federal statute and the definition of a victim. Most officers admitted they would more often than not enforce state laws versus federal laws which continue to allow for the arrest of a 14-17-year-old for prostitution.

Changes in Texas state laws out of the 82nd Texas legislative session will affect prosecutions as well as they have removed the necessity to prove “forced labor or services” for minors involved in sex trafficking, but it will again be dependent upon officers being educated about this change to be effective. For example, minors found in prostitution could now be adjudicated as a CINS (Child in Need of Supervision) rather than a delinquent (according to HB 2015 from the 82nd Texas Legislature), but this has not yet taken effect, and prosecution/adjudication as such depends on the arresting officer and the prosecutor. All of this is contingent upon education to ensure the arresting officers know of these laws. The reason prosecutions/adjudications of the minor are so important is that if prosecuted effectively, there is a new possibility of mandated restitution for victims under 18 which can subsequently help in their recovery.

When asked why more cases were not brought against the traffickers, frustration was expressed about the difficulties of getting the victim/survivor to be willing to bring charges against someone she sees as a “boyfriend.” Additionally, the cases take a long time to corroborate, especially since the victim is not often a willing or an ideal witness and, therefore, needs a great deal of corroboration to prove the story. This can take a significant investment of resources, which is not necessarily available. The priority for all the officers interviewed was the rescue of the victim(s), and going after the trafficker was secondary. Most investigators also suggested that it is challenging to convict traffickers because the youth’s story frequently changes making it easier for defense attorneys to discount the testimony. There was a suggestion made for finding a

way to ensure that the victims' accounts are protected until they reach a point where they are capable of telling the truth, but there is currently no strategy in place for that.

2.1.2 Prosecution of Consumers

None of the law enforcement agencies interviewed was aware of any cases or reverse stings against the facilitators or buyers, while both are expressly stated as being prosecutable crimes within the Texas Human Trafficking Law. The reasons for this included a lack of resources (such as female officers able to conduct a reverse sting) and a lack of finances to conduct the investigations. There was a sense that there are so many buyers, that many could be arrested every day and overload an already overwhelmed system. When the real priority is the victim, there was little emphasis placed on the purchasers and even less on the facilitators. Additionally, it was recognized that there is really no way for the system to appropriately sentence these individuals, so why waste the time when they would probably just receive a minor fine or other small punishment. There are laws in place to prosecute buyers, including, but not limited to: a 2nd degree felony conviction if the minor is under 14 and a 3rd degree felony if child is 14-17 years of age without allowing a defense that the buyer did not know the individual's age, significant financial penalties, and potentially having to register as a sex offender.³³ Also out of the 82nd Texas Legislative session is an allowance for the development of "johns' schools" for first time offenders, but none have yet been established in Harris or Galveston County. While the laws are stringent, the offenders cannot be prosecuted and undergo these penalties if they are not identified and arrested.

Separately, there are multiple units, within HPD as well as the HILTF, dedicated to investigating and pursuing the purchasers of child pornography, an element of sexual exploitation that is often overlooked. Interviewees suggested that this particular type of the crime is and should be treated as completely different because it is a distinct type of exploitation that is already recognized and receiving adequate attention. The sentencing for purchasers can be increased per instance or per photograph, for example, so that the punishment becomes more severe than for purchasers of a commercial sex act. Until sex trafficking receives the same level of attention as child pornography, they should be treated as two separate crimes, according to most interviewees. It was noted that if a trafficker also had child pornography in his possession (though rare because pimps know that pornography is illegal and are normally very careful to make sure photos they take cannot be classified as pornographic), they will add these charges to the list of crimes, at least in the case of a pimp pursued by the FBI. They will make every effort to ensure the individual is charged with as much as possible to make the sentence as severe as it can be.

2.1.3 Domestic Trafficked Minors as Witnesses

Using DMST victims as witnesses was one of the primary frustrations expressed by most of the interviewees. In addition to the reasons listed above such as stories changing, need for corroboration, and bonding between the victim and the pimp/trafficker, law enforcement agencies face additional challenges to using minors as witnesses. Interviewees stated they try to work well with service providers to alleviate some of these challenges such as trauma and fear, but the successful prosecution of the case is the first priority. A couple officers were aware of the

³³ Shared Hope International, Protected Innocence Initiative, Analysis and Recommendations: Texas.
http://www.sharedhope.org/Portals/0/Documents/TX_AR_2.28.11.pdf

services available in Harris County that can aid a victim through the process of a prosecution and said they would call the YMCA International, for example, if they had a victim. Others, though, were completely unaware and would most likely call CPS. If CPS or juvenile detention become involved, law enforcement in most cases would stop interaction with the victim believing their role is over, unless the child admitted a willingness to prosecute a trafficker/pimp. If the child was unwilling, then law enforcement disengaged. In the case of the HILTF, this could be different as they are prepared to conduct the multiple interviews it might take to get to disclosure of exploitation and the eventual pressing of charges.

Another challenge law enforcement faced in using DMST victims as witnesses was the inability to guarantee their placement. They were frustrated by the lack of resources (though in most cases this was just a lack of knowledge about what resources are in fact available) and admitted that if the child is released to the parents, they can no longer guarantee access to the individual as s/he would probably just run away again. If placed in a shelter, the youth would probably run away as well since they are not secure locations. These cases can take months or even years and a place where the individual is safe and also accessible to law enforcement is necessary, though law enforcement is aware that they cannot lock up a child without her/him being charged. This has led to most youth being arrested on at least some charge so that officers are assured of access, and can begin to break the bond that the child might have with the pimp/trafficker.

2.1.4 Prosecution of DMST Victims

While prosecution of a minor for prostitution is becoming rarer, there is still a common practice of prosecuting the child for some type of offense when suspected of prostitution as a way to protect the child. Some examples of offenses include curfew violations, truancy, minor drug charges, running away, and now the use of a CINS to take custody of the youth. One of the most commonly used was curfew violations as the youth involved in DMST are often out late at night (See Appendix D for a copy of the Youth Curfew ordinance in Harris County). The number of curfew violation citations issued is difficult to obtain as it is often combined with other violations considered “Level 1” offenses. There were 2,977 youth brought in for Level 1 offenses in FY 2010,³⁴ all of which could be considered at risk for trafficking or exploitation due to the nature of the crime that qualifies as level one (curfew violations, truancy, and other status offenses). While taking the youth into custody is a necessary tactic in some cases, it can also hinder the identification of the victim as the youth is less likely to disclose if treated as a criminal and once arrested, s/he loses access to resources that can help in recovery such as the Crime Victims’ Fund and other services through the government.

An added challenge is if the child does not have identification and purports to be an adult. If the arresting officer cannot find any way to verify the actual age and the child is not in the system, s/he will be arrested and treated as an adult using the name and age given. This is a concern for interviewees as most victims are taught by their pimps to lie in order to avoid the challenges that are caused by being a minor such as CPS involvement. This was mentioned a few times as very frustrating for the officers as subsequent changes are difficult to make if they find a way to prove s/he is in fact a minor, and this can affect access to services and the prosecution of the case.

³⁴ “Making a Difference: One Child at a Time.” Harris County Juvenile Probation Department 2010 Annual Report. http://www.hcjpd.org/annual_reports/2010.pdf

Furthermore, arresting a minor as an adult for prostitution is overloading and overtaxing the system. Texas has some of the harshest penalties for prostitution arrests. Those arrested more than twice for prostitution can be charged with a felony and if the individual is technically a minor, but charged as an adult and ends up with a felony record, it affects his/her ability to access services and resources throughout his/her life, such as the Crime Victims Compensation Fund. The fund could be used to pay for restorative services for DMST victims but only if they did not “knowingly and willingly participate in the criminally injurious conduct” and do not: “(2) ... bear a share of the responsibility for the act or omission giving rise to the claim because of the claimant's or victim's behavior; or... (4) [were not] engaging in an activity that at the time of the criminally injurious conduct was prohibited by law or a rule made under law.”³⁵ All of these could come under suspicion and eliminate the child’s access to funds if s/he is charged with even a lesser crime that was committed during the course of the exploitation.

Additionally, due to the harsh penalties for prostitution in Texas, it is estimated that at any one time there are 130 individuals in prison for prostitution in Harris County. If it costs \$50 a day to care for each of these individuals, the county is paying over \$2 million a year for just this crime alone.³⁶ Removing the minors from prison for prostitution would lower this burden and allow for the resources and funds to be allocated elsewhere, such as investigating and arresting buyers or facilitators. With law enforcement so concerned about the lack of funding and resources, it would seem that there needs to be a re-examination of the way this crime is handled so that more resources are better used or re-allocated.

³⁵ Texas Code of Criminal Procedure article 56.41 and Texas Code of Criminal Procedure article 56.45

³⁶ Fehling, Dave. “I-Team: Millions of tax dollars spent yearly to incarcerate prostitutes.” 28 January 2011. <http://www.khou.com/news/local/Tax-Money-for-Prostitutes-114746744.html>

2.2 Prosecutors

2.2.1 Prosecution of DMST Victims

The prosecutors and former prosecutors interviewed all admitted to knowing of at least a few cases where youth were adjudicated for prostitution, but that they had not seen that happen in a long time as there is a trend to seeing these youth as victims. It is much more likely that the youth will face a charge of a lesser crime, though that does mean the youth is facing charges for a situation that most likely was created by or through his/her exploitation. The human trafficking statute (Appendix F) can be used as a defense to prosecution for prostitution for any victim under the age of 18 who was compelled into prostitution, though most prosecutors were unaware of this fact and as evidenced by graph B2 in Appendix B, this is not the case for at least a few 17-year-olds each year in Houston.

An additional concern about the prosecution of victims is that there is a sense, at least from some prosecutors in Harris County, that the idea of not arresting a minor for prostitution is somehow wrong (note that this information is not from an interview but an article written by an Assistant District Attorney from Harris County). As one Harris County prosecutor wrote, “the [Texas Supreme] court somehow turned the inability of a child to legally consent to sex into a pass (for the child at least) to engage in sexual conduct with an adult for money,”³⁷ referring to the recent decision “In the Matter of B.W.” This incredible misconception demonstrates a great need for training for prosecutors in Texas. According to the prosecutor, an adjudication of prostitution would not irreparably harm the youth, evidenced by the statement that “surely this blemish on the juvenile’s record is not significantly worse than the life-long scars the child undoubtedly receives actually living some portion of his or her life as a prostitute.”³⁸ While this may be true, the point is not that the adjudication would be “significantly worse” than the victimization. Just because something is not significantly worse, does not mean it should be done. The point is that these minors are children and prosecution can further victimize them by convincing them they are criminals who do not deserve services and making it difficult for them to get the services they do deserve by creating a criminal record. The idea is not that 13-year-olds are now able to “fellate someone for 20 bucks,”³⁹ but that the system recognizes the true criminal is the adult that has led the child into that situation. The child is not free to commit the crime, but protected from the consequences of an act s/he cannot legally consent to and instead connected with the rehabilitative and restorative services necessary to prevent him/her from needing to commit that crime again as mandated by Texas state law. If international victims are protected from prosecution for crimes committed during exploitation (and they are through the TVPA which necessitates victims be protected, not prosecuted, even for crossing borders illegally, for example) then the same should extend to domestic victims who are still children and were forced or coerced into the situation even if that coercion was just due to an impressionable age. Training is vital to correct these misunderstandings so that further DMST victims are not prosecuted as criminals.

³⁷ Newell, David C. Assistant District Attorney, Harris County. “Tricks are for kids! How In the Matter of B.W. exempted 13-year-olds from the prostitution statute.” *The Prosecutor*. September-October 2010, Volume 40, No. 5.

³⁸ *Ibid.*

³⁹ *Ibid.*

2.2.2 DMST Victims as Witnesses

None of the individuals interviewed had been involved in a case where the victim would have to be a witness as they were juvenile prosecutors, though they did express the view that it would be a challenge as they could see the victims' trauma causing problems with reliability and believability. No one was aware of any services for victims or of their role in connecting the victim to those services.

2.2.3 Prosecution of Traffickers.

There have been a few cases of prosecution of traffickers (See Appendix D). None of the prosecutors interviewed were involved in these cases.

2.2.4 Relevant Laws

There are quite a few relevant laws to this crime that could be used in the prosecution of a trafficker or pimp, which is one of the greatest challenges in collecting statistics on this crime. The choice of which one is used greatly dictates the sentencing of the perpetrator and how it is classified as evidenced below:

Relevant Law	Maximum Sentence	Defines a Minor as
Trafficking Victims Protection Act	Life in prison	Under 18
Mann Act	Life in prison	Under 18
Texas Human Trafficking Law (Appendix F – please note the law will be revised as of September 2011)	Life in prison	Under 18
Promotion of Prostitution (Appendix E)	One year (class A misdemeanor)	N/A
Aggravated Promotion of Prostitution (Appendix E)	10 years (felony of 3 rd degree)	N/A
Compelling Prostitution (Appendix E)	If a minor under 18: 99 years in prison (felony of 1 st degree) 18 and older: 20 years (felony of 2 nd degree)	Under 18
Indecency with a child (Appendix E)	If causing sexual performance of a minor under 14: Life in prison 14 and over: 20 years (felony of 2 nd degree)	Under 17
Sexual Assault	20 years (felony of 2 nd degree) if under 17	Under 17

Relevant Law	Maximum Sentence	Defines a Minor as
Aggravated Sexual Assault (child sex trafficking can now be used to prove aggravated sexual assault)	If child is under 14: Life in prison 14 and over: 35 years	Under 17
Employment Harmful to a Child (includes commercial sexually oriented businesses) (Appendix E)	1 year (class A misdemeanor)	Under 18
Sexual Performance by a Child (Appendix E)	If younger than 14: 99 years (felony of 1 st degree) 14 and over: 20 years (felony of 2 nd degree)	Under 18

This table illustrates the drastic difference between possible sentences, though there have been many changes made recently to bring these various charges into closer alignment. The age associated with most of the Texas laws was under 17 which created conflict with the TVPA. However, much work was done to increase the age to 18 to match the federal law, which it now does. Conflict still exists because the age of consent to sexual activity is 17 and according to Texas state law, a 17-year-old can be charged as an adult for the commission of a crime. This has led to many individuals engaged in prostitution at the age of 17 to be arrested and charged as an adult.

2.3 Public Defenders/Defense Attorneys

2.3.1 Defending DMST Victims

The defenders interviewed, while aware of the TVPA, were not likely to use it in any of their cases as they were more likely to operate under state law. One of the participants had represented two juveniles on charges of prostitution and had successfully argued for one to have the charges dropped based solely on the laws as they existed at the time and without bringing in the trafficking statute. The case was argued on the basis that a child of 13, which the defendant was when arrested, is not legally able to consent to sexual activity, and, therefore, cannot legally consent to sell sex making her a victim of sexual abuse, not a criminal. The idea from that attorney was that the laws necessary to protect minors from DMST already exist, and a dedicated attorney can successfully work with and represent a youth with the laws as they stand now if they are properly trained on these types of cases. Further changes could have far reaching effects into other laws and cause problems with other cases and, thus, not be as beneficial as they might seem. While laws in regards to trafficking are necessary for prosecuting the pimp or trafficker, further changes would not improve working with the victims. The other defense attorney interviewed stated that it is now so rare to see a minor arrested for prostitution that it is more likely that s/he would be in court on a lesser charge.

2.3.2 Defending Traffickers/Buyers

Neither attorney had represented either a trafficker or a buyer and did not seem likely to do so. Both stated that they had not seen nor heard of any cases being brought against buyers anyway.

2.4 Juvenile Court Judges

2.4.1 View of DMST Victims

None of the judges interviewed had seen a case of prostitution against a minor as they strongly believed that this was not acceptable and would not allow a case of prostitution against a minor to be adjudicated. They viewed the youth involved as victims and were strong advocates for creating a system that was more supportive of the child.

2.4.2 DMST Victims as Witnesses

The interviewees stated that they believed the individuals involved in DMST would make difficult witnesses because of the abuse and trauma they had experienced. However, it was also stated that they would not be in a position to hear a case against a trafficker where the victim would be a witness as they work primarily in the juvenile system.

2.4.3 Prosecution of DMST Victims

The judges interviewed were strong proponents of creating a system that is more supportive of the victim, because as it exists now, the youth are more likely to be sent to the juvenile justice system than provided the case management or rehabilitative services that could help them leave “the life.” In the cases where DMST was suspected, the judges felt there were few options for them to pursue as far as diversion services are concerned, though some efforts to create a human trafficking court are very promising. This would offer a wraparound system of support for victims who are in “the life” and, hopefully, divert them from the juvenile detention system.

2.4.4 Information Sharing

The judges interviewed expressed a need for greater information sharing because there are many times that a juvenile they see may be involved with the system someplace else, but they are not aware of all the information.

2.5 Juvenile Detention Facilities

2.5.1 Intake and Prevention Programs

If a juvenile between the ages of 10-16 has allegedly committed a felony, misdemeanor or conduct in need of supervision (CINS) offense in Harris County, they are referred to the juvenile probation department (HCJPD). They will undergo an intake procedure at one of two 24-hour intake units at either the Youth Service Center (YSC) on Chimney Rock or the Juvenile Detention Center. The intake process involves an interview with the juvenile and a parent or guardian, mental health screening and risk assessment and determines if the child should be released or detained. Youth are detained if they are thought to present a threat to self or to the community or are likely to run away and not return for a court appearance. No interviewee was aware of, and there are not, any standardized intake questions to illuminate a situation of trafficking and while a few officers/interviewees thought some of the questions they already ask may help (such as those about sexual abuse), they were not aware of any situations being identified through the intake process. If referred for running away or other CINS offense (both considered risk factors or a red flag of potential trafficking), they can be detained for a maximum of 24 hours, so there is little time to identify if a juvenile is actually a victim of DMST.

The purpose of this intake screening process is to eliminate the juveniles who are not in need of being detained in the detention center and then provide them with pre-adjudication supervision outside of the center. Weekly contact, curfew checks and school visits that monitor the youth's compliance are reported to the court. Intake Screening diverts about ten per cent of youth from the detention center⁴⁰ and is performed with all juveniles, which makes it an ideal time to screen for DMST and divert these individuals who are actually victims from being detained as criminals. In 2010, approximately 4,807 youth were referred at the Juvenile Detention Center and 8.79% were diverted through the intake screening.⁴¹

Intake for a crime, though, is not the only way that a youth would come into contact with HCJPD. HCJPD is comprised of multiple programs dedicated to both at-risk juveniles as well as juvenile offenders. The TRIAD Prevention Program, for example, is comprised of Harris County Protective Services for Children and Adults, Juvenile Probation Department, and Mental Health/Mental Retardation Authority and is housed at the YSC at the Chimney Rock Center (CRC). CRC is one of the two 24-hour intake centers for youth who are picked up for status offenses such as runaway, truancy and curfew violations or Class C Misdemeanors (theft, assault, disorderly conduct or public intoxication) and those who are in need of supervision. At CRC, services include screening and assessment, crisis intervention, counseling, emergency shelter, referrals and follow-up. In 2010, YSC worked with 1,620 troubled youth, another 785 juveniles were assisted by the probation staff, and 619 referrals were received for juveniles who had committed non-custody status offenses such as running away, broken curfew, skipping school or committed Class C misdemeanors such as alcohol violations received services.⁴²

⁴⁰ "Intake Screening." http://www.co.harris.tx.us/hcjpgd/intake_screening.asp

⁴¹ "Making a Difference: One Child at a Time." Harris County Juvenile Probation Department 2010 Annual Report. http://www.hcjpgd.org/annual_reports/2010.pdf

⁴² *Ibid.*

One option for younger, non-violent offenders, a category into which many at-risk or exploited youth would fall, is deferred adjudication. This program guides the youth through six months of specialized programs, intensive counseling and supervision aimed at avoiding adjudication and diverting them from the juvenile justice system. There are currently no programs within deferred prosecution that would allow for the identification of DMST or prevention of exploitation.

2.5.2 Pre-Adjudication

In Harris County, there is a Pre-adjudication Team (PAT) that would provide supervision to any juvenile offender who is released from detention to await their court date, allowing for space in the juvenile detention center to be reserved for serious offenders. The PAT is also responsible for preparing a comprehensive profile and report of the juvenile and the case that may be used by the judge to determine the disposition. There is currently no training for these officers on the issue of DMST, so that would, regrettably, not be a part of their report to the court. PAT handled 247 cases in 2010.⁴³

Interviewees, including probation officers, detention officers, intake officers and court counselors who would interact with a youth during the pre-adjudication stage, had only a cursory knowledge, if any, of the TVPA and Texas Human Trafficking Law. A few who worked with the domestic minor trafficking task force in Houston were slightly more familiar, at least with the definition of a minor involved in the commercial sex industry as a victim of trafficking. For the detention center employees interviewed, they were unsure of their ability to have time to interact with a potential victim and discover a trafficking incident. They believed that most of the youth knew of the requirement for employees to report anything deemed abuse and of sexual relationships with older “customers,” so they would not reveal it to them. The general procedure if abuse, such as sex trafficking, is discovered is to report it to the youth’s probation officer or law enforcement and then allow others to conduct any further interviews or investigations.

2.5.3 Post-adjudication

If judged delinquent, a youth can be allowed to live at home, if appropriate, under probation, or placed in a residential facility, county institution or committed to the Texas Youth Commission. Interviewees were generally against holding a DMST victim in detention, for two reasons: 1) not having appropriate services; and, 2) a fear of recruitment of other girls if the victim is housed with the general population (and there is really no other option). On the latter point, though, some detention center employees admitted never having seen this phenomenon, and did not feel it would be a problem. Some had, though, especially those who worked in the emergency shelter. Most were unsure of other options besides placement in the detention center because releasing the child to live at home would not work since the suspected trafficking cases they had seen involved youth who had run away from home in the first place.

Another alternative to detention within Harris County is the Intensive Supervision Program (ISP) which is intended to divert high-risk youth from state institutions and redirect their lives through a program of close supervision and rehabilitation. Each ISP participant must have adequate supervision by parents or significant adults at home, often not an option for the victims of

⁴³ *Ibid.*

DMST, though it could be for some. After placement in the program by the courts, clients are contacted daily by a probation officer. In 2005, an average of 504 juveniles received services in the ISP program each month.⁴⁴ There is currently no standardized training for the probation officers engaged in this program.

2.5.4 Outcry within the Detention Center

Few interviewees were aware of disclosure while in detention centers, but said that if they did hear of something, they would call the probation officer or law enforcement. They believed it would be treated the same as a sexual abuse outcry for which specific counselors and investigators respond. One individual stated that now they would call the YMCA International to come in and do a screening with the individual first to determine victimization. No one was aware of any outcries that resulted in subsequent investigations or prosecutions against a pimp/trafficker or a john.

2.5.5 View of DMST Victims

Most participants did view a DMST victim as a victim of abuse, though most admitted they still saw the individual as at least partly responsible for actions or crimes committed during the victimization and adjudication would be necessary for those crimes. Most believed the youth involved did have pimps and were victims of those pimps. In Galveston, it appeared more likely that the youth were involved in survival sex. An interesting thought from one of the individuals interviewed was that even if the victim had a pimp, is it not still an act of survival?

⁴⁴ "Intensive Supervision." http://www.co.harris.tx.us/hcjpd/intensive_supervision.asp

2.6 Child Protective Services

2.6.1 Investigation

Most interviewees believed that CPS would only become involved if the perpetrator was a parent or guardian or the child already had an open case with CPS. There is the general belief that if the perpetrator is outside of the home that CPS' mandate would not allow intervention, though the actual law does not say that the perpetrator has to be inside the home as mentioned previously in this report. The definition of "caretaker" is broad enough to allow CPS to investigate, though that would further complicate already overloaded case workers. Recent legislation requires an investigation from DFPS into reported cases of trafficking, but it has not yet taken effect so no data is available.

Even if a tip to the CPS hotline were to directly cite sex trafficking, there is currently no way for a CPS case worker to get that information as it would be termed sexual abuse due to a lack of a sex trafficking category on any intake forms and intake screeners not actually having received training on the topic. Many interviewees wanted CPS to take a greater role in these cases as they have the ability to provide longer term services, but were suspicious of it actually happening.

2.6.2 Placement

CPS' priority is to reunify the child with the family and, secondly, with a family member. In some cases, reunification with the family has been surprisingly successful. In DMST, though, most interviewees were suspicious of this working as the children they had seen were runaways who had left for a reason and would most likely run away again. An added concern was that some families would not want the child back because of prejudices against activities committed during exploitation. Without intervention with the entire family, this could be traumatizing. If the child is placed in a shelter by law enforcement (with the only option currently being Kinder Emergency Shelter at the YSC), then CPS must be involved within 24-48 hours and petition for temporary custody within 14 days. CPS must find placement within 30 days and permanent placement must be found within a year. This can be foster care, adoption, or reunification with family.

2.6.3 Running Away from Placement

The individuals interviewed, while not from CPS, all expressed concern over the tendency of DMST victims to run away, especially for the sake of returning to a pimp. If they are placed back at home or in foster care, they often run away as well. If they do run away, CPS is tasked with finding the minor and returning him/her to the placement, but that requires that the runaway be reported which becomes less likely the more chronic the running away is. All interviewees were very doubtful of how dedicated CPS is to finding a runaway, believing it to be more common that CPS would just report it to the police and close the case. If a youth runs away from a placement, it is termed an "unauthorized absence" or "unauthorized placement." See Graph C4 in Appendix B for the numbers of these cases over the past ten years in Harris County.

2.7 NGOs/Social Service Providers

2.7.1 Recognition of Victim Status

All of the NGOs interviewed recognized youth involved in DMST as victims, though some were not aware of the TVPA being what categorized them as victims. Awareness came through training from the local task force, coalition, or the motivation of the agency to be more aware.

2.7.2 Participation in Investigations and Prosecutions

NGOs and social service providers were willing to participate in investigations and prosecutions as long as they did not have to compromise confidentiality with their clients. Many were not sure what level of confidentiality they must maintain, or if this crime would constitute mandatory reporting like sexual abuse. Some expressed concern over the fact that law enforcement would not allow them to participate more fully or more quickly when the victim is rescued, especially in regards to protecting the victim from further traumatization which can occur when too much emphasis is placed on the case and not the victim's recovery.

Most have the perception that foreign national victims receive more attention and support/resources than domestic victims though this was often a lack of information about what is available. None were aware of any cases against buyers and were frustrated over this as they realize that just addressing one side and not also focusing on the demand means the crime will continue unabated.

2.8 Conclusions

Identification and rescue of victims is only one element to addressing the problem of DMST. Successful investigations, prosecutions and sentencing of traffickers, pimps, and buyers is just as essential as a deterrent of further victimization and a step to recovery for the victims. Both the supply and demand side must be addressed if Harris and Galveston County want to curb domestic minor sex trafficking in a meaningful way.

Currently, there remain some discrepancies in the law, though many recent changes have brought the Texas law much closer to the federal statute (see Appendix E for the most recent version of the Texas human trafficking legislation). Some legislation dictates a minor as under 17, others under 18. Additionally, Texas Supreme Court ruling “In the Matter of B.W.” has created some clarity and yet further confusion in that now a minor under 14 cannot be arrested for prostitution, but from 14-17, s/he can be. Therefore, there are still minors being arrested for prostitution in Harris County despite their legal definition as a victim (see Appendix A, section B).

Even if not arrested directly for prostitution, a large number of victims are being arrested for crimes committed during their victimization. This does bring them into a system that may be able to provide services they might not get otherwise and many law enforcement officers see this as the only option to break the bonds the victim has with her pimp. However, it still creates challenges as it discourages the youth from wanting to seek help from law enforcement in the future or being willing to disclose information to a system that only views him/her as a criminal.

Harris County has made great strides in investigating and focusing on many elements of trafficking, including both international and domestic trafficking, though there have been greater strides made into international trafficking than domestic. There have been very few instances of investigations of pimps/traffickers of domestic victims in the commercial sex industry (Appendix B). Galveston County has not as of yet begun to address this issue due to a lack of education and training resources.

There continues to be a perceived lack of resources for domestic victims in Harris County, though there are in fact many services available, including shelter, counseling, case management and programs for at-risk youth. This continued misperception leads many to believe that involvement with the juvenile justice system is one of the only ways for the victims to receive care though the most common results of this criminalization is further traumatization, a criminal record that disrupts access to future opportunities, and disinclination to disclose. Most, if not all, of the interviewees did believe that the youth were in fact victims, but many still believed some type of responsibility for crimes committed was necessary for either access to care or for the sake of accountability.

Many law enforcement agents were reticent of these cases because of the lack of a sympathetic or cooperative witness, though involvement with restorative care seemed to be a way to overcome some of these challenges. Therefore, consistent and trusting collaboration between law enforcement and service providers is a must moving forward. This collaboration must see the prosecution of the case as being equal to the rehabilitation of the victim which requires the intervention of social service providers at an earlier stage to provide consistent and stable care

for the victim. The establishment of multiple task forces and a coalition in Houston is a great step in this direction, though there is still room for improvement.

2.8.1 Best Practices

The presence of the task force on domestic minor trafficking as well as the HTRA and HILTF is one of the most positive aspects of the effort to combat trafficking in Houston. The concerted effort to provide education to the community and training to frontline professionals has resulted in a greater number of credible tips. Training of law enforcement has allowed more successful investigations, including successful prosecutions of traffickers in Harris County. As the movement evolves in Galveston County, there is much hope that the same improvements and eventually successful prosecutions can take place there as well. The ability of service providers and law enforcement to meet together has opened communication and facilitated some collaboration where it was not present before now. The success of these initiatives is obvious through the increasing number of requests for training from law enforcement and the juvenile justice system even for those who are not mandated to have the training due to recognition of their own potential to make a difference for the victims. Many officers have become much more sympathetic to the issues that victims face rather than taking the situation at face value, though there are still youth being arrested for prostitution. The unwillingness of prosecutors and judges to adjudicate youth on charges of prostitution is a great achievement and the establishment of a court specifically to address the needs of trafficked youth will be a welcome addition to the fight against domestic trafficking in Harris County.

2.8.2 Gaps

The largest gap in addressing this issue is funding and resources. While training is now mandated for law enforcement, it is not for other agencies that are seeing and working with these youth. When it is offered, it is up to the personal motivation of the individual to participate. Once trained on the identification of these youth, it is still a challenge for law enforcement to address the multi-faceted nature of this crime because of funding and resources that are needed to investigate such intensive cases. There are still few, if any, charges against buyers which means Harris County has not begun to address the demand for commercially exploited children and without addressing the demand, it will never be a completely successful effort. Galveston County has taken even fewer strides as many law enforcement and prosecutors are completely unaware of the laws against criminalizing youth in prostitution and have not even thought about ways to prosecute the buyers.

Despite the existence of collaborative task forces, there is still a lack of communication and trust between the agencies serving this population. Law enforcement often sees the successful investigation and prosecution of a case as the first priority and services for the victim as secondary. Social service providers are not contacted until after the investigation has begun which can be traumatizing for the youth who need constant and consistent support through such a difficult case as prosecuting the individual who s/he may have been depending on for support and livelihood for years. Additionally, agencies do have a need to protect confidentiality of victims but this has been extended into not sharing data and statistics which means no one has a clear picture of the scope and nature of the problem. There needs to be a way where trusted agencies can be given information on the youth so that the best possible standard of care can be

provided. Suggestions include consent forms for parents or other types of informed consent so that agencies can cross-share information without worrying about confidentiality.

There is a dearth of statistics and data on this issue in both Harris and Galveston County. Very few, if any, agencies collect statistics on the topic of sex trafficking and if they do, it is categorized as something else meaning no one is able to set clear goals for future interventions.

Harris County has many resources available for victims, but very few individuals know of these resources, which leads many to believe juvenile detention or probation is the best and/or only method. The community and agencies involved need to be better informed about what is available and who can access these resources and how. Further education, training, and communication could help alleviate this problem.

The role of CPS remains unclear to most individuals working with this population. While many state that they would have to call CPS if they suspected abuse, they were unsure if CPS would respond because of the belief (also held by many CPS workers) that CPS can only get involved if it is a person living in the home who is trafficking the child. There needs to be a clearer definition of CPS' mandate. Recent legislation taking effect in September of 2011 mandates an investigation by CPS of reports of DMST though it is unclear if CPS workers are aware of this change and how this will affect workloads considering significant recent budget cuts.

The current preferred method of working with a victim is to arrest him or her for something and place them in the juvenile system so that they can receive some type of services and also be guaranteed of access to law enforcement for further investigation. While there is a measure of rehabilitative and educational services within the juvenile justice system, it is still perceived as punishment which can traumatize the youth further into thinking s/he is at fault for his or her victimization which undermines disclosure. With victims who are already difficult to work with, according to law enforcement, this only complicates the matter. If the abuse is disclosed within the facility, many workers are unsure of what to do with the information and what the proper procedure should be. They are equally unsure of red flag indicators which can help identify victims who do not self-identify and what role they could actually play in the process. There is little to no education and training within the juvenile detention and probation departments who are in a unique position to identify victims and especially those at-risk. However, if they are identified as at-risk there are few resources available to prevent exploitation, at least that the interviewees were aware of. The services that could be accessed through the juvenile justice system would also not be ideal for DMST victims who need continued care and extensive counseling services to address the trauma they have endured.

The number of prosecutions remains low and while laws against traffickers have been stiffened, there is still little movement to address buyers. Recent laws passed and taking effect in September stipulate that it is a felony to solicit a child for prostitution, but there have not been any movements to actually arrest or prosecute individuals for this due to a lack of resources and unfamiliarity with the laws. There are very few efforts to raise awareness about demand which in turn leads to little effort to prosecute it. If prosecuted, it could also threaten to overtax a system that is already short on funds and resources.

III. Protection

Protection begins with a victim-centered rescue, but must also include a victim-centered rehabilitation and restoration. The ultimate goal is to remove the youth from commercial sexual exploitation in a way that avoids re-victimization and then connects the youth to the services and organizations that can provide a safe placement and stable recovery.

Restoration and rehabilitation are equally important and include a variety of factors. These are emergency and long-term shelters or safe homes, medical, psychological and counseling services, education and job skills training, among other life skills development. Such a complex process requires that the community work together, including law enforcement agencies who can conduct the initial rescue and service providers who can provide the after-care.

3.1 Law Enforcement

3.1.1 Protocol

The different agencies interviewed all admitted to having different procedures when a victim is rescued, but none had a written protocol that was continually followed. HPD officers were unsure of a point of contact when a victim is found and admitted that the rescue would depend on the arresting officer. The Harris County Sheriff's Office has a point person who stated the victim would be rescued and subsequently interviewed and then referred to the YMCA International. The HILTF agents rescue the victim, proceed with interviews and would then most likely place the youth under some type of custody. TABC stated they had never rescued a domestic victim and were certain this would never be an issue for them as they typically only saw international victims and the domestic victims who were present were there because they wanted to be and would be secondary to the international victim rescue. Most individuals interviewed admitted they would only know to call CPS as they were unsure of other resources.

In general, the procedure is focused on rescuing the victim, but with the goal of a successful case against the perpetrator as well. While avoiding re-traumatization is important, these are such complex and challenging cases that the officers were most concerned with information gathering and achieving a successful investigation. The goal was always victim rescue as they are the only ones able to do that, but they must also keep in mind the prosecution of the criminal.

3.1.2 Identification and Access to Services

Most minors rescued from sex trafficking are unwilling to cooperate with law enforcement due to a history of trauma, distrust, and threats from the trafficker. Some officers were very dedicated, particularly those with the most experience such as those from HILTF, to the time and effort it takes to get the information needed, but it is still frustrating especially when resources and time are so scarce. There are many victims rescued by other law enforcement agencies who are left without necessary services because it did not seem possible to invest the time, energy, and resources into engaging the victim. Most officers were unsure of services and none knew of what happened to the victim after rescue and the case was handed over to the juvenile justice system or CPS.

3.2 Prosecutors

3.2.1 Rescue

The prosecutors interviewed for this assessment did not know of any procedures for the identification or rescue of victims of DMST, stating that it is more likely that law enforcement, juvenile detention, or their defense attorneys would be in a better position to do so. They knew of many situations where they would suspect that the youth was actually involved in prostitution or other types of commercial sexual exploitation, and believed better screening might help reveal that, but did not feel they could properly provide that service.

3.2.2 Restoration

The interviewees stated they knew of no services for rehabilitation specifically for DMST victims in Harris or Galveston County. Until there is something better, they admitted that a punitive environment like juvenile detention might not be the best method, but there are few others, so it would have to work. A couple interviewees suggested a mental health hold might be an option, but even that would not address all of the complex needs of a DMST victim.

Providing for restoration services is another one of the challenges, but recent legislation taking effect in September 2011 requires mandatory restitution for child victims under 18. Prosecutors were unaware of this as well as quite a few other new laws pertaining to DMST victims, but this can be attributed to their not yet being in effect. However, laws that have existed for awhile were equally unknown, especially the one stating those under 14 were not allowed to be arrested or prosecuted for prostitution. This is important because the prosecutors are in a unique position to recommend a different course of action that could lead to the youth's rescue for any minor arrested for prostitution whose case comes before them. This was most evident by one prosecutor stating that when an officer mentioned he was going to participate in a sting to arrest a girl for prostitution who the prosecutor knew was 15, she was able to change the course of action followed by the officer. Others cannot do this, though, if they are unaware of the new legislation or rulings that affect these types of cases. There is an obvious need for further education. The fact that prosecutors were unwilling to participate in this assessment is unfortunate as a clearer picture of the situation is difficult to obtain and indicates it could be challenging to implement the necessary training on the subject.

3.3 Public Defenders/Defense Attorneys

3.3.1 Cultural Sensitivity and Rescue

The defense attorneys interviewed who had worked with clients who would be considered DMST victims stated that they generally were not in a position to identify or rescue a victim because that is the role of law enforcement. However, the laws as written are meant to protect youth from this type of exploitation, so if the defense attorney were dedicated to the protection of the youth, they could do so without necessitating further legislation or even recognizing DMST specifically. The interviewees stated that they were not necessarily going to be involved with the client for the extended period of time needed for disclosure, but the laws as written should protect youth from this abuse.

3.3.2 Placement and Service Options

The defense attorneys interviewed were not very aware of services available in the community for DMST victims, though they mentioned it would be helpful to know of services. In most cases, the youth were being placed in the juvenile justice system which is not necessarily meant to be rehabilitative. Every attorney stated that further education was a must to help other lawyers know how to handle these types of cases even without further trafficking legislation and to understand how or where to recommend a potential victim.

3.4 Juvenile Court Judges

3.4.1 Accessing Placement

There are very few locations where a victim can be recommended for placement, according to the judges interviewed, especially for youth in Harris County as the only currently operating facility accepts youth between the ages of 18 and 21. The suggestion of a mental health hold was considered, but was deemed to not be the best option because of the complexity of the situation. However, there are a high number of victims of DMST who could be certified with a mental health issue and there is a high number of youth in the juvenile detention system with mental health problems; therefore, this could be an option for some youth, but not all. Holding them in juvenile detention is not ideal, but currently one of the few options. In Harris County, there is the prospect of a GIRLS court dedicated to working with girls identified as being in the “life” or at risk. The idea of the court is to be a “problem solving court” where service providers and the juvenile justice system can work together to make sure that youth involved in DMST are given the care and support they need. In the same vein as the recent drug court and mental health court, the GIRLS court would address the multiple issues that judges have seen in the cases of DMST they have witnessed including family problems and the need for individualized attention. The court would then be able to provide intensive care through weekly meetings initially until the youth is able to problem solve on her own. Issues that could be addressed include education, drug abuse, family counseling and even include placement options about which the judges may not be aware but service providers would be. In Galveston County, there is a shelter for youth available, the Children’s Center, though they have typically served international victims. There is a possibility they could also provide services to domestic victims.

3.4.2 Accessing Services

Accessing services, particularly long-term services, was a challenge most judges acknowledged as the youth they are seeing where they suspect DMST are only involved in the system for a short time as they are generally being seen on a lesser charge. There is very little follow-up and few of the judges had a sense of the outcome of any of the cases that came before them. All of the judges interviewed, though, wanted to see CPS more engaged with the youth as they could have more of a long-term relationship. This, however, was challenging as they conceded that CPS is overworked and teenagers (the majority of the victims they had seen were between 15 and 17) are a second priority. They admitted there has to be a way to change that so that those most at-risk were not falling through the cracks.

3.4.3 Detention

Detention is the most accessed option for a potential victim of DMST who would be considered a risk to him/herself or others. This is a challenge as detention further criminalizes an individual who is actually a victim and solidifies a negative perception of self, placing a greater obstacle to disclosure, and the community’s perception of that child as a bad kid. However, judges were unsure of other options.

3.4.4 Restorative Placement

While Harris and Galveston County do not have a facility dedicated to DMST victims, there are numerous options for services that can provide a continuum of care that victims need. Most judges expressed concern that youth would simply run away from a facility unless there is a way to secure placement. This, however, would go against the general idea that the victim should not be the one locked up. The judges were in agreement that a locked facility is not an option, but that the ideal place would be completely anonymous and while not locked, it would be secure by virtue of its location and isolation. Until this is available or something equivalent is an option, it is imperative that all sectors work together to create the rehabilitative environment necessary through case management, counseling, and, in some cases, reunification with the family.

3.5 Juvenile Detention Facilities

3.5.1 Services

Time spent in the detention center pre-adjudication is very short and focuses mainly on crisis management including counseling and medical screenings, such as for sexually transmitted infections and drug testing. A youth in the detention facility pre-adjudication may request to see a counselor at anytime and those services are available 24/7, and there are specific services for victims of sexual trauma or abuse. The care, though, is meant to be short term, which typically would not be sufficient time for the disclosure of sex trafficking.

Post-adjudication, youth who are not sent to one of the residential facilities are assigned a probation officer and given an entire spectrum of services and/or treatment. They must comply with the conditions of supervision or face increased penalties. Parents may also be required to participate as a condition of probation. A placement in a facility tends to only occur for those who have committed a felony or Class A or B misdemeanor and whose prior history warrants removal from the home. If sent to one of the residential facilities, they are provided counseling, therapy sessions, education, vocational training, and other extracurricular activities.

These are all great services for the children that need them, but it was not necessarily the best course of action for DMST victims, according to the interviewees. They noted that once in the system, there was a risk of recruitment of other youth, but more importantly, there was a risk of re-victimization and an increased lack of a willingness to disclose. Especially once the interviewees were aware of the categorization of DMST survivors as victims, they were adamant that there had to be a better way to access services for the youth than the punitive justice system. But most also admitted that the youth did commit crimes for which they should be held responsible. The duality of status provides a challenge for everyone which was a frustration for many of the interviewees. The human trafficking court, much like the current mental health and drug courts, would hopefully provide a diversion possibility for those identified as victims of DMST. It is unclear if it would also work with those at-risk but not yet victimized who pose an additional challenge.

Currently, there is no other strategy being explored for working with victims of DMST within the juvenile justice system. The probation office has explored on an ad hoc basis establishing some exploitation awareness and prevention programming for the girls' groups that are part of the program for some girls on probation, but this program is not provided on a regular basis.

3.6 Child Protective Services

3.6.1 Responding to Reports

The Texas Family Code requires any person who suspects child abuse or neglect to report that suspicion to CPS, and CPS must investigate. As of September 2011, a report that involves DMST, whether the perpetrator is in the home or not, must also be investigated. Up until now, though, CPS has generally only responded if the perpetrator is an individual residing in the home due to a narrow definition of “caretaker.” Now that an investigation by CPS is required, this will hopefully change. There are still no intake questions specifically designed to determine DMST status, but, again, this will likely change now that DFPS is required to investigate these types of cases beginning with the formalization of new laws in September 2011.

CPS is mandated to cooperate with law enforcement on reports of child abuse, and there have been steps taken to improve cooperation. Despite improvements, most law enforcement officers still felt CPS was too hands-off once law enforcement was involved. CPS seemed to believe the child would receive services once they were engaged with the juvenile justice system. In most cases, law enforcement’s focus is on the perpetrator, while CPS’ should be on the youth, which also creates some conflict in how the case is handled.

3.6.2 Services for DMST Victims

A child accepted into the CPS system in Texas is categorized into one of five levels of service. The first is Basic Service which includes supportive services to maintain the child’s living at home. The Moderate Level is more structured and includes activities to help improve the child’s functioning both within and outside of the home. Third is the Specialized Service Level within a treatment setting where the caregivers are trained in therapeutic, rehabilitative and medical interventions. At the Intense Service Level, there is a high level of structure that limits the child’s access to outside environments to protect the child. Caregivers in this level are further trained in therapeutic interventions with limited outside assistance. The final levels are E2 and E3 (see appendix F) which require emergency care in either a foster group home or emergency shelter institution. It is the primary goal of CPS to keep the child with the family whenever possible and will only take custody of the child in the final service levels with a court-ordered removal and will then place the child in the least restrictive setting possible.

Within DFPS in Harris County, there are four programs that could work directly with DMST victims or at-risk youth:

STAR (Services to At-Risk Youth) was developed for youth under 18 who normally would not receive services from CPS because they have not yet been abused, but are at risk, hence the name Services to At-Risk Youth. The conditions that must be met for youth to be involved in this program are:

- Runaway
- Truant
- Living in Family Conflict
- Allegedly involved in or committed delinquent offenses

- Allegedly involved in or committed misdemeanor or felony offenses but possibly not adjudicated delinquent.

All of these are also factors that place a youth at-risk for trafficking and mean STAR employees are well situated to identify DMST victims. The services STAR can then offer are short term emergency care, individual and family counseling, case management, and family crisis intervention, all free of charge. In FY 2010, over 30,000 youth received services from STAR in Texas and over 87% reported a better outcome after 90 days.⁴⁵ While some employees that work with STAR have received training on the identification of trafficking victims, there is no formalized training or intake procedure in place to help identify risk factors or red flags of trafficking in the youth they serve.

The Texas Youth and Runaway Hotline is administered by DFPS and provides 24 hour crisis intervention, information and referrals for calls from runaways and their families. In FY 2010, there were 12,940 calls to the hotlines in Texas.⁴⁶ The staff at the hotline does not receive a regular training on the identification of potential trafficking situations nor are there specific questions they ask to identify risk factors among the youth they serve.

Services specifically for youth in Harris County that are referred by CPS or DFPS (while not specific for DMST victims, these are further areas where a youth could be identified or an at-risk youth engaged to avoid exploitation):

BEAR-BE a Resource for CPS Kids is a nonprofit community organization that sponsors programs to support the work of Children's Protective Services in Harris County.

The Children's Crisis Care Center is a multidisciplinary assessment center, located at 2525 Murworth in Houston, Texas, is a partnership between public and private organizations aimed at improving and enhancing services to abused and neglected children and their families in Harris County. This service is only available to children referred by DFPS.

3.6.3 Reform

CPS has been working to improve its negative image. One of the greatest strides is placing representatives within other agencies with whom they need to partner, such as the Children's Assessment Center (CAC) in Houston. This has led to great success in providing services to youth at CAC and the impression of CPS from CAC workers is extremely positive. Co-location is very important to providing a continuum of care and has proven successful according to many individuals who work in this environment. Additionally, as seen in the CPS Databook for 2010, since reforms have been undertaken, there is a marked difference in CPS care. Turnover is lower, there are more caseworkers, and more completed investigations. These are positive, though the caseload remains almost impossibly high.⁴⁷

⁴⁵ DFPS 2010 Databook. Texas Department of Family and Protective Services.
http://www.dfps.state.tx.us/About/Data_Books_and_Annual_Reports/2010/default.asp

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

3.7 NGOs/Social Service Providers

There are both services specifically for victims of DMST in Harris County and also other services not specifically for this population, but that could work with them successfully. There are no services exclusively for victims in Galveston County but there are providers that could access and serve this population.

The **YMCA International Services** is a unique branch of the YMCA of Greater Houston. It was established in 1978 to address the immediate resettlement needs of refugee individuals and families who were fleeing from persecution in their home countries. Since that time, YMCA International Services has developed into a multi-service agency that provides holistic services to Houston's refugee and immigrant communities, with a special focus on facilitating and fostering self-sufficiency. As part of their work, they began providing comprehensive case management services for international victims of human trafficking in 2003. They decided to and received funding to expand their services beginning in October of 2010 to provide services to all victims, including domestic minor victims, of human trafficking in the GHMA. Since that time, they have served 12 individuals who were either victims or potential victims of DMST.

Youth in Houston can also be served by Harris County Protective Services who have programs that could provide services to DMST victims, identify DMST victims, or work with at-risk youth. These services include the Kinder Emergency Shelter and Community Youth Services.

Kinder Emergency Shelter (KES) is a temporary residence for youth, ages 12 to 17, who need to be separated from threatening home situations. During the youth's stay at the KES, caseworkers help them to resolve their immediate crisis and counsel the families so that the youth may return home. They have recently contracted with the YMCA International to provide emergency shelter for up to 90 days to rescued DMST victims. All of the staff at KES has not been trained yet in DMST, though some have, but they have received extensive training in sexual trauma and abuse and in providing counseling as needed. There is an interest in further training.

Community Youth Services (CYS) is an effort between HCPS, 18 contracting school districts throughout Harris County and one law enforcement agency. The goal of this program is to prevent at-risk youth from becoming victims of child abuse, running away, dropping out of school, or from entering into delinquent behavior. Youth can be referred to CYS from a number of different agencies and walk-ins are accepted also. CYS is housed at the Youth Services Center on Chimney Rock to be readily available when needed. They provide wraparound services to youth including counseling and other services, but have remained under utilized since its inception. The employees of CYS are more than willing to be trained to intervene appropriately with DMST victims, and some have already received training to do so, but are a mainly untapped resource.

Additional services to youth in Harris and Galveston County include, but are not limited to:

Montrose Counseling Center in Houston provides services for gay, lesbian, bisexual, and transgender individuals and their families. This includes anti-violence services, counseling, and medical testing. They were very active in this assessment and adamant that the primary victims

they see would be males so males need to be a part of the dialogue about trafficking. They are already capable of and providing services to many individuals who could be classified as DMST victims. They are willing to be educated further on intervening with victims of DMST.

Mission Centers of Houston serve impoverished communities in the inner city of Houston. Their services include food and clothing distribution, kids', preteen and teen clubs, a Christian Women's Job Corps, Senior Adult Ministry, ESL classes and others. Because of where they work, they are uniquely situated to identify potential victims and also to provide services (such as job training) to rescued victims. They did not believe that any of their current youth would be potential victims, but an anonymous survey with their youth revealed at least 4 children who admitted to having been involved in a situation of exploitation as young as 10 (see Appendix A, section H for information on potential victims being seen at social service providers in Houston).

Eddie Living is a soon to be opened shelter for girls ages 9-17 in Houston. They will begin operating in the fall of 2011 and hope to provide a holistic residential care facility for female children and teenagers to begin with and expand to boys at a later stage. They will provide a full range of services including education, a residential campus with amenities, and transitional housing facilities to offer support through early adulthood. Additional services will include high-quality psychological care, health care, tutoring, mentoring, religious or spiritual guidance, after school programs, career counselling, college counselling, job training, and work opportunities. While not expressly for DMST victims, they hope to have an informed approach to work with these victims and the complexities of their situations and are planning for continued training for all staff as well as instituting an exploitation prevention program for their residents.

The Center for Success and Independence is an adolescent residential treatment facility that is designed for males and females ages 12-17. The Center is located in Houston, and serves the local community as well as surrounding counties with space for 44 residents. They serve youth who have a diagnosed emotional, behavioral, and/or substance abuse disorder or who have suffered trauma including abuse, neglect and abandonment. So while not specifically designed for the DMST population, most DMST victims would qualify for the facility because of a history of abuse, neglect, mental health, substance abuse, trauma and family issues. They are actively seeking training on the issue of DMST as well, in order to better provide services to this population. The average stay for a client is 6-9 months though the youth can stay as long as is necessary. The staff includes registered nurses, chemical dependency counselors, a consulting psychiatrist, case managers, and trained mental health technicians, including a psychiatrist available 24 hours a day for emergencies. Adolescents receive a myriad of therapy opportunities including, but not limited to, group, individual and family sessions, and chemical dependency or other self-help groups. Trauma and abuse issues are dealt with directly in individual, group, and family therapy, an extremely important element for youth who have been abused through DMST. Family members are involved in treatment planning and participate in weekly therapy sessions as well. Families are given the opportunity to practice acquired skills as the client returns home for periods of time that increase as client and family adjust and learn new ways of managing the client's problems. Southwest Charter School operates an onsite school and a GED program is offered as well. On-site mentoring, higher education planning, career development, and job training services are provided by a variety of partners. Case managers provide services to the family from the date of admission and continue for up to 12 months after discharge.

In Galveston, **the Children's Center, Inc.** is the most recognized organization with the potential to provide services or identify victims of DMST. They have worked specifically with international victims of trafficking through a grant with the Office for Victims of Crime, Department of Health and Human Services. While not having expressly worked with victims of DMST yet, they do recognize the potential they have to expand services to this population. Their services include providing assistance to at-risk, high-risk and special needs children and their families through prevention and early intervention, emergency shelter, residential care and services. Included in what they do is the "Safe Places" initiative to provide nondescript businesses and locations throughout the community (such as convenience stores, fire departments, and other places) where youth who are being threatened or abused can go for help without drawing unnecessary attention. This is a positive development that guarantees youth can access services when they are ready to do so.

The Family Services Center in Galveston also has potential to work with and identify victims of trafficking. They receive referrals from the Juvenile Justice Center, the Children's Center, Inc., and others who could potentially refer a victim of DMST. They provide services including counseling, individual and family therapy, administer the STAR program in Galveston to intervene with runaways, truant, and other at-risk youth and prevent further problems, among others. While not yet serving DMST victims that they know of, they are seeking further training and would like to implement an exploitation prevention program for their clients in the future.

3.7.1 Accessing Placement

Many interviewees and actors in the field of DMST believe that the most important need currently is a safe placement/house for victims of DMST. When asked what that would look like, some interviewees responded that they hoped there would be a way to lock the youth in a shelter to prevent them from running away. Others admitted that this would never work because the youth have to reach a point where they are willing to access services. A few service providers said that a safe house would never work well anyway as the best strategy is placing the youth in some type of family setting that provides support and structure, not a group home. One service provider said that, surprisingly, reunification with the family had been successful in most cases that had been seen so far. The conclusion that can be made is that the needs will be different for each youth, but what is most necessary is a safe place, not locked as that perpetuates the sense of the youth as a criminal not a victim, and a supportive, patient family-type environment that allows for the youth to relapse and return until s/he is ready to accept services.

Conclusions

Almost all participants expressed a desire to rescue and restore victims of DMST in Harris and Galveston County, but almost all were unsure of the resources and programs in place. Those who were aware of resources available recommended a need to improve services, and also better utilize the ones that do exist. Because of the uncertainty in regards to other options, one of the primary methods of working with these youth was to place them in the juvenile justice system in some way. The primary challenges to changing this were correct identification of the victim and knowing how to connect them to services in the best way possible.

There is a sense of the primary actors being unsure of who is supposed to do what, when and how. Most actors believed CPS should be involved, though CPS sees this as challenging if the perpetrator is not in the home as the caregiver and, therefore, believes this should be the responsibility of law enforcement. The juvenile detention centers and many social service agencies believe that these cases should be handled by CPS and law enforcement. A few social service agencies were more than willing to be involved with providing services to victims, and some already are, but would like to be more utilized and did not know how to make that happen. There is a desperate need for further education and training to all organizations and agencies working with youth in Harris and Galveston County so that they understand how this particular crime must have all actors working together and foster a better understanding of what services are already available and what more is needed. The type of trauma and victimization that occurs through DMST leads to a distinct victimology that may include running away, returning to the situation of abuse, refusing help, and not participating in the investigation or prosecution of the case. In order to address these challenges, the community must act together to identify and engage with the youth at any and all stages possible.

3.7.2 Best Practices

The dedication of many individuals and agencies within Harris and Galveston County is a very positive practice that has led to a great deal of training and awareness within these counties. It may not be complete, but with the work of such passionate individuals, it is sure to continue. From law enforcement to judges to social service providers, they all are concerned that the needs of the victim are addressed and a better system for restorative care be created in these counties.

The work to establish a GIRLS court will be one of the most promising practices in either county, which can offer a supportive continuum of care for girls identified as victims of DMST. They are projected to be able to serve about ten girls a year, which while a small number, means these girls will be given a genuine and long term commitment to their recovery. This coupled with the work of the YMCA International to provide comprehensive case management shows a real dedication to serving this population in a way that provides for rehabilitation and restoration. Galveston County has a longer way to go as they are just beginning to work on the issue, including the basic element and first step of raising community awareness, but the fact that they are truly studying and exploring the topic is a great first step. The presence of the Safe Places initiative, though, is a very positive practice that Houston has not yet developed. This method of providing youth a non-threatening place to seek help is a perfect way to begin to engage with potential victims, but only if youth are aware of the existence of these locations and the staff is trained on how to appropriately respond until help arrives.

3.7.3 Gaps

Currently, there is an almost exclusive focus on victims of DMST as being girls so most services are dedicated to girls only. Boys have been excluded and continue to be so. This is a great detriment to the community as boys can be and have been victims, but are continually left out of the discussion. The dynamics of trafficking with boys is different and deserves just as much study, education and awareness. If not, the trauma is just as severe. Interviewees suggested that boys were mainly engaged in survival sex and seemed more willing to share about their trauma, which means they are being seen, but there are no services dedicated to their needs. Montrose Counseling Center is well positioned to serve this population, and is already doing so in some cases, but further education on domestic minor trafficking and what that looks like is needed.

Additionally, while there are services available for DMST victims in both counties, no one was very aware of them. A few knew the YMCA International provides case management for all victims of trafficking, but others were not. Even if they were aware of the YMCA International, there was still an assumption that there were no protective services available and a secured safe house was what is most necessary to address this problem. A solid education program to let actors in this field know of what resources do exist, such as intervention programs including Community Youth Services, would be a great investment for ensuring victims receive the best care possible.

Galveston County is most in need of a broad community awareness campaign including training of frontline professionals. The first step is an educated community who can identify victims and is concerned for making sure services are available to this population.

Overall Conclusions

In Harris and Galveston County, domestic minor sex trafficking victims are not going unseen, just often mislabeled or misidentified. The first responders who commonly come into contact with them often are not trained on the specifics of DMST and how to respond to the victim appropriately. The ability to gather data and accurately assess the needs of this population is, therefore, not available. The additional challenge of limited, and shrinking, funding and other resources is further complicating the communities' abilities to respond. Most disconcerting is that first responders all believed that 15-17 years old was the average age of the individuals they were serving or finding, but when asked individually and anonymously, many youth admitted to being engaged in commercial sex at ages 10-12. These children are even less likely to be seen.

There have been many new developments just within the last year in the fight against trafficking in Texas of which the effects will take time to measure and, therefore, could not be accounted for in this report. For example, the ability to pick up a youth as a CINS rather than a delinquent is extremely new and already causing controversy. Some experts believe this is a great development as it would get the youth off the street without arresting him/her. Others, though, believe that it is still criminalizing the child, at least in the child's mind, because they are entering the juvenile justice system even as a CINS. They can then only be held for about 24 hours and have nowhere to go afterwards so it is not really solving the problem. It will take time to see which side of this debate is correct, as well as the effects of the other new laws, such as increased penalties for traffickers and johns.

Newly mandated training from HB 4009 (Appendix A) will help to correct some of these challenges as long as the people who are affected by this mandate are aware of the new requirements. The existence of multiple task forces and a local coalition to fight trafficking are all positive developments that could address many of these challenges.

A specialized, trained and available point person for trafficking cases does exist in Harris County through the law enforcement task force, though this is not the case in Galveston. This has allowed for a better handling and distribution of cases which is good, though communication and collaboration between task force members remain a challenge. Many individuals who are directly serving this population were unwilling or unable to participate in the confidential, and potentially anonymous, survey for this assessment and even more agencies were unwilling to share "scrubbed" information. Without a willingness to work with other organizations, especially trusted agencies, this population will continue to receive disjointed and incomplete services. Nonprofits were also a little frustrated being treated as "second tier" to law enforcement's need to investigate and prosecute the case which can traumatize the victim further as they are treated as an element to a case rather than an individual needing treatment. While cases in Houston are much more victim-centered than they were previously as evident through the use of forensic interviewing techniques and the presence of social service agencies in task forces with law enforcement, there is much more that can be done such as engaging social service providers earlier in the process. Especially within the juvenile detention centers, there are few efforts made to engage with these youth who are labeled as uncooperative and unwilling victims. Better awareness of resources available to facilitate this process and better cooperation and communication could alleviate many of these frustrations.

The Harris County judiciary is becoming much more sensitive to the needs of DMST victims as evidenced through the effort to establish a human trafficking court. However, awareness and training remain extremely low in Galveston. While there may be few services dedicated exclusively to DMST victims, there are a multitude of services available to youth in general, many that have an informed approach to working with DMST victims and desire further education and training on engaging this population to improve their services even more. With the appropriate training, these services can be delivered in an informed approach that when combined with other services can provide for all the needs of the multidimensional trauma of a DMST victim without necessitating completely re-developing service provision to victims in Harris County.

The most common practice that is used when encountering a victim of sex trafficking in Harris County is to arrest them for something, most likely a downgraded offense, so that they can be removed from their pimp and have access to some sort of services. While this has been effective in some cases, it can also serve to further criminalize the child who begins to see him/herself as a criminal as well as cut off his/her ability to access certain services in the future that are predicated on a clean criminal history. The validity of this approach is recognized as there are no secure housing options for DMST victims in the area, and victims cannot be locked up anyway due to state law, but most rescued victims admit that arrest can also close the door to their willingness to participate in the investigation as they are now labeled as the criminal, not a victim, and law enforcement becomes an enemy, not an agent of assistance or hope.

Currently, perpetrators of Internet crimes against children and child pornography are pursued by law enforcement on a variety of levels in Harris and Galveston County. These cases receive a great deal of attention and in many instances, even more severe sentences than the sexual exploitation of children. The same dedication to the prostituted and commercially sexually exploited youth in these counties is encouraged.

A further challenge is that while awareness has been increasing about DMST victims, there is a continued misconception that victims are exclusively female. This is evident through the use of “she” and “girls” when talking about victims with most service providers. While the current evidence shows that the most common victim is a girl, each agency knew of at least a few boys who had been victimized. The challenge is that their victimization is different and people’s understanding of it is even less than for girls. However, even just looking at the prostitution arrests in Houston shows that males are being victimized. In 2010, 601 arrests were made of males for prostitution. Within studies of adult prostitutes, numbers suggest that at least 60% of adults in the sex trade entered under the age of 18⁴⁸ so at least 360 of those arrests could have been sex trafficking victims at a younger age. There was only one arrest of a male under 17 for prostitution that year, but even just that one is too many and that individual should have been categorized as a victim, not a criminal. There are victims of sex trafficking who are male and excluding them from services and developments, such as the human trafficking court, allows their victimization to continue. The misplaced perception that they should be able to defend themselves or that they are more likely to be engaged in “survival sex” and not have a pimp and, therefore, do not need as much protection is only permitting further trauma and victimization of

⁴⁸ Raphael, Jody and Deborah L. Shapiro. *Sisters Speak Out: The Lives and Needs of Prostituted Women in Chicago. A Research Study*. Center for Impact Research, August 2002.

young men and boys. Even survival sex is sexual exploitation and should not be allowed to continue.

In general, law enforcement and separate studies of the industry suggest that where prostitution exists, prostitution of children will happen and in general the number of youth prostituted will be about 25% of the total number of prostitutes in any location.⁴⁹ The original study that found this has often been questioned, but law enforcement, particularly those involved with the HILTF, has seen this phenomenon first-hand when conducting sting operations, even citing a situation where they arrested sixteen prostitutes and exactly four were juveniles. Based on that fact, it can be inferred that if there were 1828 arrests for prostitution in Harris County in 2010 (see Appendix B), there could have been at least 457 youth victims of sex trafficking through prostitution in that same year. This is of course going to be a low number as not all individuals engaged in prostitution were identified and/or arrested, but even one is too many and there is obviously more than one. This also does not account for those not engaged in prostitution but in other types of commercial sex activities. Even these low numbers indicate that there is a problem in the GHMA that needs to be addressed on a scale much larger than is currently in effect.

One of the greatest assets identified in Harris County was the sense of bipartisan support that this effort has. While there are many hurdles to overcome, the fact that the many different agencies and individuals involved are able to work so well together, is a successful first step. However, there is a tendency to support legislation and then not fund it, which signifies the commitment to the effort is not complete. Much like many of the other elements in the fight against trafficking, the GHMA has taken immense steps in the right direction, but still has a long way to go.

⁴⁹ General Accounting Office. 1982. Cited in the report: Davidson, H.A. "Sexual Exploitation of Children – An Overview of its Scope, Impact and Legal Ramifications." *Prosecutor*. Vol. 16, Issue 5. Summer 1982, pp. 6-11. <http://www.ncjrs.gov/App/Publications/abstract.aspx?ID=86631>

Recommendations

These recommendations were formulated by both suggestions from interviewees as well as the perceptions obtained by the author through the interviews and gathering of data required for the report.

Further Research and Training

Training is most desperately needed in Galveston County where there is little to no training currently happening, but it is also still a necessity in Harris County where many individuals interviewed were aware of the problem but did not have an in-depth understanding of the issue and the identification of victims.

1. DMST is a multidimensional issue facing both Harris and Galveston County, though in different ways for each location. Due to their different geography, socioeconomic, ethnic and other demographic issues, each location faces its own challenges. However, the victimology of a DMST survivor remains the same: a need to be identified by others as they do not self-identify and a need to be connected to rehabilitative and restorative services. The dynamics of DMST particular to the area must be further researched and understood (e.g., is the area a recruiting ground from which victims are taken (Galveston) or a destination point to where victims are brought (Harris)) and that information used to create proactive prevention strategies as well as reactive identification and service provision strategies.
2. Training on the specifics of DMST is vital for all professionals who interact with potential DMST victims. This includes law enforcement, attorneys, school educators, social service providers, juvenile detention officers, probation officers, medical personnel, as well as all other agencies working with youth. Such training should be tailored to the agency and focus on that organization's ability to identify and interact with a victim. While training is currently mandated for certain peace officers, it should also be mandated for educators and other county level employees such as staff with DFPS.

Prosecution of Pimps/Traffickers

The prosecution of pimps and traffickers is challenging when there is not a cooperative witness, but it is imperative to show a commitment to combating this crime through the prosecution of the true criminal. Prosecution with strict sentences sends a clear message that the GHMA does not permit the victimization of its children in the commercial sex industry and can help the victim begin to recover.

3. There needs to be a prioritization and commitment to investigating and prosecuting pimps and traffickers. This will require a dedication of time and resources from law enforcement as it takes a significant investment of time to work with these victims and to prosecute this type of case. However, strong sentences can serve to deter this crime and if a part of that sentence is asset forfeiture (which is an option for trafficking convictions in Texas), those funds can aid in the victim's recovery and provide additional resources for future cases. There has been some movement in this direction in Houston, but Galveston has not investigated or prosecuted its first case. Across the entire state of Texas, though,

there were only 10 individuals serving time in prison in FY 2010 for compelling prostitution of a minor under the age of 17.⁵⁰ This is obviously not yet the priority it needs to be.

Prosecution of Johns and Facilitators

While prosecutions of pimps and traffickers have become slightly more common recently, there is a complete lack of cases against johns or facilitators. This is particularly disturbing when talking with those who provide services to boys and the gay youth community who report that the youth within this population are faced with extremely predatory johns more so than pimps/traffickers. Prosecution of these individuals can help curb the demand for DMST victims and prevent the victimization of youth, both male and female. This can also help achieve justice for the youth. Prosecuting facilitators will show a no tolerance stance against trafficking and lead to real solutions, rather than lip service to the elimination of this crime.

4. There must be investigations and prosecutions of johns and facilitators in both Harris and Galveston County. This should include businesses that employ minors for adult entertainment, the owners of businesses that allow the crime to take place on their property, such as hotels, as well as the clients and consumers. This will require recognition that addressing the demand is as important as addressing the supply side of this crime in addition to the funds and resources necessary to pursue these cases. This is a challenge in the current financial climate, but is necessary. The allowance of the recent legislative session for the establishment of “johns’ schools” in Texas counties is one way to address this. Successful “johns’ schools” have been able to fund themselves as well as provide funding to law enforcement agencies to cover the costs of investigating and arresting the clients. They can also be a potential resource for providing services for those recovering from the crime. Further investigation into a successful john school for Harris and/or Galveston County is essential as it can cover its own costs as well as inspire law enforcement to investigate these individuals by providing the additional funds to make it happen.

Identification and Tracking of Victims and Traffickers

The proper identification of victims and traffickers is important, but so is the tracking of these individuals in a way that is easily shared between agencies so that all have a better understanding of the scope of the problem in their respective counties.

5. The youth exploited through prostitution, pornography or other commercial sex acts, whether male or female, must be viewed as a victim of a violent crime with access to services as they are entitled to under both federal and Texas state law. As one of the primary agencies that would identify a victim, law enforcement agencies should have specialized units or individuals tasked with working on these cases. This has been accomplished in some agencies in Harris County, though not all (HISD police department, for example, was not yet aware of the need for training and while they work

⁵⁰ The Texas Human Trafficking Prevention Task Force Report to the Texas Legislature. January 2011.

directly with youth in the school system, did not yet understand the role they could play in identifying a victim), and not at all in Galveston County.

6. One of the most important steps will be to find a common terminology for all agencies so that it is easier to share information and track data collection. Adding DMST to the list of crimes tracked is also important, just like with sexual abuse. This requires the addition of screening questions for DMST to many intake procedures, such as CPS, and to the types of abuse that is screened for by social service providers. The issue must be a part of formalized intake procedures including questions that can reveal potential sexual exploitation and formalized responses by the interviewee so that all agencies are aware of the need to track this particular crime.
7. An information sharing method must be developed between the agencies that work in Harris and/or Galveston County. The inability to share information, even scrubbed data, is very frustrating as no one can gather a clear picture of the level of this crime in either area which means appropriate services cannot be developed. Through the use of an informed consent form with parents (as suggested by one of the interviewees) or another method, there should be a way to better share information, without violating an individual agency's confidentiality policies, so that everyone knows what services a youth may be receiving, what more is needed, and understand the scope of the issue.

Public Awareness

Public awareness is one of the most vital steps to addressing DMST as community members can help in the identification of victims and in the effort to make it a priority with legislative members. Awareness with youth is also an essential part of this as it can aid in the prevention of trafficking. This is most vital in Galveston where no public awareness campaigns have yet to take place on a broad scale. While somewhat addressed in Harris County, much more can be done.

8. One of the most important elements of public awareness is prevention training for youth. Proactively engaging youth to avoid victimization will always be more effective, both economically and emotionally, than reactive identification and rehabilitation efforts. This training needs to be developed and offered to both girls and boys as potential victims and perpetrators. Harris County does have some of these programs available through non-profit agencies, but Galveston has none and there can always be more. These can be offered through churches, youth groups, schools, any agency that serves youth, particularly those most at risk such as runaway and homeless youth. There are programs to prevent dropping out of school and drug use, but DMST should be seen as equally important. While it is a controversial topic and involves the need to talk about the commercial sex industry, it should be understood that the youth are going to be exposed to this anyway and education in an informed and tactful way is crucial to avoid victimization and predation. Many interviewees also expressed a concern that this appears to be a generational crime where the current youth involved is the child of a previous victim as well. There is an additional opportunity to engage with these youth who are children of victims of DMST to prevent a second generation of victimization.

9. Public awareness campaigns should be continued and expanded in Harris County and developed for Galveston County. These campaigns should cover what trafficking is and how it affects our communities, how to identify victims and how to report tips. Outreach should be offered to companies who can identify the issue within their businesses, community groups and the city at large. This should include the hotline number, and available resources to begin to combat the misperception that there are no resources in the area for potential victims.

Include boys in the discussion

Girls have long been recognized as the most common victim of DMST, but boys can also become victims as well as perpetrators. Not including them is a disservice to the youth and the community.

10. Boys should be included in any discussion about DMST as there are victims who are male and while their victimization and the effects of it may be different than for girls, it is still a necessary and important element to begin to understand.
11. The most common client and trafficker is a male. Not including them in the conversation starting at a young age about not becoming a john or a pimp can allow victimization to continue and a new crop of perpetrators to develop.

Appendix A

H.B. No. 4009

AN ACT

relating to the provision of services to certain persons involved in, and the prosecution, punishment, and prevention of, offenses involving trafficking of persons or certain forced or sex-based labor or services, and to law enforcement training related to offenses involving that trafficking.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

...

SECTION 5. Subchapter F, Chapter 1701, Occupations Code, is amended by adding Section 1701.258 to read as follows:

Sec. 1701.258. EDUCATION AND TRAINING PROGRAMS ON TRAFFICKING OF PERSONS. (a) The commission by rule shall require an officer first licensed by the commission on or after January 1, 2011, to complete within a reasonable time after obtaining the license a one-time basic education and training program on the trafficking of persons. The program must:

(1) consist of at least four hours of training; and

(2) include a review of the substance of Sections 20A.02 and 43.05, Penal Code.

(b) The commission shall make available to each officer a voluntary advanced education, instruction, and training program on the trafficking of persons and compelling prostitution prohibited under Sections 20A.02 and 43.05, Penal Code.

(c) Not later than January 1, 2011, the commission shall begin offering the basic and advanced programs established under this section. This subsection expires September 1, 2011.

SECTION 6. Section 1701.402, Occupations Code, is amended by adding Subsection (h) to read as follows:

(h) As a requirement for an intermediate or advanced proficiency certificate issued by the commission on or after January 1, 2011, an officer must complete the basic education and training program on the trafficking of persons described by Section 1701.258(a).

...

Appendix B

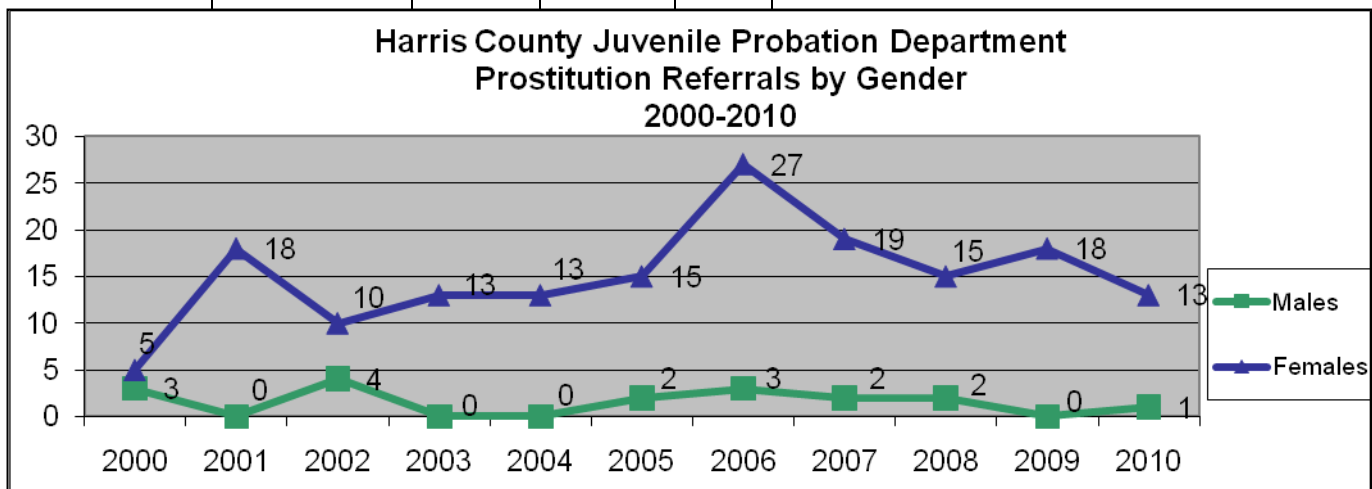
Youth at Risk or Involved in DMST in Harris and Galveston County

Primary risk factors/red flags for DMST identified through this assessment and included in the data collected below are: past arrests for prostitution, past abuse, runaway or homeless status, and poverty.

A. Harris County Prostitution Arrests by Year

Minors arrested for prostitution in Harris County broken down by gender and year since the passage of the TVPA in 2000.

Year	Males	Females	Total
2000	3	5	8
2001	0	18	18
2002	4	10	14
2003	0	13	13
2004	0	13	13
2005	2	15	17
2006	3	27	30
2007	2	19	21
2008	2	15	17
2009	0	18	18
2010	1	13	14
Jan-Apr 2011	0	3	3
TOTAL	17	169	186

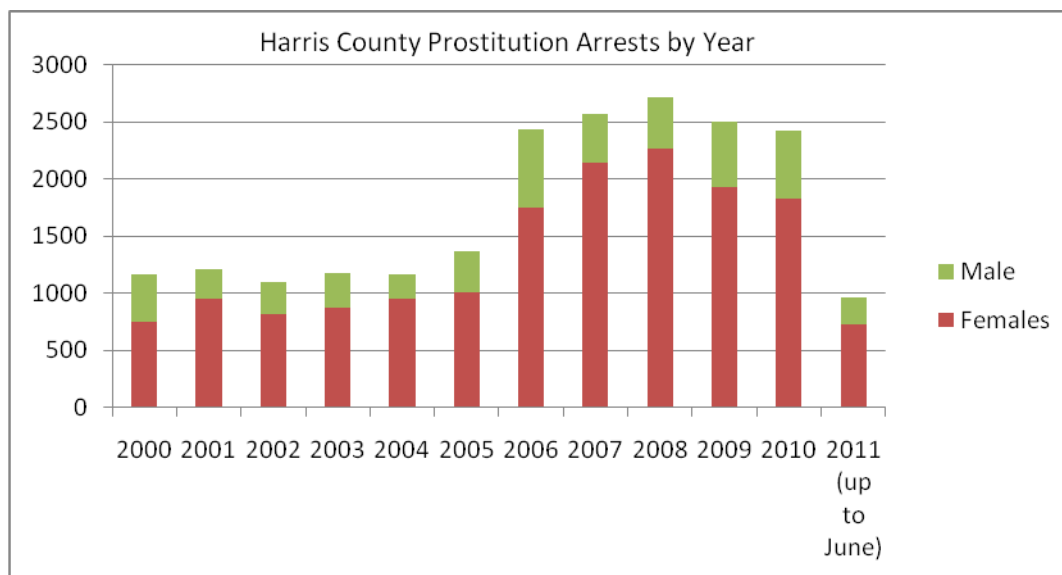


B. Harris County Adult Prostitution Arrests

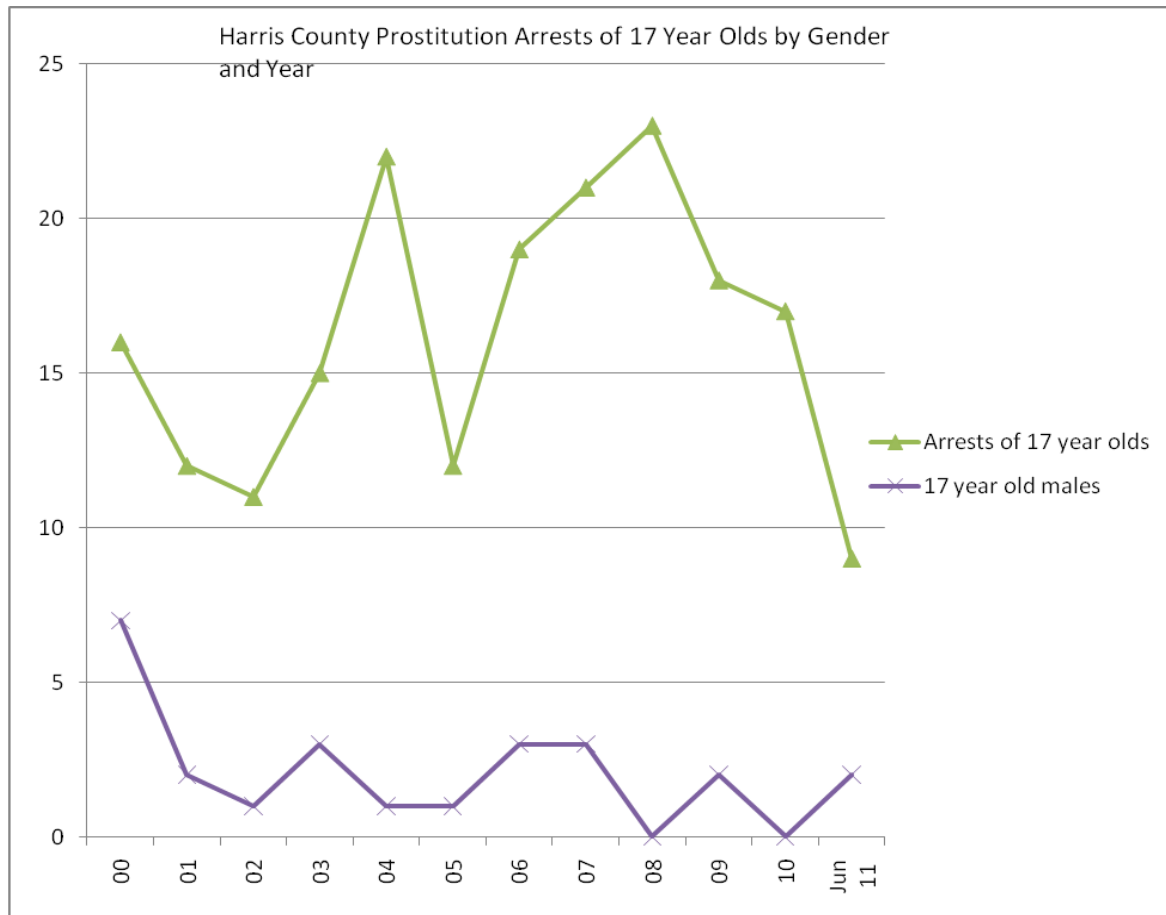
1. Adult Prostitution Arrests in Harris County since 2000, broken down by gender and year

Year	Females	Males	Arrests of 17 year olds	17 year old males arrested	Arrests for compelling/promoting prostitution (pimping)	Total Arrests for Prostitution Related Offenses
2000	746	415	16	7	16	1177
2001	949	261	12	2	14	1224
2002	818	275	11	1	10	1103
2003	876	295	15	3	4	1175
2004	949	212	22	1	22	1183
2005	1003	361	12	1	72	1436
2006	1746	687	19	3	59	2492
2007	2145	423	21	3	76	2644
2008	2264	450	23	0	74	2788
2009	1934	569	18	2	121	2628
2010	1828	601	17	0	159	2588
2011 (June)	723	242	9	2	47	1012

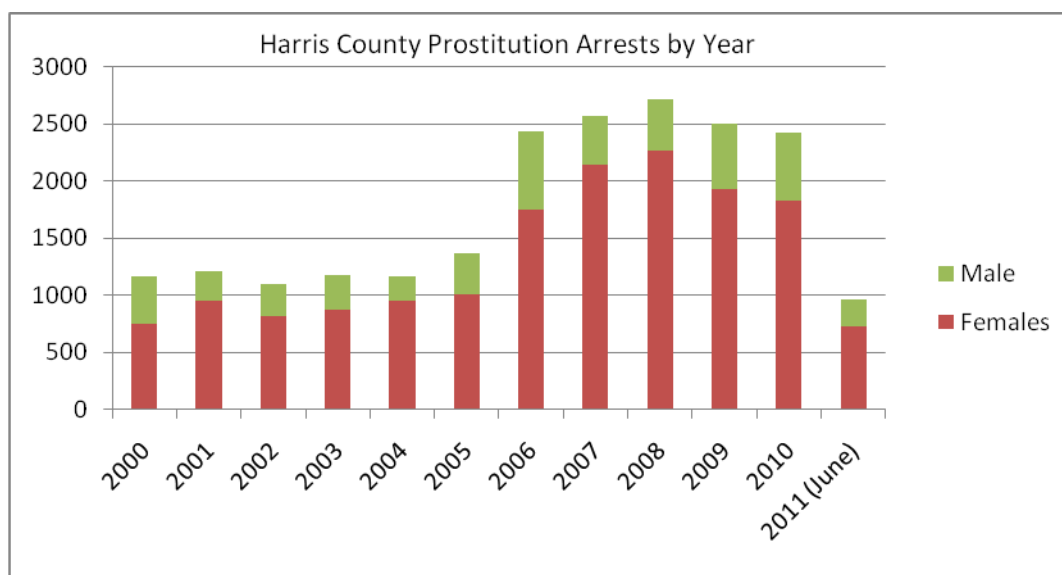
2. Prostitution Arrests by Year and Gender



3. Prostitution Arrests of 17 Year Olds by Year and Gender



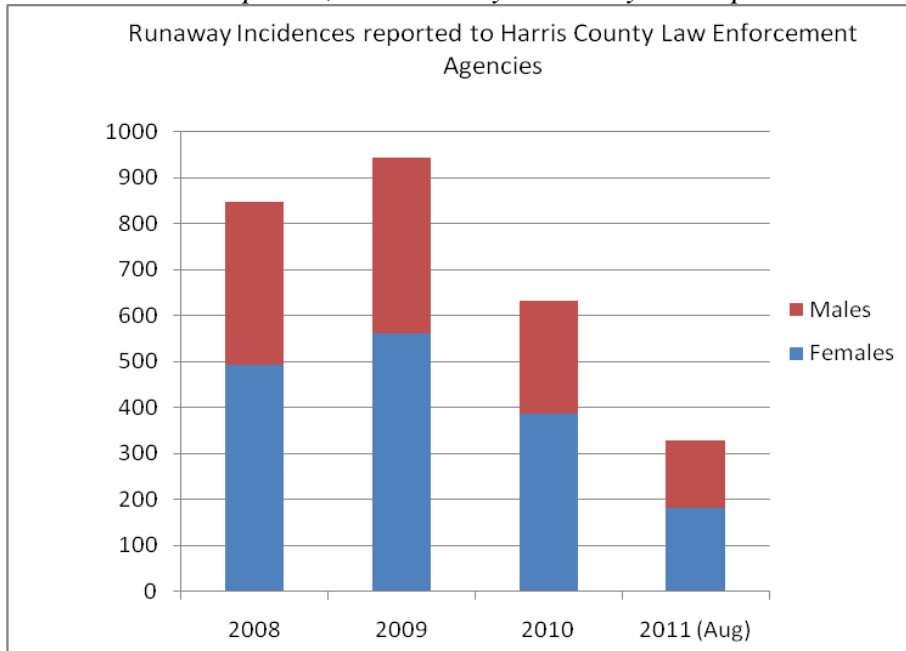
4. Prostitution Arrests by Year and Type of Crime



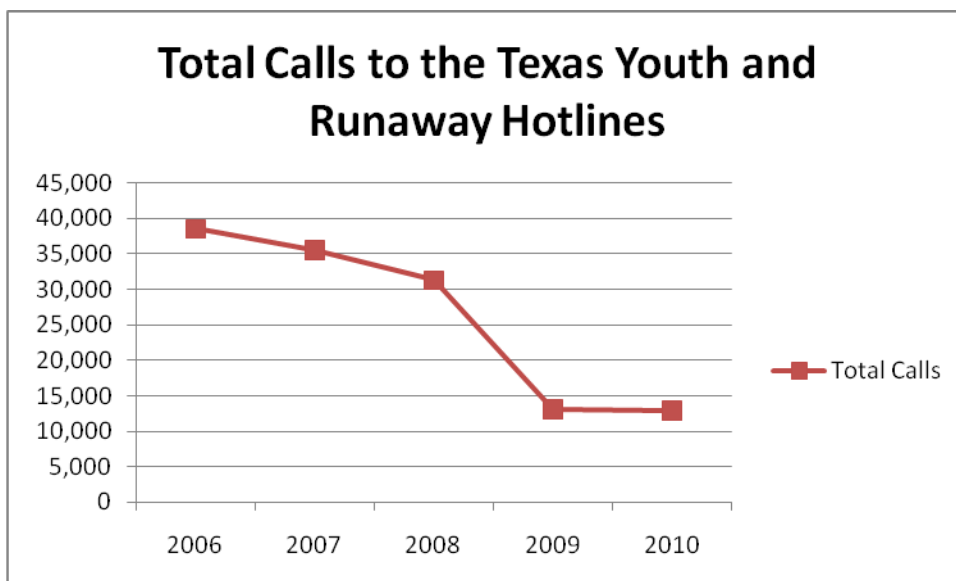
C. Runaway Status

Runaway status is considered one of the greatest risk factors to exploitation. Chronic running away is considered one of the largest red flags and is also less likely to be reported. These data only include reported cases.

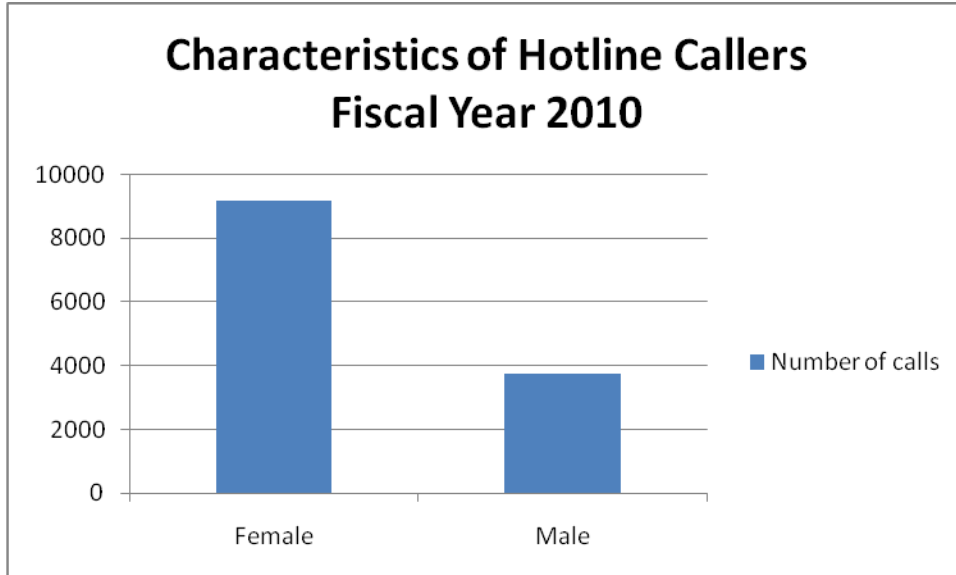
1. Incidences of running away reported to Harris County law enforcement agencies. *Please note these are all incidences reported, so there may be some youth reported more than once.*



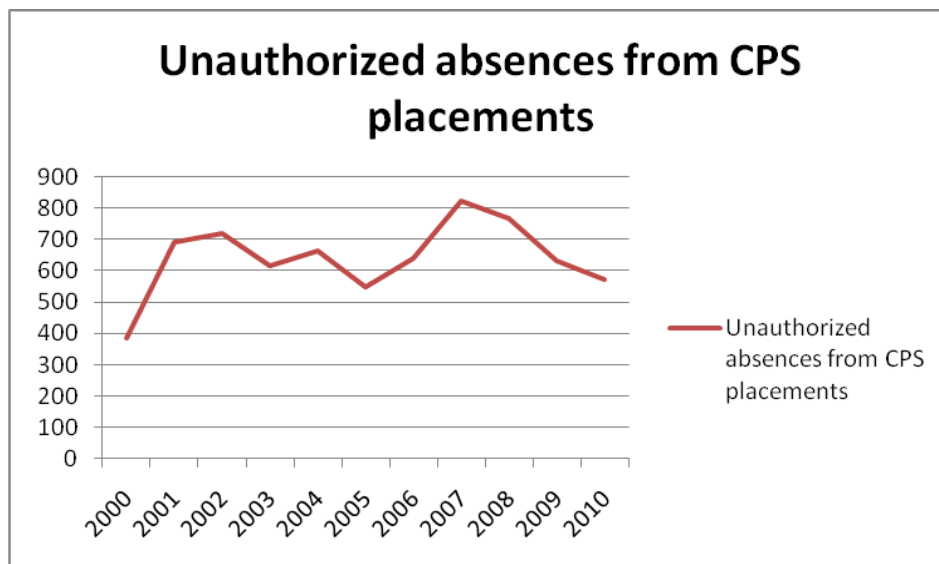
2. Texas Runaways reported to the Texas Youth and Runaway Hotlines. (Fiscal Year 2009 call data from the Youth hotline 1-800-98YOUTH is incomplete and missing due to a reporting malfunction (number was omitted from vendor's online reporting system)).



2. The majority of callers were female as shown below.

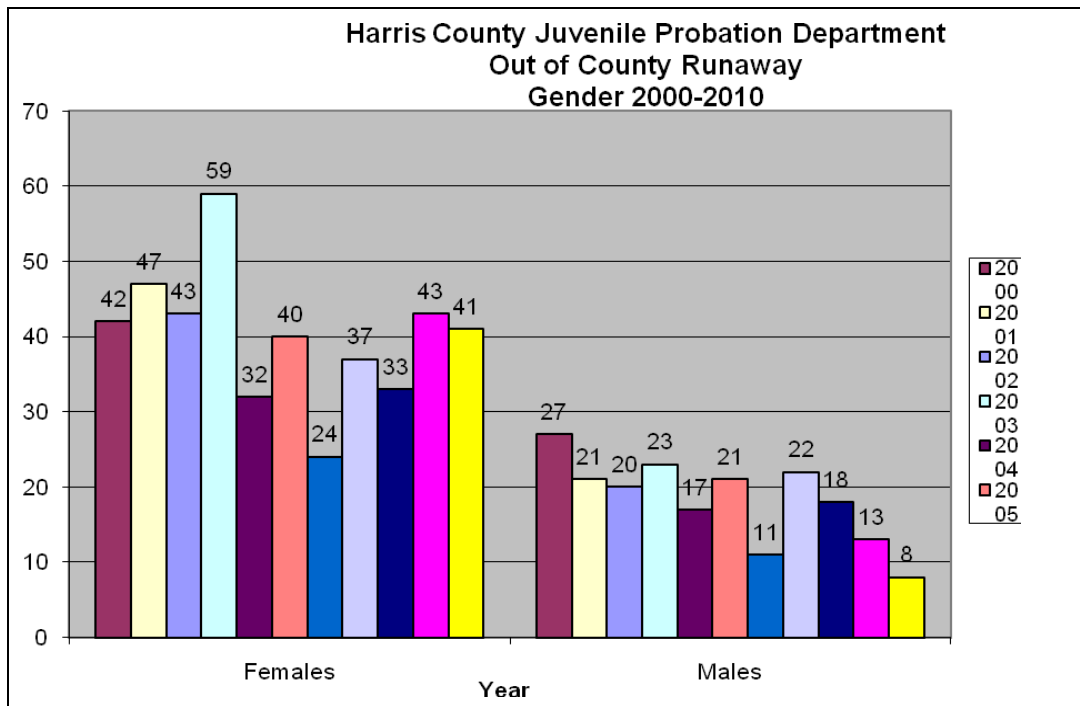
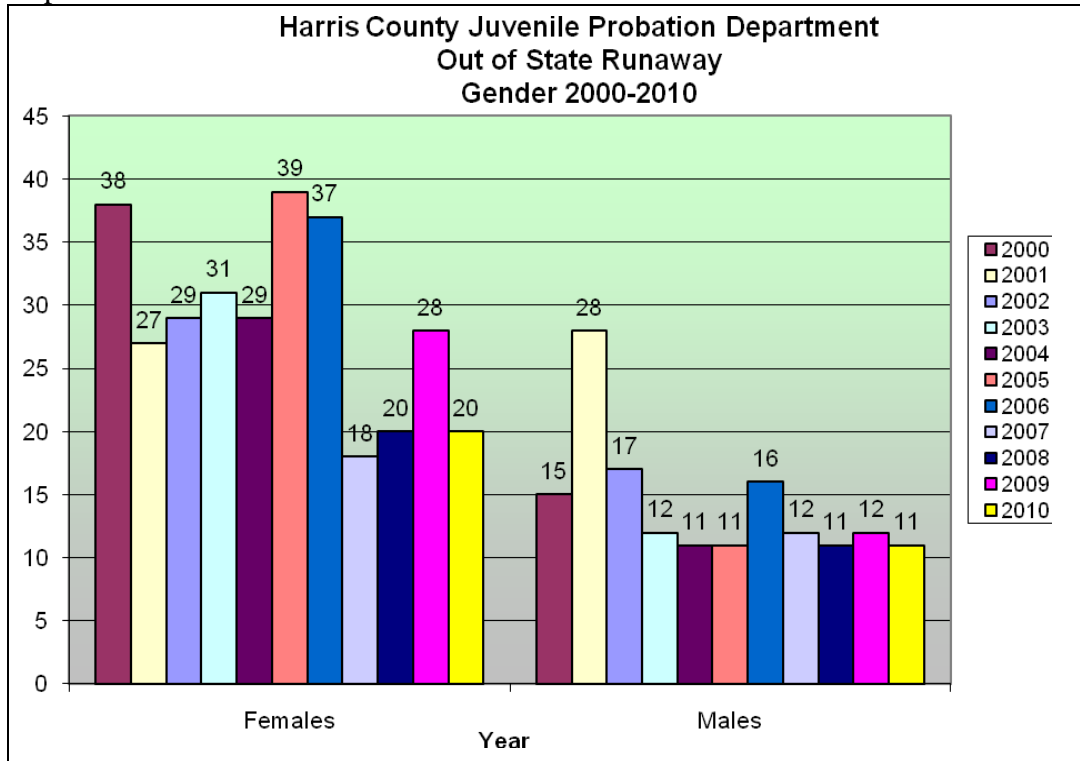


3. Running away can also be termed an “unauthorized placement” or “unauthorized absence” within the CPS system. The numbers of unauthorized placements from the Harris County CPS Databooks from 2000-2010.



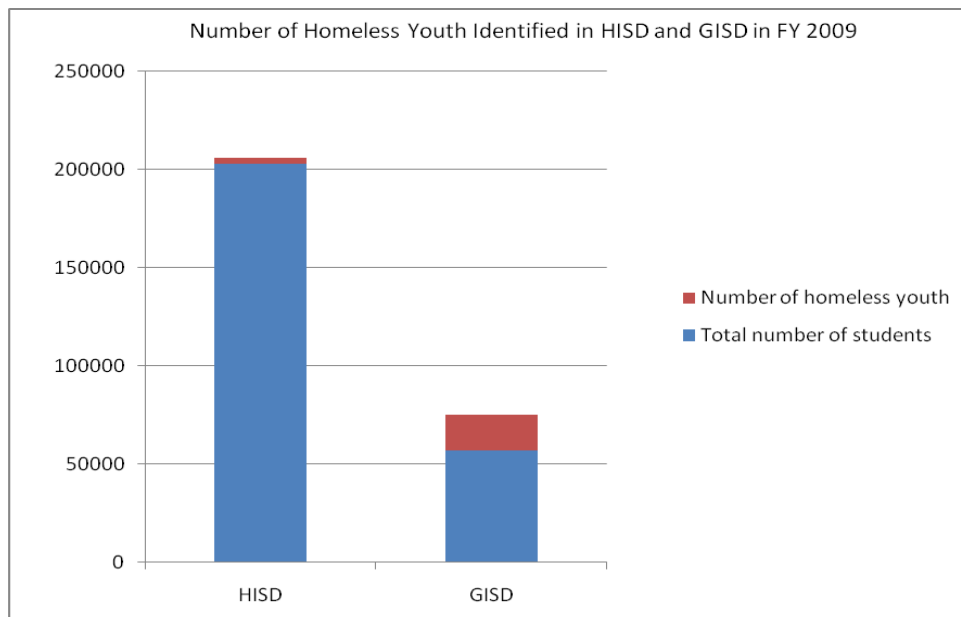
Being a runaway from out of state or out of county is considered an additional risk factor/red flag of trafficking.

4. Out of state and out of county runaways referred to the Harris County Juvenile Probation Department.



D. Homelessness is the third risk factor that makes youth vulnerable to trafficking.

1. Homeless youth in Houston Independent School District and Galveston Independent School District out of the total number of students served.

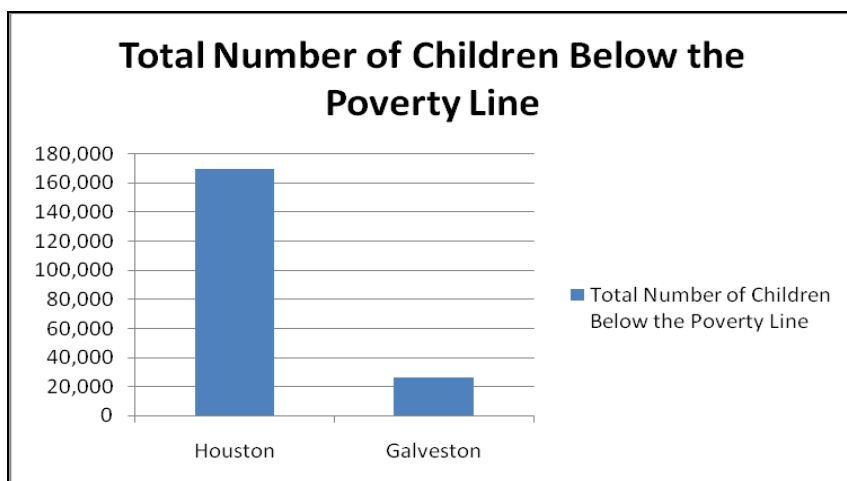


HISD: 3300 out of 202773 (Note: number of homeless youth served by Houston area social service providers in FY 2010 was 5404, up from 2981 in FY 2009).

GISD: 18240 out of 57000

E. The next risk factor suggested as a vulnerability to DMST is socioeconomic status, or poverty. Below is the information on children considered below the poverty line according to the 2009 census data.

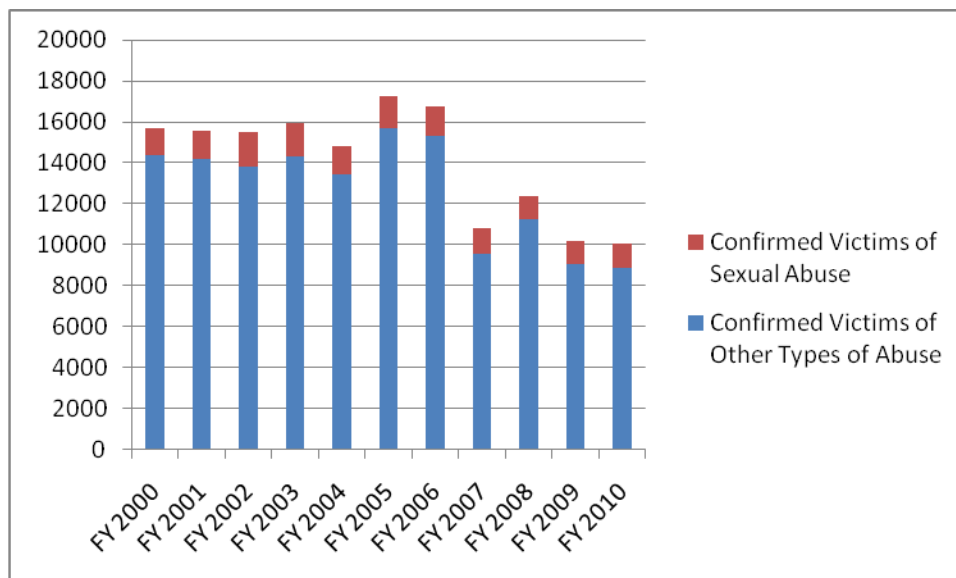
1. Houston: 31.5% of children are below the poverty line or 169,233
2. Galveston: 34.6% of children are below the poverty line or 26,306



F. The final largest risk factor for DMST is a history of abuse, whether sexual or physical, though most research suggests sexual abuse as being the greatest commonality in the background of many DMST victims. Below are the statistics from the respective city on the number of confirmed cases of abuse in the years when data is available.

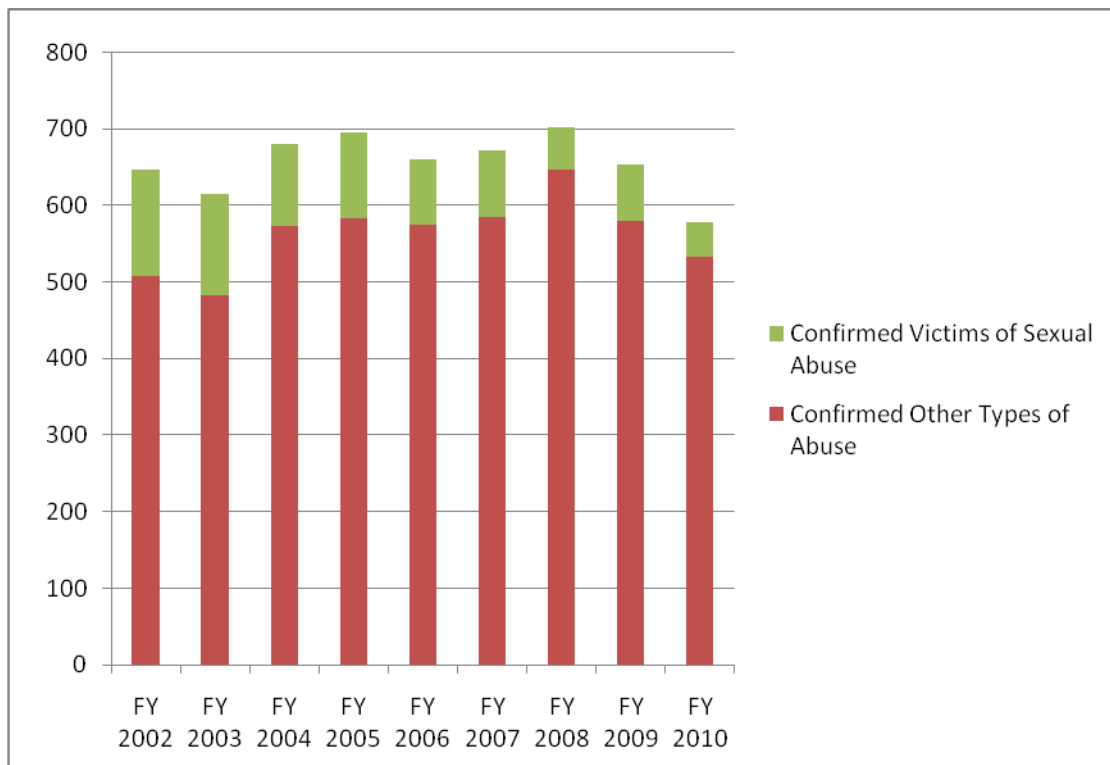
1. Confirmed cases of abuse in Harris County

	Confirmed Victims of Other Types of Abuse	Confirmed Victims of Sexual Abuse
FY 2000	14405	1299
FY 2001	14182	1412
FY 2002	13790	1716
FY 2003	14299	1628
FY 2004	13439	1386
FY 2005	15664	1572
FY 2006	15296	1445
FY 2007	9540	1285
FY 2008	11215	1162
FY 2009	9027	1158
FY 2010	8875	1160

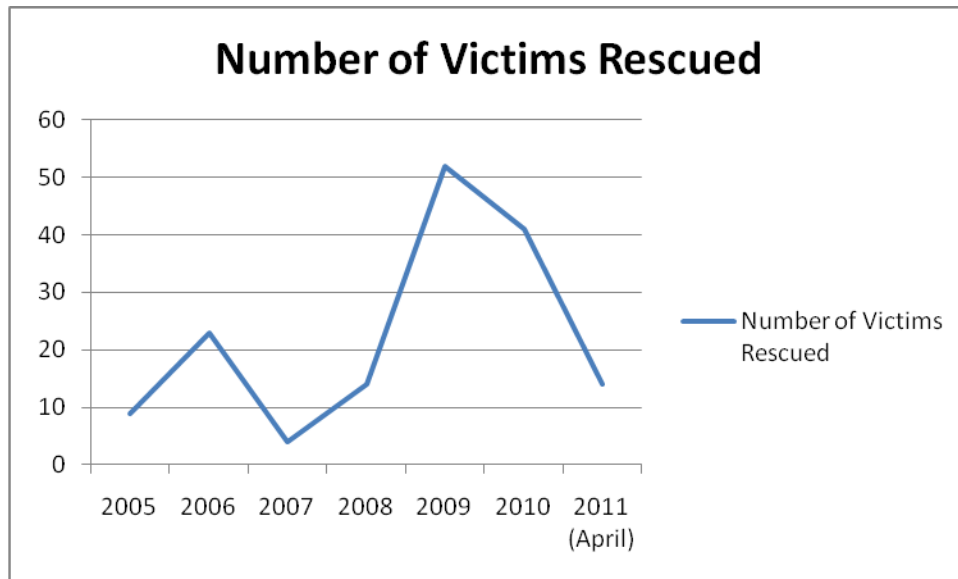


2. Confirmed cases of abuse in Galveston County

	Confirmed Other Types of Abuse	Confirmed Victims of Sexual Abuse
FY 2002	508	139
FY 2003	483	132
FY 2004	573	107
FY 2005	583	113
FY 2006	574	86
FY 2007	585	87
FY 2008	647	55
FY 2009	580	73
FY 2010	533	45



G. Victims Rescued from DMST by the FBI Innocence Lost Task Force since its inception

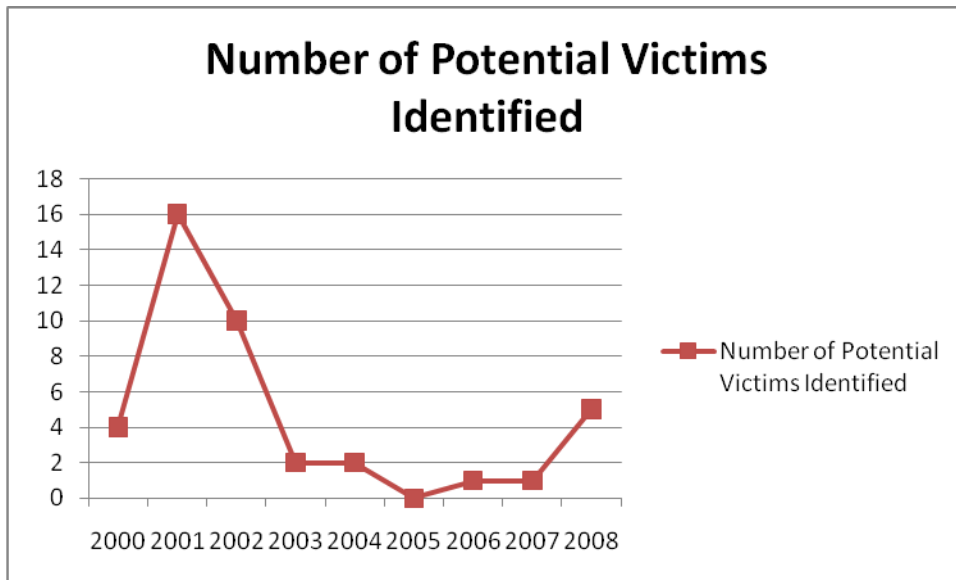


Calendar Year	Number of Victims Rescued
2005	9
2006	23
2007	4
2008	14
2009	52
2010	41
2011 (April)	14

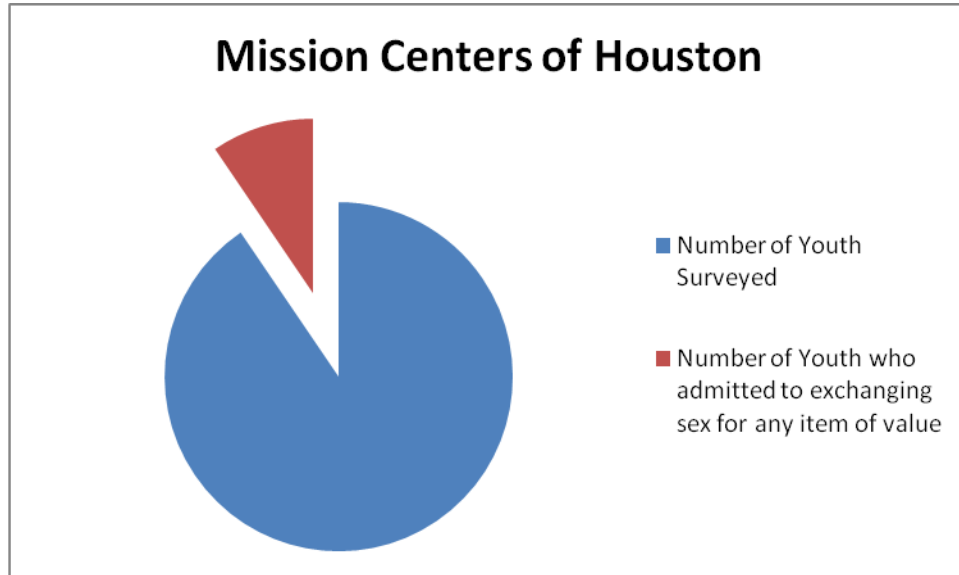
H. Numbers of victims that admit sexual exploitation or were recognized by social service providers.

As part of the assessment, anonymous surveys were distributed to youth through local youth social service providers as well as data collected from social service providers. The data below shows the number of youth surveyed and the number who admitted to exchanging sex for food, money, shelter, drugs, or other items of value and also the number found through a survey of local social service agencies versus the number estimated by the staff in interviews.

1. The Children's Assessment Center was interviewed and data collected from their records. The staff estimated that they may see 1-4 victims of trafficking a year. Below are the actual recorded numbers of victims that admitted to an activity that would categorize as commercial sexual exploitation during an assessment with CAC staff.



2. The Mission Centers of Houston allowed the youth in their programs to participate in an anonymous survey about potential involvement in commercial sexual exploitation. The MCH staff who were interviewed reported that there were no children involved in their services who would qualify for CSEC based on their personal observations. Below are the results of the surveys.



38 children were surveyed out of which 4 admitted to an activity that would qualify as CSEC. The average age of those who said yes was 11.5 years.

Appendix C

Case Studies of Prosecutions for DMST in Houston

November 2010: A Houston pimp was sentenced to 405 months in prison for sex trafficking of a minor, transportation of a minor with the intent to engage in criminal sexual activity and coercion of an adult to engage in criminal sexual activity.

Barry Larnard Davis, also known as "Sir Lewis," was convicted in March 2010. Prosecutors said Davis lured a 16-year-old girl and a grown woman into a life of prostitution with promises of food, shelter and material possessions. Once the victims were under his influence, he controlled them with physical violence, sexual violence and death threats.

The 16-year-old victim was a high school student in Pasadena when Davis convinced her to prostitute herself, prosecutors said. Her family had reported her missing. She testified that she was photographed nude, and those pictures were used as online ads for prostitution.

According to testimony, Davis drove the teen across state lines and solicited men to have sex with her for money in a New Orleans hotel. The teen said Davis was aware that she was underage at the time, and also that she was pregnant.

The adult victim also testified at the trial, recounting brutal beatings at the hands of Davis, including one incident in which he broke her nose and forced her to prostitute herself minutes later. The adult victim told the jury about the underworld of pimps and prostitutes, known as "the game." She also detailed the "rules" that the prostitutes and pimps adhere to.

Her testimony was confirmed by FBI special agents. They said Davis' behavior showed he was fully engaged in the world of pimps and prostitutes. According to testimony, Davis "branded" both victims with tattoos of his name and initials.

("Houston pimp sentenced to 405 months in prison in child sex trafficking case,"
<http://www.khou.com/news/crime/Houston-pimp-sentenced-to-405-months-in-prison-in-child-sex-trafficking-case-107532198.html>)

The case described below was prosecuted as tax evasion, not pimping, and the individual involved was never convicted of pimping. In the US, individuals are innocent until proven guilty, and, therefore, he is not considered a sex trafficker. However, it is proof of creative ways that an individual allegedly involved in this type of crime can be pursued if there is not enough evidence, victims are not willing to testify or there are other reasons that a case of trafficking cannot be pursued effectively.

Houston, January 2009: Randall Bradley Jones pled guilty before U.S. District Judge Melinda Harmon to one count of tax evasion for failing to inform the IRS about \$665,962 in cash he picked up from what authorities said were his six houses of prostitution.

Prosecutor Charles Escher said in court that Jones and his business, Amazing Promotions Group Inc., collected the cash from the safes at the six houses he called Escape Lounges. Escher said the prostitutes put Jones' cut of their earnings in envelopes and put them in those safes.

The government knew about his ill-gotten income because a Houston police raid on the Escape Lounges in 2004 netted financial spread sheets. Escher said details included records that Jones claimed an income of \$140,000 in 2003 but actually had an income of about \$667,000.

Drew Shebay, Jones' attorney, would not verify that his client ever ran a prostitution ring and said he was not convicted of related activity. But, Shebay said, "He is no longer engaged in the activity that got him in trouble here."

"You should report your ill-gotten gains just like you report any legal income," said IRS spokeswoman Robin Sabin of Houston. She said tax-evasion cases involving illegal gain usually come to the IRS from a criminal investigation done in tandem with another agency or, as in this case, from information from other law enforcement.

Jones was sentenced to 33 months in prison and a \$15,000 fine to the IRS and still faces separate civil liability for what he hasn't paid.

(Flood, Mary. "Alleged Houston pimp faces prison for tax evasion," *Houston Chronicle*, Jan. 30, 2009, <http://www.chron.com/disp/story.mpl/hotstories/6238797.html> and "Accused pimp headed to prison for tax evasion," *Houston Chronicle*, May 15, 2009, <http://www.chron.com/disp/story.mpl/front/6425827.html>).

Press Release from the U.S. Attorney's Office, Houston, August 25, 2009

Five men and one woman were charged in a 16-count indictment with conspiracy and sex trafficking of children and forcing and coercing adults to engage in commercial sex acts, United States Attorney Tim Johnson, Assistant Attorney General of the Department of Justice's Criminal Division Lannie A. Breuer, Texas Attorney General Greg Abbott, Special Agent-in-Charge Richard C. Powers of the FBI's Houston Field Office, and Houston Chief of Police Harold Hurtt announced. This case represents the single largest domestic sex trafficking case in the history of the Southern District of Texas.

Five of the six defendants were arrested late Monday, Aug. 24 and early Tuesday, Aug. 25, 2009, in a coordinated effort between federal and local law enforcement with warrants that were issued following the return of a sealed indictment by a Houston grand jury on Aug. 4, 2009. The indictment charges John Butler, 47, William Hornbeak, 34, Jamine Lake, 27, Andre McDaniels, 39, Kristen Land, 28, all of Houston, and Ronnie Presley, 35, formerly of Houston and currently residing in Tulsa, Okla., with conspiracy to traffic women and children for the purposes of commercialized sex; sex trafficking of children; sex trafficking by force, fraud and coercion; transportation of minors; transportation; and coercion and enticement. Upon conviction, each count of sex trafficking and transportation of minors carries a maximum of life in prison. Each count of transportation carries up to 10 years in prison, while coercion and enticement carries up to 20 years in prison, while conspiracy carries up to five years in prison. All charges carry up to a \$250,000 fine.

According to the unsealed indictment, the defendants operated commercialized sex businesses often disguised as modeling studios, health spas, massage parlors, and bikini bars in Houston, and employed sexually oriented publications and websites to advertise their illicit business. The criminal enterprise transported women and minors to and from the Houston area and had ties to Kansas, Nevada, Arizona, and Florida. Women and minors as young as 16 were enticed and coerced into prostitution and were routinely beaten and threatened. The defendants allegedly collected any proceeds the women and minors received as a result of "dates" rendering them dependent upon the defendants for basic necessities.

The investigation leading to the charges was conducted by the Innocence Lost Task Force of the FBI and the Houston Police Department as part of the Innocence Lost National Initiative. A joint effort of the FBI, the Department of Justice's Child Exploitation and Obscenity Section and the National Center for Missing and Exploited Children, the initiative was founded in June 2003 to address criminal enterprises involved in the domestic sex trafficking of children. At least one minor was rescued during the course of the investigation leading to the indictment. Other minors and several adults have been returned to their families.

An indictment is a formal accusation of criminal conduct, not evidence.

A defendant is presumed innocent unless convicted through due process of law.

(<http://www.fbi.gov/houston/press-releases/2009/ho082509.htm>)

Appendix D

Harris County Youth Curfew Ordinance

Code of Ordinances, Chapter 28, Article 5

Sec. 28-171 – Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Adult means an individual who has attained the age of 18.

Curfew hours means the periods between the hours of 11:00 pm on any Sunday, Monday, Tuesday, Wednesday or Thursday and 6:00 am of the following day, between the hours of 12:00 am (midnight) and 6:00 am on any Saturday or Sunday, or between the hours of 9:00 am and 2:30 pm on a Monday, Tuesday, Wednesday, Thursday, or Friday.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term shall include but not be limited to a fire, natural disaster, vehicular accident, or a serious medical condition of sudden onset.

Guardian means the person who, under a court order, is the guardian of the person of a minor or the public or private agency with whom a minor has been placed by a court.

Minor means any person under 17 years of age.

Parent means the natural mother or father or adoptive mother or father of a minor.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartments, office buildings, transport facilities, restaurants, theaters, game rooms, shops and shopping centers.

(Ord. No. 91-1543, § 2, 10-30-91; Ord. No. 07-563, § 3, 5-9-07; Ord. No. 2010-286, § 2, 4-21-2010)

Sec. 28-172. – Offenses

- (a) It shall be unlawful for any minor to knowingly remain, walk, run, stand, drive, or ride about, in or upon any public place in the city during curfew hours.
 - (b) It shall be unlawful for the parent or guardian having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in section 28-172 (a) of this Code.
 - (c) Violations of this section shall be punishable as provided in section 1-6 of this Code.
- (Ord. No. 91-1543, § 2, 10-30-91; Ord. No. 07-563, § 4, 5-9-07; Ord. No. 2010-286, § 2, 4-21-2010)

Sec. 28-173. – Defenses.

It is a defense to prosecution under section 28-172 of this Code that:

- (1) The minor was accompanied by his or her parent or guardian;
- (2) The minor was accompanied by an adult designation by his or her parent or guardian;
- (3) The minor was on an errand made necessary by an emergency;
- (4) The minor was attending a school, religious, or government-sponsored activity or was traveling to or from a school, religious or government-sponsored activity

- (5) The minor was engaged in lawful employment activity or was going directly to or coming directly from lawful employment;
 - (6) The minor was on the sidewalk directly in front of the place where he or she resides;
 - (7) The minor was on an errand directed by his or her parent or guardian;
 - (8) The minor was in a motor vehicle involved in intrastate or interstate transportation;
 - (9) The minor was engaged in, participating in, or traveling to or coming from any event, function or activity for which the application of section 28-172 of this Code would contravene his or rights protected by the Texas or United States Constitution;
 - (10) The minor was married or had been married or had disabilities of minority removed in accordance with chapter 31 of the Texas Family Code;
 - (11) With respect to the hours between 9:00 am and 2:30 pm, the offense occurred during the school summer vacation break period of the school in which the minor is enrolled or on a holiday observed the closure of classed in the school in which the minor is enrolled or that the minor has graduated from high school or received a high school equivalency certificate;
 - (12) With respect to the hours between 11:00 pm and 12:00 am (midnight), the day following the offense is a holiday observed by the closure of classes in the school in which the minor is enrolled; or
 - (13) The minor was attending or was traveling to or from a recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor.
- (Ord. No. 91-1543, § 2, 10-30-91; Ord. No. 07-563, § 5, 5-9-07; Ord. No. 2010-286, § 2, 4-21-2010)

Sec. 28-174. – Supplemental effect.

The provisions of this article are supplemental and shall be cumulative with all other laws and ordinances applicable in any manner to juveniles.
(Ord. No. 91-1543, § 2, 10-30-91)

Sec. 28-175. – Enforcement.

Notwithstanding the penal effect of this article the chief of police is encouraged to develop alternative enforcement strategies, which may include but need not be limited to the return of minors to their residences or schools, counseling with minors and their parents or guardians, the issuance of warning citations to minors or their parents or guardians, or the referral of instances that appear to also involve the violation of school attendance laws to those officers who are responsible for the enforcement of those laws. The enforcement strategies shall be promulgated in writing to members of the police department so that this article may be enforced in a uniform manner.

Appendix E

PENAL CODE

TITLE 9. OFFENSES AGAINST PUBLIC ORDER AND DECENCY

CHAPTER 43. PUBLIC INDECENCY

SUBCHAPTER A. PROSTITUTION

Sec. 43.01. DEFINITIONS. In this subchapter:

- (1) "Deviate sexual intercourse" means any contact between the genitals of one person and the mouth or anus of another person.
- (2) "Prostitution" means the offense defined in Section 43.02.
- (3) "Sexual contact" means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.
- (4) "Sexual conduct" includes deviate sexual intercourse, sexual contact, and sexual intercourse.
- (5) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 373, ch. 168, Sec. 2, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994

Sec. 43.02. PROSTITUTION.

(a) A person commits an offense if he knowingly:

- (1) offers to engage, agrees to engage, or engages in sexual conduct for a fee; or
- (2) solicits another in a public place to engage with him in sexual conduct for hire.

(b) An offense is established under Subsection (a) (1) whether the actor is to receive or pay a fee. An offense is established under Subsection (a) (2) whether the actor solicits a person to hire him or offers to hire the person solicited.

(c) An offense under this section is a Class B misdemeanor, unless the actor has previously been convicted one or two times of an offense under this section, in which event it is a Class A misdemeanor. If the actor has previously been convicted three or more times of an offense under this section, the offense is a state jail felony.

(d) It is a defense to prosecution under this section that the actor engaged in the conduct that constitutes the offense because the actor was the victim of conduct that constitutes an offense under Section 20A.02.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., p. 757, ch. 286, Sec. 1, eff. May 27, 1977; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 987, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [1002](#), Sec. 8, eff. September 1, 2009.

Sec. 43.03. PROMOTION OF PROSTITUTION.

(a) A person commits an offense if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she knowingly:

(1) receives money or other property pursuant to an agreement to participate in the proceeds of prostitution; or

(2) solicits another to engage in sexual conduct with another person for compensation.

(b) An offense under this section is a Class A misdemeanor.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., p. 758, ch. 287, Sec. 1, eff. May 27, 1977; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 43.04. AGGRAVATED PROMOTION OF PROSTITUTION.

(a) A person commits an offense if he knowingly owns, invests in, finances, controls, supervises, or manages a prostitution enterprise that uses two or more prostitutes.

(b) An offense under this section is a felony of the third degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 43.05. COMPELLING PROSTITUTION.

(a) A person commits an offense if the person knowingly:

(1) causes another by force, threat, or fraud to commit prostitution; or

(2) causes by any means a child younger than 18 years to commit prostitution, regardless of whether the actor knows the age of the child at the time the actor commits the offense.

(b) An offense under this section is a felony of the second degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [1002](#), Sec. 9, eff. September 1, 2009.

Sec. 43.06. ACCOMPLICE WITNESS; TESTIMONY AND IMMUNITY.

(a) A party to an offense under this subchapter may be required to furnish evidence or testify about the offense.

(b) A party to an offense under this subchapter may not be prosecuted for any offense about which he is required to furnish evidence or testify, and the evidence and testimony may not be used against the party in any adjudicatory proceeding except a prosecution for aggravated perjury.

(c) For purposes of this section, "adjudicatory proceeding" means a proceeding before a court or any other agency of government in which the legal rights, powers, duties, or privileges of specified parties are determined.

(d) A conviction under this subchapter may be had upon the uncorroborated testimony of a party to the offense.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

SUBCHAPTER B. OBSCENITY

Sec. 43.21. DEFINITIONS.

(a) In this subchapter:

(1) "Obscene" means material or a performance that:

(A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(B) depicts or describes:

(i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

(ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

(C) taken as a whole, lacks serious literary, artistic, political, and scientific value.

(2) "Material" means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three dimensional obscene device.

(3) "Performance" means a play, motion picture, dance, or other exhibition performed before an audience.

(4) "Patently offensive" means so offensive on its face as to affront current community standards of decency.

(5) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

(6) "Wholesale promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

(7) "Obscene device" means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.

(b) If any of the depictions or descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this section as to other patently offensive sexual conduct included herein.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 372, ch. 163, Sec. 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1974, ch. 778, Sec. 1, eff. Sept. 1, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 43.22. OBSCENE DISPLAY OR DISTRIBUTION.

(a) A person commits an offense if he intentionally or knowingly displays or distributes an obscene photograph, drawing, or similar visual representation or other obscene material and is reckless about whether a person is present who will be offended or alarmed by the display or distribution.

(b) An offense under this section is a Class C misdemeanor.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 43.23. OBSCENITY.

(a) A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.

(b) Except as provided by Subsection (h), an offense under Subsection (a) is a state jail felony.

(c) A person commits an offense if, knowing its content and character, he:

(1) promotes or possesses with intent to promote any obscene material or obscene device;
or

(2) produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

(d) Except as provided by Subsection (h), an offense under Subsection (c) is a Class A misdemeanor.

(e) A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it in the course of his business is presumed to do so with knowledge of its content and character.

(f) A person who possesses six or more obscene devices or identical or similar obscene articles is presumed to possess them with intent to promote the same.

(g) It is an affirmative defense to prosecution under this section that the person who possesses or promotes material or a device proscribed by this section does so for a bona fide medical, psychiatric, judicial, legislative, or law enforcement purpose.

(h) The punishment for an offense under Subsection (a) is increased to the punishment for a felony of the third degree and the punishment for an offense under Subsection (c) is increased to the punishment for a state jail felony if it is shown on the trial of the offense that obscene material that is the subject of the offense visually depicts activities described by Section 43.21(a)
(1) (B) engaged in by:

- (1) a child younger than 18 years of age at the time the image of the child was made;
- (2) an image that to a reasonable person would be virtually indistinguishable from the image of a child younger than 18 years of age; or
- (3) an image created, adapted, or modified to be the image of an identifiable child.

(i) In this section, "identifiable child" means a person, recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature:

- (1) who was younger than 18 years of age at the time the visual depiction was created, adapted, or modified; or
- (2) whose image as a person younger than 18 years of age was used in creating, adapting, or modifying the visual depiction.

- (j) An attorney representing the state who seeks an increase in punishment under Subsection (h)
- (3) is not required to prove the actual identity of an identifiable child.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 1975, ch. 778, Sec. 2, eff. Sept. 1, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2003, 78th Leg., ch. 1005, Sec. 1, eff. Sept. 1, 2003.

Sec. 43.24. SALE, DISTRIBUTION, OR DISPLAY OF HARMFUL MATERIAL TO MINOR.

(a) For purposes of this section:

- (1) "Minor" means an individual younger than 18 years.
- (2) "Harmful material" means material whose dominant theme taken as a whole:
 - (A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;
 - (B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and
 - (C) is utterly without redeeming social value for minors.

(b) A person commits an offense if, knowing that the material is harmful:

- (1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material;

(2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display; or

(3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2).

(c) It is a defense to prosecution under this section that:

(1) the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification; or

(2) the sale, distribution, or exhibition was to a minor who was accompanied by a consenting parent, guardian, or spouse.

(d) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (b) (3) in which event it is a felony of the third degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 43.25. SEXUAL PERFORMANCE BY A CHILD.

(a) In this section:

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than 18 years of age.

(2) "Sexual conduct" means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.

(3) "Performance" means any play, motion picture, photograph, dance, or other visual representation that can be exhibited before an audience of one or more persons.

(4) "Produce" with respect to a sexual performance includes any conduct that directly contributes to the creation or manufacture of the sexual performance.

(5) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(6) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.

(7) "Deviate sexual intercourse" and "sexual contact" have the meanings assigned by Section 43.01.

(b) A person commits an offense if, knowing the character and content thereof, he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or a sexual performance. A parent or legal guardian or custodian of a child younger than 18 years of age commits an offense if he consents to the participation by the child in a sexual performance.

(c) An offense under Subsection (b) is a felony of the second degree, except that the offense is a felony of the first degree if the victim is younger than 14 years of age at the time the offense is committed.

(d) A person commits an offense if, knowing the character and content of the material, he produces, directs, or promotes a performance that includes sexual conduct by a child younger than 18 years of age.

(e) An offense under Subsection (d) is a felony of the third degree, except that the offense is a felony of the second degree if the victim is younger than 14 years of age at the time the offense is committed.

(f) It is an affirmative defense to a prosecution under this section that:

- (1) the defendant was the spouse of the child at the time of the offense;
- (2) the conduct was for a bona fide educational, medical, psychological, psychiatric, judicial, law enforcement, or legislative purpose; or
- (3) the defendant is not more than two years older than the child.

(g) When it becomes necessary for the purposes of this section or Section 43.26 to determine whether a child who participated in sexual conduct was younger than 18 years of age, the court or jury may make this determination by any of the following methods:

- (1) personal inspection of the child;
- (2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;
- (3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;
- (4) expert medical testimony based on the appearance of the child engaging in the sexual performance; or
- (5) any other method authorized by law or by the rules of evidence at common law.

Added by Acts 1977, 65th Leg., p. 1035, ch. 381, Sec. 1, eff. June 10, 1977. Amended by Acts 1979, 66th Leg., p. 1976, ch. 779, Sec. 1, eff. Sept. 1, 1979; Acts 1985, 69th Leg., ch. 530, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1999, 76th Leg., ch. 1415, Sec. 22(b), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1005, Sec. 4, 5 eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [593](#), Sec. 1.20, eff. September 1, 2007.

Sec. 43.251. EMPLOYMENT HARMFUL TO CHILDREN.

(a) In this section:

- (1) "Child" means a person younger than 18 years of age.
- (2) "Massage" has the meaning assigned to the term "massage therapy" by Section 455.001, Occupations Code.
- (3) "Massage establishment" has the meaning assigned by Section 455.001, Occupations Code.
- (4) "Nude" means a child who is:
 - (A) entirely unclothed; or
 - (B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the child is female, or any portion of the genitals or buttocks.
- (5) "Sexually oriented commercial activity" means a massage establishment, nude studio, modeling studio, love parlor, or other similar commercial enterprise the primary business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer.
- (6) "Topless" means a female child clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of her breasts below the top of the areola.

(b) A person commits an offense if the person employs, authorizes, or induces a child to work:

- (1) in a sexually oriented commercial activity; or
- (2) in any place of business permitting, requesting, or requiring a child to work nude or topless.

(c) An offense under this section is a Class A misdemeanor.

Added by Acts 1987, 70th Leg., ch. 783, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 1420, Sec. 14.832, eff. Sept. 1, 2001.

Sec. 43.26. POSSESSION OR PROMOTION OF CHILD PORNOGRAPHY.

(a) A person commits an offense if:

(1) the person knowingly or intentionally possesses visual material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct; and

(2) the person knows that the material depicts the child as described by Subdivision (1).

(b) In this section:

(1) "Promote" has the meaning assigned by Section 43.25.

(2) "Sexual conduct" has the meaning assigned by Section 43.25.

(3) "Visual material" means:

(A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(B) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

(c) The affirmative defenses provided by Section 43.25(f) also apply to a prosecution under this section.

(d) An offense under Subsection (a) is a felony of the third degree.

(e) A person commits an offense if:

(1) the person knowingly or intentionally promotes or possesses with intent to promote material described by Subsection (a) (1); and

(2) the person knows that the material depicts the child as described by Subsection (a) (1).

(f) A person who possesses visual material that contains six or more identical visual depictions of a child as described by Subsection (a) (1) is presumed to possess the material with the intent to promote the material.

(g) An offense under Subsection (e) is a felony of the second degree.

Added by Acts 1985, 69th Leg., ch. 530, Sec. 2, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 361, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 968, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 76, Sec. 14.51, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 933, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1415, Sec. 22(c), eff. Sept. 1, 1999.

Sec. 43.27. DUTY TO REPORT.

(a) For purposes of this section, "visual material" has the meaning assigned by Section 43.26.

(b) A business that develops or processes visual material and determines that the material may be evidence of a criminal offense under this subchapter shall report the existence of the visual material to a local law enforcement agency.

Added by Acts 2003, 78th Leg., ch. 1005, Sec. 6, eff. Sept. 1, 2003

Appendix F

PENAL CODE

TITLE 5. OFFENSES AGAINST THE PERSON

CHAPTER 20A. TRAFFICKING OF PERSONS

Sec. 20A.01. DEFINITIONS. In this chapter:

(1) "Forced labor or services" means labor or services, including conduct that constitutes an offense under Section 43.02, that are performed or provided by another person and obtained through an actor's:

(A) causing or threatening to cause bodily injury to the person or another person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer bodily injury;

(B) restraining or threatening to restrain the person or another person in a manner described by Section 20.01(1) or causing the person performing or providing labor or services to believe that the person or another person will be restrained;

(C) knowingly destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's actual or purported:

(i) government records;

(ii) identifying information; or

(iii) personal property;

(D) threatening the person with abuse of the law or the legal process in relation to the person or another person;

(E) threatening to report the person or another person to immigration officials or other law enforcement officials or otherwise blackmailing or extorting the person or another person;

(F) exerting financial control over the person or another person by placing the person or another person under the actor's control as security for a debt to the extent that:

(i) the value of the services provided by the person or another person as reasonably assessed is not applied toward the liquidation of the debt;

(ii) the duration of the services provided by the person or another person is not limited and the nature of the services provided by the person or another person is not defined; or

(iii) the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred; or

(G) using any scheme, plan, or pattern intended to cause the person to believe that the person or another person will be subjected to serious harm or restraint if the person does not perform or provide the labor or services.

(2) "Traffic" means to transport, entice, recruit, harbor, provide, or otherwise obtain another person by any means.

Added by Acts 2003, 78th Leg., ch. 641, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [258](#), Sec. 16.01, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [849](#), Sec. 4, eff. June 15, 2007.

Sec. 20A.02. TRAFFICKING OF PERSONS.

(a) A person commits an offense if the person knowingly:

- (1) traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services; or
- (2) benefits from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services.

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

- (1) the applicable conduct constitutes an offense under Section 43.05 or 43.25 and the person who is trafficked is a child younger than 18 years of age at the time of the offense, regardless of whether the actor knows the age of the child at the time the actor commits the offense; or
- (2) the commission of the offense results in the death of the person who is trafficked.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

Added by Acts 2003, 78th Leg., ch. 641, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [258](#), Sec. 16.02, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [849](#), Sec. 5, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. [1002](#), Sec. 7, eff. September 1, 2009.

Appendix G

Overview of CPS in Harris County

(from http://www.dfps.state.tx.us/child_protection/foster_care/care_levels.asp)

CPS Service Levels

Description of the Basic Service Level

The Basic Service Level consists of a supportive setting, preferably in a family, that is designed to maintain or improve the child's functioning, including:

1. routine guidance and supervision to ensure the child's safety and sense of security;
2. affection, reassurance, and involvement in activities appropriate to the child's age and development to promote the child's well-being;
3. contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child to maintain a sense of identity and culture; and
4. access to therapeutic, habilitative, and medical intervention and guidance from professionals or paraprofessionals, on an as-needed basis, to help the child maintain functioning appropriate to the child's age and development.

Characteristics of a child who needs Basic Services

A child needing basic services is capable of responding to limit-setting or other interventions.

The children needing basic services may include:

1. a child whose characteristics include one or more of the following:
 1. transient difficulties and occasional misbehavior;
 2. acting out in response to stress, but episodes of acting out are brief; and
 3. behavior that is minimally disturbing to others, but the behavior is considered typical for the child's age and can be corrected.
2. a child with developmental delays or mental retardation whose characteristics include minor to moderate difficulties with conceptual, social, and practical adaptive skills.

Description of the Moderate Service Level

The Moderate Service Level consists of a structured supportive setting, preferably in a family, in which most activities are designed to improve the child's functioning including:

1. more than routine guidance and supervision to ensure the child's safety and sense of security;
2. affection, reassurance, and involvement in structured activities appropriate to the child's age and development to promote the child's well-being;

3. contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child to maintain a sense of identity and culture; and
 4. access to therapeutic, habilitative, and medical intervention and guidance from professionals or paraprofessionals to help the child attain or maintain functioning appropriate to the child's age and development.
- A. In addition to the description in subsection (a) of this section, a child with primary medical or habilitative needs may require intermittent interventions from a skilled caregiver who has demonstrated competence.

Characteristics of a child who needs Moderate Services

A child needing moderate services has problems in one or more areas of functioning. The children needing moderate services may include:

1. a child whose characteristics include one or more of the following:
 1. frequent non-violent, anti-social acts;
 2. occasional physical aggression;
 3. minor self-injurious actions; and
 4. difficulties that present a moderate risk of harm to self or others.
2. a child who abuses alcohol, drugs, or other conscious-altering substances whose characteristics include one or more of the following:
 1. substance abuse to the extent or frequency that the child is at-risk of substantial problems; and
 2. a historical diagnosis of substance abuse or dependency with a need for regular community support through groups or similar interventions.
3. a child with developmental delays or mental retardation whose characteristics include:
 1. moderate to substantial difficulties with conceptual, social, and practical adaptive skills to include daily living and self-care; and
 2. moderate impairment in communication, cognition, or expressions of affect.
4. a child with primary medical or habilitative needs, whose characteristics include one or more of the following:
 1. occasional exacerbations or intermittent interventions in relation to the diagnosed medical condition;
 2. limited daily living and self-care skills;
 3. ambulatory with assistance; and
 4. daily access to on-call, skilled caregivers with demonstrated competence.

Description of the Specialized Service Level

The Specialized Service Level consists of a treatment setting, preferably in a family, in which caregivers have specialized training to provide therapeutic, habilitative, and medical support and interventions including:

1. 24-hour supervision to ensure the child's safety and sense of security, which includes close monitoring and increased limit setting;

2. affection, reassurance, and involvement in therapeutic activities appropriate to the child's age and development to promote the child's well-being;
 3. contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child to maintain a sense of identity and culture; and
 4. therapeutic, habilitative, and medical intervention and guidance that is regularly scheduled and professionally designed and supervised to help the child attain functioning appropriate to the child's age and development.
- A. In addition to the description in subsection (a) of this section, a child with primary medical or habilitative needs may require regular interventions from a caregiver who has demonstrated competence.

Characteristics of a child who needs the Specialized Services

A child needing specialized services has severe problems in one or more areas of functioning. The children needing specialized services may include:

1. a child whose characteristics include one or more of the following:
 1. unpredictable non-violent, anti-social acts;
 2. frequent or unpredictable physical aggression;
 3. being markedly withdrawn and isolated;
 4. major self-injurious actions to include recent suicide attempts; and
 5. difficulties that present a significant risk of harm to self or others.
2. a child who abuses alcohol, drugs, or other conscious-altering substances whose characteristics include one or more of the following:
 1. severe impairment because of the substance abuse; and
 2. a primary diagnosis of substance abuse or dependency.
3. a child with developmental delays or mental retardation whose characteristics include one or more of the following:
 1. severely impaired conceptual, social, and practical adaptive skills to include daily living and self-care;
 2. severe impairment in communication, cognition, or expressions of affect;
 3. lack of motivation or the inability to complete self-care activities or participate in social activities;
 4. inability to respond appropriately to an emergency; and
 5. multiple physical disabilities including sensory impairments.
4. a child with primary medical or habilitative needs whose characteristics include one or more of the following:
 1. regular or frequent exacerbations or interventions in relation to the diagnosed medical condition;
 2. severely limited daily living and self-care skills;
 3. non-ambulatory or confined to a bed; and
 4. constant access to on-site, medically skilled caregivers with demonstrated competencies in the interventions needed by children in their care.

Description of the Intense Service Level

The Intense Service Level consists of a high degree of structure, preferably in a family, to limit the child's access to environments as necessary to protect the child. The caregivers have specialized training to provide intense therapeutic and habilitative supports and interventions with limited outside access, including:

1. 24-hour supervision to ensure the child's safety and sense of security, which includes frequent one-to-one monitoring with the ability to provide immediate on-site response.
 2. affection, reassurance, and involvement in therapeutic activities appropriate to the child's age and development to promote the child's well-being;
 3. contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child, to maintain a sense of identity and culture;
 4. therapeutic, habilitative, and medical intervention and guidance that is frequently scheduled and professionally designed and supervised to help the child attain functioning more appropriate to the child's age and development; and
 5. consistent and frequent attention, direction, and assistance to help the child attain stabilization and connect appropriately with the child's environment.
- A. In addition to the description in subsection (a) of this section, a child with developmental delays or mental retardation needs professionally directed, designed and monitored interventions to enhance mobility, communication, sensory, motor, and cognitive development, and self-help skills.
- (c) In addition to the description in subsection (a) of this section, a child with primary medical or habilitative needs requires frequent and consistent interventions. The child may be dependent on people or technology for accommodation and require interventions designed, monitored, or approved by an appropriately constituted interdisciplinary team.

Characteristics of a child who needs Intense Services

A child needing intense services has severe problems in one or more areas of functioning that present an imminent and critical danger of harm to self or others. The children needing intense services may include:

1. a child whose characteristics include one or more of the following:
 1. extreme physical aggression that causes harm;
 2. recurring major self-injurious actions to include serious suicide attempts;
 3. other difficulties that present a critical risk of harm to self or others; and
 4. severely impaired reality testing, communication skills, cognitive, affect, or personal hygiene.
2. a child who abuses alcohol, drugs, or other conscious-altering substances whose characteristics include a primary diagnosis of substance dependency in addition to being extremely aggressive or self-destructive to the point of causing harm.
3. a child with developmental delays or mental retardation whose characteristics include one or more of the following:

1. impairments so severe in conceptual, social, and practical adaptive skills that the child's ability to actively participate in the program is limited and requires constant one-to-one supervision for the safety of self or others; and
2. a consistent inability to cooperate in self-care while requiring constant one-to one supervision for the safety of self or others.
4. a child with primary medical or habilitative needs that present an imminent and critical medical risk whose characteristics include one or more of the following:
 1. frequent acute exacerbations and chronic, intensive interventions in relation to the diagnosed medical condition;
 2. inability to perform daily living or self-care skills; and
 3. 24-hour on-site, medical supervision to sustain life support.

Level E2-Emergency care in a foster group home.

Level E3-Emergency care in an emergency shelter institution.

Overview of CPS Intake Procedure (on right) and CPS statistics in Texas (on left)

CPS

Child Protective Services Overview

Paid Expenditures and Total Average

Filled FTE Staff

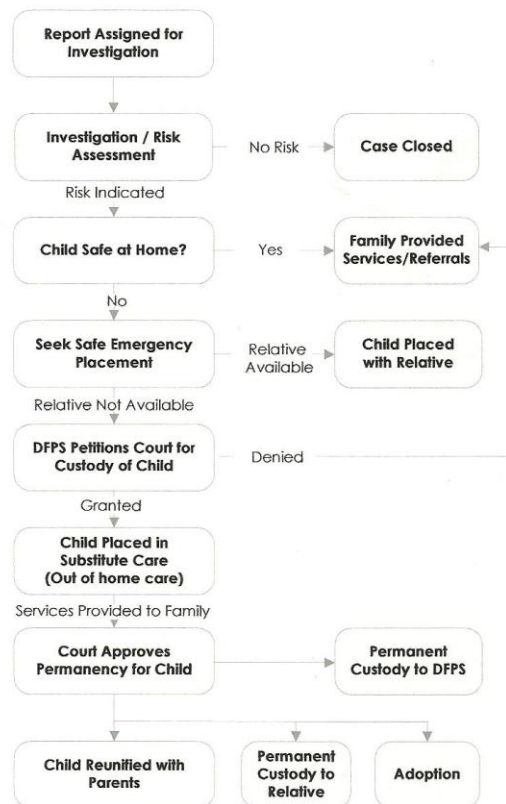
Total Staff	8,343.5
Direct Delivery Total Staff	8,077.5
Caseworkers	
Investigation	1,863.4
Family-Based Safety Services	785.3
Conservatorship	1,496.0
Other Workers	515.5
Supervisors	827.9
Program Directors/Administrators	160.6
Clerical	914.3
Case Aides	651.3
Other Direct Delivery Staff	863.1
CPS Staff Costs	\$462,545,961.88

Worker Demographics

Turnover Rate	25.4%
Tenure:	
Less Than 1 Year	31.4%
1 - 3 Years	33.3%
Greater than 3 Years	35.3%
Entry Salary (INV)	\$36,729.00
Entry Salary (Non INV)	\$32,273.16
Average Age	35.4
Race/Ethnicity:	
African-American	29.6%
Anglo	42.4%
Hispanic	26.3%
Other	1.7%

Supervisor Demographics

Turnover Rate	6.0%
Tenure:	
Less Than 1 Year	0.6%
1 - 3 Years	5.1%
Greater than 3 Years	94.3%
Entry Salary	\$39,117.96
Average Age	41.0
Race/Ethnicity:	
African-American	27.5%
Anglo	47.8%
Hispanic	23.0%
Other	1.6%



Note: This chart is for reference only and does not necessarily represent the flow of a case.

Statistics FY 2010

Texas State Child Population	6,584,709
Children, Alleged Victims	288,080
Children in Confirmed Investigations	97,890
Children Removed	16,347